

Discussion 1 week 8 excusable delays

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Excusable Delays: Discussion Week 8 al Affiliation Excusable Delays:

Discussion Week 8 From the first e-Activity, identify the remedies of excusable delay. Analyze which remedies are appropriate and effective and which remedies are not. Justify your analysis. Then, select an ineffective remedy and make a recommendation to mitigate the associated issue(s).

Excusable delay, by definition, means “ delays that are unforeseeable and beyond the control of the contractor” (Cohen Seglias Pallas Greenhall & Furman PC., 2014, p. 1). Remedies for excusable delay would therefore depend on the causes of the delay and where costs could be maintained within the range that was previously defined to complete the delayed work. It has been emphasized that excusable delays are also classified as either non-compensable or compensable, based on a reasonableness requirement (OConnor, 2007). Thus, remedies are appropriate and effective when they satisfy the reasonableness requirement for compensating contractors for the excusable delay. For instance, in the article written by Edwards (2003) exposing government projects which exhibited exorbitant cost overruns, a root cause analysis of the delays in the identified projects in Table 1 should have been examined. All excusable delays should have likewise been examined in greater detail to determine compliance with the reasonable requirements. Any costs which were deemed excessive and unjustified to be paid due to excusable delays should have been immediately questioned and prevented from payment for the reason that the costs were not appropriately incorporated in original cost computations for the completion of the project. As such, one strongly believes that cost contracts should integrate potential causes of delays (excusable) and apportion at least a percentage of projected costs that could be incurred due to these delays. Anything beyond

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the projected costs should be evaluated using costs-benefits analysis to determine feasibility in continuing payment, as described. 2. From the first e-Activity, give your opinion as to whether any of the four transportation construction projects in the table would be able to legitimately rely on “excusable delay.” Explain the key reason why reliance on excusable delay in these cases would or should be considered legitimate. Upon closer examination of the four transportation construction projects in Table 1, government regulators should have examined the cause of delay subject to the conditions noted under the standard ‘ default’ clause (OConnor, 2007) and the reasonableness requirement. As such, based on the initial projected time frame and cost estimates for Boston ‘ Big Dig’ for instance, it was projected that the project would be completed in 1988, three years since the start of the project in 1985 (Edwards, 2003). However, it should have been a cause for urgent examination when the delay in time frame already reached 14 years and the cost of the project ballooned to 461% from the original cost of \$2. 6 billion to \$14. 6 billion (Edwards, 2003). As such, there are potential cost components which have not been incorporated in the original cost estimate and could not be justified as reasonable. Therefore, the project should have been re-evaluated in its viability. As recommended by Edwards, these types of projects would have been “ better off if Congress scaled back entitlement programs, privatized infrastructure such as airports and energy projects, and let entrepreneurs put up their own capital for risky pursuits” (p. 2). Thus, reliance on excusable delay should also be subject to constraints or ceiling in costs. If and when the potential costs due to the delay would not be reasonable, the project should have been awarded to private entrepreneurs to maximize the use of the resources and contain incurrence of exorbitant

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costs that drain the public's funds. ReferencesCohen Seglias Pallas Greenhall & Furman PC. (2014). Excusable and Non-Excusable Delays. Retrieved from Cogen Seglias: <http://www.cohenseglias.com/federal-contracting-database/excusable-and-non-excusable-delays>Edwards, C. (2003, September). Government Schemes Cost More Than Promised. Retrieved from Cato Institute: <http://www.cato.org/pubs/tbb/tbb-0309-17.pdf>OConnor, T. (2007). Understanding Government Contract Law. Management Concepts, Inc.