

Many of us are fatigued with COVID-19-related content, but we thought it was important for us, as claims analysts, to reflect on what the pandemic has taught us about construction claims and to acknowledge that we are still learning from this event that disrupted our industry.

When COVID-19 was declared a pandemic and the United States announced a state of emergency, many states issued directives or executive orders establishing health and safety measures for all businesses. Specifically for construction, these directives represented mandatory changes to the way work could be performed. These mandates remained in place, in some form, for several years, and we are still experiencing the continual and latent impacts.

It quickly became clear that COVID-19 and these state mandates had caused severe disruption in construction, but how was the industry to determine the impact of COVID-19? That was uncharted territory. Many questions arose:

- » Was the contractor's performance actually impacted by the pandemic? How?
- » Who was responsible for any associated damages?



MBP addressed a situation where a contractor overcame the impacts of new safety procedures and worker shortages by working overtime to avoid project delays. The contractor sought to demonstrate additional productivity losses due to the extended overtime worked. In this instance, workers worked 50 hours on average for 10 consecutive weeks without a break. Using industry labor studies from NECA and MCAA, we utilized a model that showed that extended overtime resulted in a gradual weekly loss of productivity from 6% (the first week) to 28% (the 10th week).

6. it is essential to clear the fog of the pandemic and link the specific COVID-19-caused changes to the losses incurred or claimed. In many cases, prolonged follow-on impacts due to supply chain disruptions, materials escalation, or continued labor shortages can be considered distinct events contractually and/or practically based on their occurrence after the pandemic impact period. It is imperative to show all the project-specific solutions implemented (and associated costs) to mitigate impacts specifically driven by COVID-19 changes. All claimed losses needed to be supported by project records to show that the pandemic was the sole cause of impact.

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