

The Road to Qatar's Construction of the 2022 FIFA World Cup Stadiums

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General Facts

- First Middle East country to host the World Cup
- First Arab country to host the World Cup
- Smallest country (by area) to host the World Cup *(previously Switzerland in 1954)*
- Smallest country (population of 1.7m) to host the World Cup *(previously Uruguay with 1.9m in 1930)*
- First World Cup not to be held in June/July *(in November/December due to extreme summer temperatures in Qatar)*
- 32 competing national teams
- Shorter time-frame of 28 days for the event
- Final scheduled for 18 December 2022 *(also Qatar's National Day)*

Selection Process

- Fédération Internationale de Football Association (FIFA) began bidding process for the 2018 and 2022 World Cup in 2009
- **11** countries initially competed for the 2022 games
- **5** gradually withdrew and **1** (Indonesia) rejected due to lack of government guarantee of support
- **4** rounds of voting by FIFA Executive Committee's (22 members) in Zurich on 02 December 2010

Bidders	Votes			
	Round 1	Round 2	Round 3	Round 4
Qatar	11	10	11	14
United States	3	5	6	8
South Korea	4	5	5	-
Japan	3	2	-	-
Australia	1	-	-	-

Controversies

- FIFA voting and selection process
- Merits of Qatar as the venue over other competitors *(higher operational risks, fewest existing facilities and infrastructure, climate)*
- Qatar's football rankings *(very low ranking, has not previously qualified for World Cup)*
- FIFA bribery and corruption charges *(general and specific to Qatar selection)*
- Worker safety and welfare *(forced labor, trafficking/debt, dangerous and unhealthy conditions, deaths and injuries)*
- Costs to host event *(estimated at USD220b vs. USD3.5b for South Africa to host 2010 World Cup)*
- Changes in timing of event from summer to winter
- Political and cultural considerations
 - LGBT rights
 - Israel's ability to participate *(Israel is not formally recognized by Qatar)*
 - Alcohol consumption *(Qatar limits alcohol consumption and sale through strict permitting requirements)*

Stadiums

- Qatar formed the “Supreme Council for Delivery and Legacy” (SC) to oversee stadium construction
- **12** stadiums originally planned
- Reduced to **8** or **9** stadiums
- SC currently lists **5** stadiums
 - Al Rayyan Stadium
 - Qatar Foundation Stadium
 - Khalifa International Stadium
 - Al Bayt Stadium
 - Al Wakrah Stadium
- SC notes the following upcoming stadiums (designs still under development)
 - Lusail Stadium
 - Ras Abu Aboud Stadium
 - Al Thumama

Al Rayyan Stadium Complex (target completion Q1 2019)

- New stadium, associated training pitches, sports club, sports medicine facilities
- **43,000** seats for World Cup
(reduce to 21,000 seats after - upper modular sections to be donated to under-developed countries in need of sports facilities)
- Cooling technology and renewable energy
- Main Contractors: **Al Balagh Trading & Contracting** (Qatar), **Larsen & Toubro** (India)



Qatar Foundation Stadium (target completion Q4 2019)

- New stadium, fitness facilities, health facilities, aquatic center, retail
- **40,000** seats for World Cup
(reduce to 25,000 seats after - upper modular sections to be donated to under-developed countries in need of sports facilities)
- LEED™ Gold sustainable certification
- Main Contractors: **Joannou & Paraskevaides** (Cyprus)



Khalifa International Stadium (target completion Q4 2016)

- Major upgrade and renovation of existing stadium
(originally built in 1976, prior upgrade in 1992)
- **40,000** seats for World Cup *(increased from existing 20,000 seat capacity)*
- Global Sustainability Assessment System (GSAS) certification
- Main Contractors: **MIDMAC** (Qatar), **Six Construct/BESIX** (Belgium)



Al Bayt Stadium (target completion Q4 2018)

- New stadium
- **60,000** seats for World Cup
(reduce to 35,000 seats after - upper modular sections to be donated to under-developed countries in need of sports facilities)
- Global Sustainability Assessment System (GSAS) certification
- Contractors: **Salini Impregilo** (Italy), **Galfar** (Qatar), **Cimolai** (Italy)



