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5 Ways Gov't Contractors Can Manage Schedule Change Risk

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Project management has a simple premise: Plan the work; work the plan. But when it comes to government contracts, the reality is often more complicated.

Because the government purchases cutting-edge technology, major weapons systems and construction projects in challenging environments, planning the work alone is complicated and difficult. Then, working the plan may be prevented by unexpected conditions, defective specifications or changes.

In the past year, the COVID-19 pandemic has affected the performance of nearly all government contractors — providing a stark reminder that any government contract can face disruption. Now more than ever, contractors want to efficiently identify the impact of unexpected events on planned work.

Your company's project-scheduling software can be a useful tool in facing this challenge. Government contractors often employ schedule software to plan, organize, track, report and update their work from inception to completion.

Project-scheduling software allows contractors to link elements of work — i.e., activities or tasks — based on their logical relationships and relative sequence to one another. It can identify the project's critical path — the sequence of linked activities planned to take the longest time to complete on a project.

Project-scheduling software can also be used to help track the impact of changes, unexpected conditions, or delays on one element of work to other elements and, ultimately, the overall project completion date. Used in this way, project scheduling software can help contractors manage changes more efficiently on a complicated and dynamic contract.

In-house lawyers who understand project-scheduling best practices can better guide their company's efforts to obtain schedule extensions — i.e., excusable delay, avoid liquidated damages and receive equitable adjustments to the contract price — i.e., compensable delay. In addition, project-scheduling best practices can help business managers prioritize and manage changes as they arise.

Here are five practical tips for in-house lawyers and business managers working with their scheduling and project teams:

1. Develop a comprehensive baseline schedule.

A comprehensive baseline schedule can be used to reflect the contractor's plan for executing the contract scope of work and to document the parties' expectations about the work — elements, duration and timing — at the point of contract execution. Such a comprehensive baseline schedule can provide another tool for managing the work, identifying changes and measuring delay.

Some helpful considerations when developing your baseline schedule: Develop consistent practices for the entire scheduling department, adjust for any contract specific scheduling requirements, and incorporate input from subcontractors and other key stakeholders.

2. Integrate your schedule, project management and change-control teams.

As you work to create a strong change-control culture in your business, it may be beneficial to integrate your schedule team into your project management and change-control teams.

Because project-scheduling software includes logic ties — i.e., relationships — between individual activities and the overall project plan, doing so can help you identify changes that affect project performance, time and cost.

By integrating your schedule management team into regular project meetings and discussions of change control, you can shift the schedule from being merely a contract deliverable to being a powerful tool for better contract management and more profitable performance.

3. Update the schedule to include delay events.

As changes or delay events are identified, consider, when practical, having the schedule team create new activities within the schedule itself, with linkages to the planned work items being delayed or impacted.

Doing this within the project-schedule software will allow for a real time understanding of the magnitude of the change or delay event and its effect on the broader project.

Adding new activities to the schedule is akin to opening a new charge code for a contract change — often called change order accounting — and can provide a clearly delineated way to track the issue and its effect on the schedule.

For example, if a manufacturing facility supporting the project is shut down due to COVID-19-related impacts resulting in procurement delays, a new activity reflecting the shutdown could be inserted into the project schedule and logically tied to the specific activities affected by the delayed procurement.

Maintaining and providing the government with this type of visibility into schedule impacts can be another tool to document and demonstrate the magnitude and effect of the changes you have identified.

4. Note any customer constraints on project schedule submissions.

During contract performance, the list of issues for discussion between the contractor and the government can become long and complicated: changes, defective specifications, force majeure impacts such as COVID-19, differing site conditions, and delays in site availability or availability of government-furnished equipment, among other project-specific issues.

The government may not always address these issues — or their effect on the project schedule — promptly, and it might insist they not be incorporated in schedule updates. In addition, the government may insist the contractor not depict schedule activities as complete until formally accepted by the government.

These types of constraints can affect the project schedule's critical path and overall timeline for completion. If you find yourself in such a situation, consider noting in your contract schedule submissions that the schedule reflects constraints specified by the government.

Note the effect of those constraints on key milestones and that the contractor has submitted — or will submit — a change notice seeking excusable or compensable delay or equitable adjustment, if applicable.

5. Data is cheap, so keep those versions.

Project-scheduling software can include many layers of information beyond what is shown on a printed report or project schedule. A single Gantt chart typically does not convey the activity relationships, calendars, and other data that can aid in the analysis of project schedules and determination of which activities drive the project's critical path.

Many government contracts require periodic contractor schedule submissions, typically formalized in contract-data-requirements list submissions. Those list submissions are often made in the form of PDF printouts of summary reports generated by the scheduling software.

While these summary reports may provide useful information regarding project status, they typically are only a static snapshot of the schedule, and do not include all the underlying schedule details such as predecessor/successor logic, resource limitations or other data that may be helpful to assess schedule changes.

Some contractors retain the contract deliverables — the PDF summary reports — but not each version of the native software file.

Native schedule files can be somewhat large, and we suspect this practice is a holdover from the days of limited file storage on computer networks. But data storage has become much cheaper and more accessible, and for most companies, file storage limitations are no longer an issue.

Old habits die hard, so consider updating your practices to retain a copy of the native versions of the baseline schedule, rebaseline schedules and periodic schedule updates. Retaining these native files will allow for more efficient analysis of changes or delays, if necessary, later on.

And, bonus points for maintaining a comprehensive log of the native schedule files, including basic information such as file name, status date and whether the native file corresponds to a schedule update

submitted to the government. This can be a helpful tool for quickly identifying which schedules are more relevant for analyzing a particular change or delay event.

A key to successful project management on your government contract is dealing with the inevitable changes and disruptions. While following these tips isn't a requirement to claim and recover for the impact of these events, efficient schedule management can provide additional tools to manage and resolve changes efficiently, avoid liquidated damages or default, and facilitate recovery of excusable or compensable delay.

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