

A Guide for Projects Managers to avoid and mitigate disputes in construction

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Construction project managers play a pivotal role in one of the most complex and dynamic industries in the world, overseeing aspects such as budget, schedule, quality, safety, stakeholder engagement, tight timelines, and substantial financial commitments. A recurring challenge they face is the need to prevent disputes that could hinder progress, tarnish reputations, and increase expenses. Such disputes may stem from miscommunication, delays, budget overruns, or misunderstandings of contracts.

Although it is impossible to eliminate all disputes, many can be foreseen, alleviated, or addressed promptly—provided that project managers adopt organized and proactive strategies. before they develop into expensive legal confrontations either in State Courts or in Arbitration.

This article delineates essential practices for preventing disputes, specifically designed for project managers aiming to guide projects seamlessly from commencement to completion.

1. Start Strong with Clear Contracts

As a project manager, you serve as the primary safeguard against potential disputes. Therefore, it is essential to be equipped with a well-structured, clear, and comprehensive contract that begins by ensuring the following:

- clearly defining the scope of work and deliverables; including provisions for change orders, delays, and dispute resolution;
- explicitly outlining roles and responsibilities; thoroughly examining the provisions related to change orders, delays, payments, claims, and dispute resolution;
- maintaining realistic timelines and expectations;
- aligning with project-specific risks and objectives;
- complying with local laws and regulations to prevent legal loopholes;

- avoiding excessive dependence on standard boilerplate contracts without tailoring them according to the project type, and collaborate with legal teams to review terms and ensure that the contract language aligns with the realities of the project.

2. Prioritize Transparent and Timely Communication

Ineffective communication is a primary factor contributing to conflicts in construction projects. Effective communication goes beyond mere updates; it is essential for fostering trust and ensuring that all parties remain coordinated. As the project manager, it is your responsibility to establish and implement a communication framework that encompasses:

- reliable channels for addressing and resolving issues
- regular meetings with stakeholders to review project advancements
- comprehensive written records, including clear documentation of discussions, decisions, instructions, and agreements
- proactive mechanisms for tracking and responding to issues, utilizing digital tools for real-time updates and documentation.

3. Identify and Manage Risks Early and Effectively

Risk management is an evolving and continuous obligation.

Early identification of potential challenges such as delays, design modifications, and resource deficiencies is crucial.

Effectively identifying and addressing risks at an early stage can help avoid disputes before they develop and intensify.

Project managers are advised to:

- perform comprehensive risk evaluations prior to the initiation of the project.
- create a detailed risk register at the project's outset.
- designate responsibility for each identified risk
- regularly review and update risks during project assessments.
- develop strategies to manage delays, unexpected expenses, and environmental issues.

- Formulate contingency plans to reduce disruptions.
- Integrate contingencies into the project schedule and budget.

4. Implement Realistic Scheduling and Resource Allocation

Unrealistic timelines combined with insufficient resources often leads to project setbacks, missed deadlines, and disputes among stakeholders.

To mitigate these risks, project managers must create well-structured plans that account for real-world challenges and ensure teams have the necessary support. Key strategies include:

- develop comprehensive and realistic schedules with contributions from all essential stakeholders
- schedules by collaborating with all relevant stakeholders, ensuring that deadlines align with realistic work capacity and resource availability.
- Incorporating Buffer Time: Allow for float time to accommodate unexpected obstacles, such as unforeseen technical issues, personnel changes, or supplier delays.
- using Advanced Tracking Tools: Leverage project management software and tracking tools to monitor progress in real time, ensuring that any deviations from the plan are quickly identified and addressed.
- proactive Communication: Stay ahead of potential setbacks by discussing any delays or necessary adjustments early with all stakeholders, promoting transparency and collaboration.
- optimizing Resource Allocation: Ensure that teams are adequately staffed and equipped with the tools and support they need to meet project expectations. Adjust workloads as needed to prevent bottlenecks and inefficiencies.
- dynamic Course Correction: Utilize performance metrics and data-driven insights to identify schedule slippage and make informed decisions to realign project milestones.
- by embracing these practices, project managers can maintain efficiency, minimize risks, and keep projects on track without unnecessary disputes or setbacks.

5. Keep Proper Documentation Precise and Consistent

Comprehensive and precise documentation is crucial for preventing disputes and facilitating their resolution when they occur.

In the event of conflicts, your documentation will serve as your most reliable defense.

