

Since COVID-19 was declared a pandemic on 11 March 2020, the Saudi government increased its efforts to curb the spread of the virus by enforcing strict preventive measures, including:

- Suspending or reducing office working
- Imposing nationwide curfews, including 24-hour lockdowns in the major cities of Riyadh, Tabuk, Dammam, Dhahran, Hafouf, Jeddah, Taif, Qatif and Khobar
- Suspending international and domestic flights, as well as public transportation, such as buses and taxis

While some construction activities were able to continue at normal capacity upon requests to relevant ministries, restrictions to movement and imports, among others, posed challenges to contractors in ongoing projects.

Recognizing the potential delays and disruptions resulting from COVID-19 on progress of construction works, the Saudi government took measures to minimize the impact of these disruptions. On 14 April 2020, the Ministry of Finance issued a circular to all government entities confirming that any current delays in works or procurement, or any default by contractors, would entitle contractors to an extension of time under Article 74 of the Government Tenders and Procurement Law (GTPL) (Royal Decree M/128 dated 13/11/1440H corresponding to 16 July 2019), which provides:

The term of the contract shall be extended and the penalty exempted from in the following cases:

[...]

3-If the delay is attributable to the Government Entity or to emergencies.

4-If the contractor delays the execution of the contract for reasons beyond his control.

5-If an order is issued by the Government Entity to suspend the works or part thereof for reasons not attributable to the contractor.

The Ministry of Finance confirmed that current COVID-19-related delays in works and procurement of material are considered within the circumstances cited above in Article 74.

To further reduce the projected turmoil caused by COVID-19 to the financial sector, the Ministry of Finance issued a circular on 28 April 2020 ordering all government entities to suspend all bond calls until the end of the Hijri year (29/12/1441H corresponding to approx. 20 August 2020), unless the bond was expired or the contractor otherwise requested, in writing, the bond call. It is expected that the suspension will be further extended in light of the current circumstances.

Notably, under the GTPL, employers must refer bond calls, along with their reasons for the call, to specialized committees (bid examination committee or the direct purchase bid examination committee, as appropriate) that review the request and issue recommendations to the employers accordingly.¹

The Saudi government's latest measures are positive steps to mitigate the economic impacts of COVID-19.

It is further worth noting that, on 26 April 2020, the Saudi government ordered by Royal Decree the partial lift of the 24-hour curfew in affected cities, and allowed construction companies and factories, as of 29 April 2020, to resume activities without restrictions on time. However, as of this writing, this order is only effective until 13 May 2020, after which it may be extended or the curfew and restrictions may be reinstated.

Contacts

Khalid A. Al-Thebity

Of Counsel, Riyadh
T +966 11 250 1251
E khalid.al-thebity@squirepb.com

Dara Sahab

Associate, Dubai
T+971 4 447 8744
E dara.sahab@squirepb.com

Jonathan M. Taunton

Partner, Atlanta
T +1 678 272 3245
E jonathan.taunton@squirepb.com

Thomas P. Wilson

Partner, Abu Dhabi
T +971 4 447 8787 (Dubai)
T +971 2 651 5905 (Abu Dhabi)
E thomas.wilson@squirepb.com

¹ Implementing Regulations to the GTPL (Ministerial Decision No. 1242/1441) dated 21/03/1441H corresponding to 18 November 2019, Article 104(1).