

# Minimising Exposure to Delays and Losses Arising from COVID-19

The global COVID-19 pandemic continues to impact the construction industry on a scale never before seen. Governments' responses to this crisis frequently change, as events rapidly evolve. Most construction sites are now closed and those that remain open face travel and other restrictions that affect manpower, plant and material availability.

Continued uncertainty around the COVID-19 pandemic means the true social and financial impacts are yet to be fully understood. But it is clear that the potential for unprecedented consequences has never been higher. For that reason, flexible and effective management is needed to minimise exposure to delays and losses.

Depending on the contract; delays caused by COVID-19 are likely to entitle a party to an extension of time. Nevertheless, that party must both evidence these delays and demonstrate they critically delayed the Works. This is done through a delay analysis.

Whether or not additional costs will be recoverable will be down to the actual wording of the contract and the laws applicable in the specific country, so a thorough understanding of the available contractual mechanisms will be required.

In response, FTI Consulting has developed a range of practical measures and tips to help you manage the evolving situation. Please contact us for further help on any of the areas below.



## Contract administration

- Under which Clause(s) could a claim be forwarded, and recovery be maximised?
- Is a causal link between COVID-19 and the claimed event established?
- Have all the relevant notices been served?
- Is there potential for relief outside of the Contract?
- What communications are needed under the contract? How are they to be managed remotely?



## Programme

- Is your programme robust? How does it score against industry benchmarks?
- Is your programme accurate, both the progress achieved and the planned timing and sequence for the activities yet to be completed?
- What changes to the planned sequence need to be made due to COVID-19 restrictions?



## Identify the critical activities and document delays to these activities caused by COVID-19

- What are the critical and near critical activities for the Works?
- Have all the delays (particularly COVID-19 related) been documented and evidenced?
- Which delay analysis is most suitable?



## Identify entitlement to extension of time and cost recovery

- Do the events related to COVID-19 entitle an extension of time and cost recovery?
- How does the contract define a force majeure or neutral risk event?
- How are time and cost risks attributed for force majeure or neutral events?
- Have statutory provisions been made to manage the COVID-19 situation that may be applied?



## Project records

- What project records need to be kept?
- Are there technological solutions to better manage data collection?
- What decisions were made due to COVID-19 and have these been recorded?



## Manage disruption

- Has the planned and pre-COVID-19 productivity been properly captured?
- What disruption events have occurred due to COVID-19 (e.g. the extra time needed for labour to enter site due to temperature monitoring)?
- What records or time-motion studies are needed to capture the disruption causes and effects?
- What disruption events are likely when site reopens (if it closed)? How should these be managed?



## Manage the supply chain

- Has the supply chain been mapped? Including subcontractors?
- What supply chain elements affect the Works' critical path?
- What supply chain management is needed to minimise the COVID-19 impact?
- Are alternative suppliers and substitutes available? If so, what are the cost and time implications; and are these claimable?
- What materials are likely to be in demand when sites reopen? Will prices be affected and when should the material be ordered to maximise savings?

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