It is important for the project manager to:

- maintain records of contract modifications and approvals.
- keep daily site logs, as well as daily, weekly, and monthly reports.
- ensure that all minutes from meetings are properly distributed.
- retain email correspondence, instructions, change orders, approvals, and issue trackers.
- implement a standardized document control system and educate your team on its significance for storing and tracking essential documents.
- in cases of disputes, insufficient documentation can often result in a loss of credibility, which may lead to financial losses.

6. Foster a Collaborative Problem-Solving Approach

Construction projects necessitate contracts and legal frameworks; however, rather than allowing disputes to escalate, project managers ought to cultivate a culture of collaborative problem-solving.

They should promptly address concerns to prevent them from developing into more significant issues. This can be achieved through:

- early contractor involvement,
- maintaining open dialogue regarding project objectives and limitations,
- engaging in shared problem-solving when challenges arise.
- promoting teamwork and equitable treatment among all parties involved.
- it is advisable to consider collaborative delivery models such as Design-Build, Early Contractor Involvement (ECI), or partnering, which encourage joint accountability and mitigate adversarial interactions.
- additionally, mediation or negotiation should be encouraged prior to resorting to legal measures,

7. Compliance with Local laws and Regulations

Understanding and following national construction laws is essential to prevent conflicts with existing regulations and their updates. (please refer to Eng. Mehmet Mazin KASSUME' Article - FIDIC Red Book- Key Updates in the 2017 Edition -Construction Contract-Claims & Disputes – available at www.expertsworldindex.com)

The Project Managers are ought to be bound by the following:

- ensure that all operations align with construction standards, labor laws, and safety regulations, and all governmental authorities regulations.
- stay informed about any changes in legislation that could impact contracts.
- work alongside legal experts to ensure compliance with contractual and financial obligations.
- take initiative in identifying and resolving potential legal challenges by being aware of the regulatory landscape.

8. Address Issues Before They Escalate

It is essential to address problems promptly to prevent them from escalating into formal disputes. That could be achieved by:

- cultivating a culture where team members feel encouraged to report issues at an early stage is crucial.
- Implementing structured escalation procedures, such as progressing from team discussions to project leads and ultimately to executive levels, can facilitate effective resolution.
- Additionally, utilizing informal resolution methods, such as facilitated meetings or engaging third-party advisors, should be prioritized before resorting to formal mediation.
- It is important to keep in mind that a minor unresolved issue today could evolve into a significant claim, dispute, litigation, or arbitration in the future.

9. Educate Your Team

Empower your team with the essential knowledge required to prevent and address conflicts efficiently. This can be achieved by:

- providing training on contractual responsibilities.
- risk management, and effective communication.
- conducting project initiation and refresher meetings, along with sharing insights gained from previous projects, will be beneficial.
- when team members are well-informed, they tend to make fewer errors and manage disputes with enhanced professionalism.

10. Leverage Modern Dispute Board (M-DB)

It is advisable to establish a Modern Dispute Board mechanism (M-DB) to avoid disputes and address any disputes promptly.

The M-DB members are well informed about the project and the chair will hear from them and the parties to enable the M-DB to issue fast and most accurate recommendation.

Their participation can offer an unbiased viewpoint and greatly diminish the likelihood of disputes escalating.

11. Lead with Integrity and Fairness

Trust is fundamental to the success of any project. Project managers who demonstrate consistency, fairness, and professionalism foster an environment where conflicts are minimized.

It is essential to be transparent in the decision-making process, equitable in the enforcement of contract terms, and receptive to feedback and differing perspectives.

The presence of professionalism can influence the entire project team positively, establishing a productive atmosphere.

12. Conclusion: Be Proactive, Not Reactive

By prioritizing clearly defined contracts, open lines of communication, effective risk management, comprehensive documentation, collaboration, and compliance with regulations, project managers can significantly reduce conflicts and facilitate a smooth construction process.

- The implementation of these best practices not only saves resources and time but also strengthens relationships with stakeholders, contributing to the project's overall success.
- Although it is not feasible for project managers to completely eradicate all potential conflict sources, they can create systems and cultivate a culture that mitigates the likelihood and impact of disputes.
- Preventing disputes goes beyond legal or commercial aspects; it is fundamentally about leadership responsibility.
- By adopting these strategies, you will not only lower the incidence of claims and disputes but also improve project results, strengthen relationships, and carry out projects with greater efficiency and confidence.

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