

# Project Disputes – Techniques to Avoid or Resolve Them Before or During Your Project

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# Key Thoughts on Dispute Avoidance

- Participated in 2 yr study on **dispute avoidance** with NAC
- Findings:
  - Ample dispute tools available (CII best practices)
  - Private industry behind public sector
  - Tools not being adequately used

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# The Owner / Contractor Relationship

- Partnering & team building
- Incentives for cooperation
- Realistic risk allocation
- Disputes potential index
- Competent engineering & documentation
- Constructability analysis
- Dispute resolution clauses
- Training and development
- Honesty in contracting
- Continuity of personnel

**Prevention**

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# Practices That Increase Claims

- Fast Track Schedule
- Budget Too Tight
- Contractor Accepts Too Much Risk
- Aggressive Contractor Bid
- Poor Contracting Strategy
- Lump Sum EPC
- Competitive Bidding

Source: Independent Project Analysis

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# Practices That Do NOT Decrease Claims

- Share Risk Contracts
- Contract / Owner Alliances

Source: Independent Project Analysis

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# Practices That DO Reduce Claims

- Functionally **integrated teams**
- Thorough understanding of **site** conditions
- **Involvement** of the owner/contractor project team in the contracting process
- Contractor **controls & reporting** quality
- Projects with major **design changes** (not a good thing)
- **Expectations of future work**

Source: Independent Project Analysis

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# Why Prevention Practices Are Not Used

- Lack of data (UT, IPA)
- Education
- Lack a dispute prevention champion
- CEO not informed

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