



## Dar Al Riyadh Insight #65

### Claims Avoidance – Pre-tender Phase

*Dar Al Riyadh Insights reflect the knowledge and experience of our Board, executives and staff in leading and providing PMC, design and construction management services. Dar Al Riyadh believes in the importance of broadly sharing knowledge with our clients and staff to improve project outcomes for the benefit of the Kingdom of Saudi Arabia.*

#### Pre-Tender Phase

Emphasis in this series of Insights on the importance of the pre-tender phase has been highlighted, including the importance of:

- Clarity and communication of strategic business objectives (SBOs)
- Completeness of scope and owner’s project requirements (OPRs)
- Reasonableness of requirements and constraints

The pre-tender phase is where the greatest opportunity for claims avoidance exists. Consider this the claims inoculation stage.

Specific activities at this stage to aid in the avoidance of claims include:

- Development of a written statement of SBOs to be accomplished/supported by undertaking of the project and the particular contract
- Agreement/approval of the developed SBO statement and communication to the owner’s team, including contracting and legal staff. On multi-contract projects, the holistic consideration of all projects/contracts from a program management perspective is essential to minimize the potential for conflicts, overlaps, or “white spaces” gaps, with attendant risks
- Development of an integrated project plan that reflects owner and contractor activities and interfaces
- Development of an overall risk register that identifies the party best able to manage the risk and the logical risk sharing and management approaches. It is essential at this stage to document assumptions made and areas and levels of uncertainty. Assumption migration should be tracked throughout the project by the party retaining the risk.
- Conduct formal owner readiness review.
- Develop OPRs and complete scope; review to confirm fit-for-purpose.
- Ensure expanded basis of design (BOD<sup>x</sup>) requirements are fully reflected in the owner’s project requirements and scope.
- Assemble all information available and required by bidders during the tender phase. Identify any gaps in required information and approach to obtaining or enabling bidder to obtain and any associated impacts on risk posture (retain or transfer with likely premium). Identify information to be incorporated into the contract directly or by reference.



- Establish realistic timeframe for the project and test schedule utilizing reference class forecasting.
- Define project management requirements the selected contractor must meet, including level of reporting (prime only or which level of subcontractors), content, and frequency. Establish any conditions requiring immediate notification.
- Develop any formal risk sharing or incentive schemes and test for consistency with other items developed at the pre-tender stage.
- Establish bidder pre-qualification criteria to focus the bidders list on the most qualified firms. Emphasis should be on differentiated skills, capabilities, and capacities.
- Establish method of quality and progress measurements and reporting.
- Established requirement for turnover documentation, including BIM models to be used in facility management.

**The pre-tender phase is the single best opportunity to avoid claims. Unfortunately and all too often, these efforts receive inadequate attention. The lesson of “going slow in order to go fast” is often lost.**