

Revised FIDIC suite of contracts takes effect

Effective last December, the International Federation of Consulting Engineers (FIDIC) published the second editions of its suite of contracts for the construction industry

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 READING TIME <5 MIN

The International Federation of Consulting Engineers (FIDIC, acronym for the French “**Fédération Internationale Des Ingénieurs-Conseils**”) launched a revised second edition of its worldwide adopted suite of Contracts at annual users’ conference on 5-6 December 2017 in London, 17 years after the first edition.

FIDIC contract forms are the **global standard for international contracts in infrastructure** and construction sectors. The Middle East is no exception, with several GCC countries having adopted them for works contracts in the public sector.

The update is intended, according to FIDIC, to achieve **greater clarity, transparency and certainty** in contracting practice, with the goal of fewer disputes and more projects completed. FIDIC also took the chance of lining up to current international best practices and issues raised by FIDIC users over the past 17 years.

The Rainbow Suite now provides a **new version for the three main books** commonly identified as “FIDIC contracts”, namely the Red Book (Conditions of Contract for Construction), the Yellow Book (Conditions of Contract for Plant & Design Build), and the Silver Book (Conditions of Contract for EPC/ Turnkey Projects).

Overall, the new edition has **almost doubled its size**: 21 clauses of general conditions rather the previous 20, longer contracts, more detailed rights and obligations for both the employer and contractor. The increased complexity is designed to bring more clarity about what is expected from each

party, in a **dispute-avoidance logic**.

Foreseeable impacts on construction agreements FIDIC-based in the Gulf region, among others, are:

FFP FITNESS FOR PURPOSE CLAUSE

The purpose must be stated in the employer’s requirements. If omitted, works must be fit for ordinary purposes. The contractor is now under an express obligation to indemnify the employer in case the works are not FFP.

CLAIMS

Claims discipline has been revised to prevent unnecessary

KEY FACTS

FIDIC is the French acronym for “The International Federation of Consulting Engineers”, a Geneva based international standards organization for the consulting engineering and construction.

RAINBOW SUITE is the colloquial name of FIDIC worldwide adopted “Conditions of Contract” for constructions, collected in Books each commonly referred to by its color: Red, Yellow, Silver, Green, Pink, Gold, Blue, White and Purple.

A 3+ KILOS CHRISTMAS PRESENT. The December 2017 second edition brings more heavyweight contracts compared to the 1999 first edition. Claims receive a new “deal-with-as-you-go” discipline aimed at disputes avoidance.

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escalations of disputes in the project life-cycle. Parties are better positioned now to address claims promptly the moment they arise, through timely claim notices to be submitted according to specific requirements and step-by-step procedures.

DISPUTE AVOIDANCE / ADJUDICATION BOARD (DAAB)

The DAAB is appointed as a standing board and now it can serve “informal assistance” to the parties. Amendments to the DAAB deserve close observation in the Gulf region, where avoiding DAAB clauses is common practice.

TRICKERY COMPLEXITY

Higher complexity of heavyweight provisions and procedures, while intended to avoid disputes, could be problematic at least for non-

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English native users. Advice from a seasoned lawyer with proven expertise is a key asset for each party involved in the project, whether as employer, contractor or engineer.

As mentioned, the issuance of the Rainbow Suite aims to clarify contracts’ procedures and management so that less disputes arise and more projects are completed. Nevertheless, for such a purpose to be fully achieved, parties will probably take some time to familiarize themselves with all the major changes adopted

in several key areas of contract management. Moreover, as 1999 first edition can still be used, the question remains whether the 2017 edition will take the lead in the market or rather the 1999 edition will keep the front line. This will depend also on the performance of other standard forms of contract competing on a global scale, like the NEC 3 suite.

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Construction Law Department

Paoletti Legal Construction Law Department focuses on advisory services and dispute resolution for complex work contracts. The department has been involved in infrastructure, manufacturing, utilities, and storage facilities projects, with expertise over FIDIC-based agreements based in the Gulf region as well as in Europe.

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