

COVID-19: Managing Construction Delays Amid the Coronavirus Pandemic

Social distancing, quarantines, and remote work operations are all important measures to slow the spread of the COVID-19 (coronavirus) pandemic. While these measures are necessary to our society, they do not translate to productivity in the construction industry. Now is the time for each project team to determine what it can do to keep its people safe and to start reviewing its contractual rights and obligations. This is an unprecedented occurrence that will require all parties on the project to work together to achieve the best outcome for all companies involved as well as our overall society.

The staffing for many of today's large construction projects requires personnel to travel to the job site. Issues such as government restrictions, stay-at-home orders, personal risk tolerance, or an employee's health may prohibit many key team members from travelling as necessary. For years, the construction industry has struggled with challenges due to labor shortages and an aging workforce; the coronavirus will only exacerbate these challenges as it triggers yet another contraction of the workforce.

Workers can perform few tasks on a construction project in isolation; observing the parameters of social distancing will likely lead to delays and labor inefficiencies. Shortages in supplies such as face masks are already resulting in project delays. Additionally, it is the employer's responsibility to keep the workplace healthy and safe, and there could be additional unforeseen costs to implement procedures to protect workers against the coronavirus. The full effects are yet unknown, but it is near certain that cost overruns and delays to project completions are inevitable.

This outbreak will have a trickle-down effect that will likely outlast the current state of emergency. Production of tools, equipment, and material will likely be in short supply, as factories worldwide are already shutting down production and halting shipping operations. This will lead to both delays in acquiring the necessary items and increased costs as demand outpaces supply.

It is important to remember that we cannot know what the full effects of this evolving situation will be and that no one organization will be able to mitigate the risks on its own. Rather, all project stakeholders must work together to achieve the mutually best outcome in this uncertain time.

In recent weeks, many excellent articles regarding force majeure amid the COVID-19 pandemic have been published. While the terms and conditions of each contract vary, the legal ramifications of this outbreak will ultimately be left to the courts. In the meantime, there are basic steps project stakeholders can take right now.

1. Review the contract, specifically the force majeure clauses as well as the sections on giving notice. Do not assume "everyone knows" the effects. Put everything in writing.
2. Document everything. Daily reports have always been key to managing a project but are even more so today. Daily reports must include specific information such

as the number of craft and staff on site as well as the number unable to work; why those affected cannot work; specific tasks affected; all owner or GC directives; etc.

3. As the work force decreases, focus work efforts to those activities on the critical path. As always, prioritize safety, as these new hybrid crews will be comprised of workers unfamiliar with each other and/or new to the task.
4. Engage in conversations with all project stakeholders. Everyone is being affected. There will be difficult decisions to make related to cost and schedule. Owners and contractors must make these decisions together.
5. Plan ahead. Project managers always wish their teams had more time to plan. While field work is slow, take advantage of the time to update the project's work plans and to review the schedule. Once projects ramp up work again, every project will start scrambling for the same materials. Get ahead of this curve by assuming all items now have a long lead time and place orders as soon as possible.

Construction claims for delays and cost overruns will inevitably arise, but the goal must be to come together – but at least 6 feet apart! Interface has considerable experience with force majeure and construction delay claims and remains available to answer any questions and assist in your mitigation efforts.

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