

Reverse Osmosis Plant, Qidfa, Fujairah

Year	Contract	Employer	Project	Our Client
2014	Bespoke Design, Build, Finance and Operate (DBFO)	Emirates Sembcorp Water and Power Company	Reverse Osmosis (RO) Plant, Qidfa, Fujairah	Acciona Agua S.A. & Acciona Infraestructuras S.A.



Summary

The works involve the design, construction, operation and maintenance of a US\$200m reverse osmosis desalination plant in the Emirate of Fujairah. This will increase the capacity of the existing facility by some 137,000m³ per day. Following the construction of the civil enabling works, Acciona will install and commission the specialist mechanical and electrical equipment, including the RO racks and filters and the 3 potable water tanks, each with a capacity of 100,000m³.

Acciona has suffered delays as a consequence of a number of employer culpable events and QUALSURV were engaged to carry out an initial assessment of the contractual remedies available to Acciona that entitle it to an award of the additional time it will require to complete the works and the recovery of any associated time related costs. We were also asked to carry out an audit of the commercial management arrangements and to advise on what improvements were needed to ensure that Acciona would comply with the requirements of the Contract in respect of claims (including the Notice provisions which are a condition precedent).

The Quarrel

Having commenced with the design work, there were a number of Employer driven design changes that have delayed the completion of it. This in turn has affected the procurement of the M&E equipment and the commencement of parts of the works. It is also the case that Acciona have and continue to suffer delays caused by the period of time they require to obtain the essential Government consents and approvals to commence with each part of the works on site. Acciona anticipate that these and other delays will cause a delay to the completion of the works, which will expose it to substantial LAD's. The Engineer has made it clear that he does not accept that the Employer is liable for any of the delays caused to date and Acciona are therefore not entitled to any extension time for completion of the project or payment of any additional cost.

The Challenge

In relation to assessing the merits of Acciona's case, the greatest challenge related to the lack of available correspondence and other documentary evidence. No adequate document management system was in place to capture and collate the required information. Another difficulty related to the availability of key personnel. This was a live site and we needed to be flexible to accommodate constant changes to the programme for our site visit.

Actions

QUALSURV proposed to carry out a two Stage approach to our work with Acciona. The first stage included a 3 day site visit, during which we would carry out an initial examination of the contract and the contractor's claims and a review of the commercial management arrangements that would ensure compliance with the requirements of the contract.

This extended to an examination of the document management system, schedule (programme) and the resources currently employed to manage this work. Following the site visit we then prepared a Preliminary Statement setting out our findings and recommendations. This will form the basis of our work at Stage 2 i.e. the prosecution of the contractor's claims and the provision of a permanent site based commercial resource to implement the recommendations made.

Outcome

The Preliminary Statement QUALSURV issued to Acciona provided clear advice as to its rights and remedies in relation to the Employer culpable delay events and the actions it had to take to protect its commercial interests and secure the best possible financial outcome on the project.

