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Construction Projects Impacted by COVID-19?



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8 Tips for Preparing for Delays, Acceleration Costs and Claims

While much of the construction industry has continued working throughout the pandemic, all stakeholders in a typical construction project have been impacted by the crisis. In fact, the effects have already been wide-ranging: cash crunches affecting owners, contractors and trades; keeping up with new CDC or OSHA guidelines for best safety practices; and the expectation of labor shortages, supply chain disruptions and increasingly difficult insurance market.

With economic uncertainty continuing due to the pandemic, many construction projects likely will be facing delays and interruptions, requiring de-mobilization and re-mobilization procedures, acceleration measures and adjustments to sequence of work to keep up with project deadlines. Undoubtedly, these problems will lead to claims for extensions of time, for increases in the contract price and to a possible rise in disputes.

Here are some best practices to prevent disputes when possible and, in case they cannot be avoided, how to prepare:

1. Maintain good communication among owners, contractors, trades and suppliers to identify delays. Be collaborative and patient.
2. Document all delays in detail: use written records and photos of the site.
3. Schedules should be promptly revised as issues arise to avoid critical path delays.
4. Review and follow contract terms for notice of delay provisions, as well as for change orders for extensions of time and adjustments to the contract price. (Take note of any contract limitations on delay damages or consequential damages.)
5. Identify and log increased costs arising from delay or from acceleration efforts if required.
6. Keep records to calculate any lost productivity from stacking of trades and overtime labor.
7. If agreement cannot be reached on change orders for extensions of time or for price adjustments, then review and follow contract terms for claim notice and dispute resolution.
8. Where the delay cannot be corrected by extensions of time, acceleration or other adjustments, the proper outcome may be the application of force majeure, cardinal change or related legal doctrines to resolve the parties' contractual rights.

Above all, the parties to the project need to remember (tough as it may be) that all of the parties are trying navigate through a situation that would have been unimaginable even weeks ago.

Please contact a member of Gould & Ratner's [Construction Practice](#) to discuss how to successfully handle delays, acceleration and potential claims on your projects.