Al Wakrah Stadium (target completion Q4 2018)

- New stadium
- **40,000** seats for World Cup
(reduce to 20,000 after - upper modular sections to be donated to under-developed countries in need of sports facilities)
- Global Sustainability Assessment System (GSAS) certification
- Contractors: **MIDMAC** (Qatar), **PORR** (Austria)



Packaging and Procurement Strategy

- Separate Early Works (Site Preparation contracts)
- Separate Demolition Works (where required)
- Separate Enabling/Foundation Works
- Main Works

Forms of Contract

- SC has developed a suite of contracts based on FIDIC (Yellow, Silver and Red book)
- Different strategies being applied on:
 - Traditional Design-Bid-Build
 - Design-Build (D&B)
 - Public Private Partnership (PPP)

International Contractor Participation

- **Transactional structure**
 - Qatar Law No. (13) of 2000 – Regulation of Foreign Capital Investment in Economic Activity
 - Non-Qatari companies to for partnerships with Qatari entities to qualify to bid
 - Formation of single company (Limited Liability Company)
 - Joint-Venture formed by contract
- **Bonds, Guarantees, Warranties and Retention**
 - Qatar Law No. (26) of 2005 – Public Sector Procurement/Tenders and Auctions
 - Amended by Law No. (22) of 2008 and Law No. (14) of 2010
 - Tender Bonds
 - On-demand Performance Bonds (10% of contract price)
 - On-demand Advance Payment Bonds
 - Collateral Warranties in favor of SC from sub-contractors
 - Retention (up to 10% of contract price)
 - Parent Company Guarantees (where contractor entity is a subsidiary)

Contractor Risks

- **Time**
 - Completion dates decreed by government committees
 - Tight durations and late green-lighting without sufficient adjustments to end date
 - Extensions of time often at discretionary (significant burden on contractor to demonstrate entitlement)
- **Cost**
 - Contract provisions favorable to employer
 - Vague provisions create uncertainty
 - Incomplete contract documents (drawings and specifications)
 - Building code revisions often without grand-fathering
 - Adversarial relationship expected
- **Quality**
 - Interpretation, assumptions and varying standards for documentation (drawings and specifications)
 - Employer involvement in documentation process and differing expectations
 - Employer instructions that change scope or prolong works

Liabilities

- **Deceit and Gross Negligence**
 - Liabilities cannot be limited
 - Provisions to limit liabilities resulting from deceit and gross negligence unenforceable
- **Decennial Liability**
 - Consultants and contractors jointly and severally liable for 10 years
 - Due to “total or partial collapse” or “fault” that could cause a collapse
 - Includes collapses or faults due to “defect[s] in the land”
 - Cannot be precluded by contractual clauses but Qatar Civil Law provides for “reasonable” application
- **General Liability and Liquidated Damages**
 - Parties are free to agree limits but courts have discretion to adjust (higher or lower)
 - Delay damages commonly capped at 10%
 - Overall liability generally capped at 100% excluding IP, serious injury/death and property damage

Dispute Resolution

- **General**
 - Early dispute avoidance and resolution measures (seem to not be included in contracts to date)
 - Dispute boards and compelling mediation (seem to not be included in contracts to date)
 - Language pertaining to amicable resolution being included in recent contracts
 - Escalation of unresolved matters (from engineer to CEO/Chairman level) before going to courts
- **Litigation (Qatar Courts)**
 - Qatar does not have specialized construction or commercial courts
 - Construction disputes often referred to court appointed experts
- **Arbitration**
 - Increasingly replacing litigation in Qatar's construction sector
 - Qatar has drafted new arbitration laws
 - Contracts include arbitration clauses (often adopting ICC rules with Qatar as seat of arbitration)
 - Senior level government approval required for arbitration agreements to be binding
 - Qatari arbitration bodies: QICCA and QICDRC

Thank You

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INTERNATIONAL LEGAL ADVISORS