



Dar Al Riyadh Insight #69

Claims Avoidance – Project Closeout

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.

Project Closeout

Project closeout is focused on confirming satisfactory completion of all works in accordance with the contract. Closeout processes should result in a contractor certifying the works (in whole or in part) are complete and the owner has accepted such works. Post-contract guarantees or warranties should commence in accordance with contract requirements.

Final turnover and acceptance of the work may be conditioned on resolution of outstanding claims and any already approved amounts for the completed work. Care must be taken to ensure any acceptance or lack of acceptance of certified works does not create unintended consequences, including creating a new basis for a claim.

Certification of payments by the owner should be a simple process, providing for prompt payment and eliminating a commonly disputed area.

Claims avoidance at this stage includes:

- Inspecting and preparing a detailed punch list for the completion of each project area to ensure works are complete in accordance with the contract. Contractor shall confirm the punch lists are consistent with contract requirements and does not create a new basis for claim.
- Obtain all material and equipment warranty information and confirm the warranties meet contract requirements.
- Observe performance testing of all equipment and systems, noting any deficiencies for further correction or as a basis for a claim against the contractor or any adjustment for any guarantee or warranty provision.
- Assure completeness of written operating and maintenance documentation and procedures and completion of any required contractor- or vendor-provided training.
- Review, confirm, and accept as-built drawings showing all deviations and changes from the contract drawings and specifications and confirm they are reflected in any BIM deliverable.
- Obtain written guarantees, warranties, and bonds required by the contract.
- Resolve any outstanding claims.



- Make any required adjustments to the contract sums, including any back charges, and account for delay penalties and incentives earned.
- Obtain full release of claims from the contractor.

Post-Close-Out

Claims post close-out of the construction contract should be limited to guarantees and warranties provided by the construction contractor, but also may arise from the owner’s failure to meet the operating and maintenance requirements associated with the provided guarantees and warranties. As such, claims in this stage may be bi-directional (Contractor to Owner and Owner to Contractor).

Guarantees and warranties are not addressed in this Executive Insight.

Summary

Claims avoidance begins at the pre-tender stage. By the time the contract is executed, much of the potential inoculation of the project from claims has already taken place. A review of tender documents to ensure ambiguities and discrepancies are not present addresses a major source of claims. Contract documents with ambiguities, discrepancies, and conflicts make resolution of potential claims difficult, often driving items into the formal claims process and even into the dispute process. Management of all project documents and records through comprehensive document control is an integral part of claims avoidance.

Owners are encouraged to make the necessary investments at the pre-tender stage. Sometimes it is better “to go slow in order to go fast.”

