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Jeff Scorgie provides comment to Daily Commercial News on the climate of material price escalation and its impacts on bonding limits

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Andrew Cartwright and Chris Dardarian's article in Daily Commercial News, "Surety Corner: How the current climate of material price escalation impacts bonding limits", published on June 10, 2021 discusses how the pandemic has given rise to supply and demand problems across the economy and the impact on construction materials is no exception. In an industry where most jobs are bid based on a fixed price, price volatility has the potential to hand contractors big losses, especially when jobs are awarded months after the tender date.

They spoke with Jeff Scorgie, Associate in WeirFoulds Construction Law Group who provides his legal perspective.

"If a subcontractor has already signed a subcontract, the first step is to consult the terms of the agreement. Unfortunately, market fluctuations and material cost increases rarely entitle a subcontractor to additional compensation under a fixed price contract. On future projects, one option that can mitigate some of the risk posed by material cost increases is to include a material price escalation clause in the subcontract. The general concept of such a clause is that the subcontractor would be entitled to an adjustment in the contract price if the cost of a material increased beyond a defined threshold after the subcontract was signed. It will be up to the subcontractor to justify and push for the inclusion of the clause early and not wait until the last minute (such as after it has submitted its price or been awarded the subcontract)."

There are other options available to a contractor to mitigate price increase risk with some more realistic than others.

Click here to read the full article, " Surety Corner: How the current climate of material price escalation impacts bonding limits", in Daily Commercial News.

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