



## How Tariffs Affect Contracts for Residential and Commercial Construction

The expansion of new tariffs by the Trump administration through [Executive Order 14257](#) will affect both existing construction projects and the negotiation of contracts for new construction projects (both commercial and residential) through the foreseeable future. There are two primary components of the new tariffs:

- A universal tariff on all imports; and
- Reciprocal tariff rates that are specific to 57 countries with rates ranging from 11% to over 100%.



The tariffs are expected to increase the costs of new construction projects and also could delay projects because of supply chain disruptions, which could decrease profit margins for contractors and cause project owners to reduce the scope of upcoming projects or perhaps cancel those projects altogether.

The impacts of the new tariffs will be significant for materials that are vital for most projects, including aluminum, steel, lumber, copper, concrete, drywall, appliances and electronic component parts. These materials are often critical to most commercial and residential projects, including wall, foundation, floor, ceiling and roof systems.

Because the tariff rates can change after a construction contract is signed, the question is how can owners and contractors address these tariff changes in a way that addresses two competing concerns: (1) the contractor's need to protect itself from unknown cost increases that may occur, especially as tariff policies may change from day to day; and (2) the owner's

need for a degree of certainty about how much a project will ultimately cost. In response to the challenges that result from the imposition of tariffs, contractors and owners are attempting to address these cost issues through a variety of contract sum adjustment mechanisms in their construction contracts.

Such contract sum adjustment mechanisms often include the following features:

- Triggering Mechanism – This will specify when the cost adjustment mechanism is triggered. This could occur if (a) there is any increase in the cost of a material or an increase in the material's cost above a specified threshold (such as a 10% increase); or (b) an increase in cost that offsets savings realized on a project.
- Materials Subject to Price Adjustment – Some contracts may restrict price adjustments to specified materials identified in the construction contract rather than applying to all materials.
- Funds Earmarked for Tariff-Caused Cost Increases – The owner and contractor may agree to specify a certain amount of funds to be available solely to address cost increases in materials caused by tariffs.
- Caps on Tariff Cost Increases – Under this feature, the owner and contractor agree that tariff-related cost increases up to a specified dollar amount will be covered, but any requests for additional tariff-related cost increases must be approved by the owner and contractor.

These contract sum adjustment provisions should be as detailed and specific as possible, and drafted to avoid variables that could lead to possible disputes during the project. It is important for each party to understand not only its own cost concerns, but those of the other party as they work to arrive at a solution that will work for both parties to the construction contract.

## What's Next?

If you have questions about the developments above, please reach out to:

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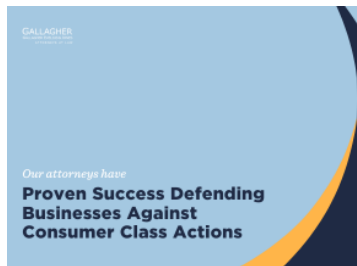
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