

Practice Update

Tips for Managing a Construction Project During Coronavirus

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Below are some measures a project owner may want to consider to address coronavirus related issues and the impact it may have on an owner's ongoing construction project. Because the response to the coronavirus in the U.S. and around the world seems to be accelerating and changing daily, and because most construction contracts force majeure clauses will likely include delay and disruption due to the coronavirus as an excusable delay, below are some proactive measures an owner can implement in the event their project is impacted:

1. Check the force majeure clauses of your contracts on all open projects. While it is unlikely that they specifically reference an epidemic, a lot of them are probably vague enough to cover a labor or supply disruption due to an unforeseen act, and would almost definitely do so in the event of a government shutdown. If you have any doubts, contact your construction counsel for guidance.
2. Request that your contractor provide you with any anticipated project disruption due to the coronavirus, including supply chain delays from materials coming out of China or elsewhere, or a mandatory quarantine that affects your contractor's workforce, and request that you be immediately notified of the potential schedule impact even if the impact is undetermined. This

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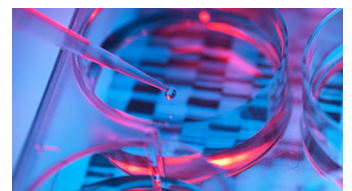
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would include productivity decreases due to workforce absenteeism related to the virus.

3. Review your contract to see how it addresses escalation in material costs and the party responsible.
4. Review your insurance policies for the project to determine if there would be any coverage for a disruption. This would most likely be found in a builder's risk policy or an owner's loss of use policy. For any new projects where builder's risk coverage has not yet been bound confirm the policy will cover this type of epidemic and the losses resulting from same.
5. Start talking to your project participants (construction and design team) now about everyone's expectations for managing the disruption. Proactively review all applicable insurance coverage and talk to your lenders about what will happen in the event of a disruption.
6. Create a demobilization plan and remobilization plan in the event of a suspension or a government ordered shutdown.
7. Review your recorded Notice of Commencement to determine if it needs to be extended and proactively extend it now if necessary.
8. Encourage people that are sick to stay home. Request that the contractor host a meeting for its subcontractors regarding safety expectations. The contractor should provide a plan of action that provides measures it is taking to prevent the spread of the virus – handwashing, avoiding contact with sick people, etc. Consider whether more extreme measures like actively screening people at the jobsite for signs of illness make sense. Encourage anyone showing symptoms of the virus to seek medical care. Make sure you are documenting all requests to your contractor and measures the owner is taking to prevent the spread at your project and to help mitigate any delay. In the event of a disputed claim with the contractor, that documentation may be helpful.

9. Consider creating a separate folder or file for each project in which you can file anything related to coronavirus claims, impacts, warnings, etc.
10. For any contracts that you are currently negotiating, you should include language that specifically addresses how coronavirus impacts will be handled. Please [click here](#) for more details.

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