

“Guaranteed Performance Metrics in Construction Contracts” Speaker: Adrien Pickard, Barclay Damon

If you work on power and energy construction projects, you may have seen “guaranteed performance metrics” in your contracts. What are they, and what happens if these guarantees aren’t met?

My name is Adrien Pickard, and this is a *Must Know Minute*.

Performance metrics are measurable targets that a contractor guarantees a project will achieve at commissioning, such as energy efficiency, output capacity, throughput, and system reliability. These guarantees go beyond minimum performance standards, which define the lowest acceptable level to achieve substantial completion.

Compliance with these guarantees is verified through performance testing against target metrics. If the minimum standards are met but guaranteed targets are missed, contracts typically provide for a number of remedies.

First, contracts may include performance liquidated damages. These are pre-agreed amounts that compensate the owner for the underperformance without the owner having to prove actual loss.

Second is remedial work. This is where the contractor may elect or may be required to fix or improve the system at its own cost.

If performance still falls short after remediation, liquidated damages usually apply.

Contact me for more information.

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