

T&C/Misc/2010

Tenders & Contracts Section
NWSDB
Ratmalana

06th January 2010

To:

Additional General Managers
Deputy General Managers
Assistant General Managers (Doc/ F/ T&C /GW)
Project Directors

Minutes of the Meeting

Forwarded herewith the Minutes of the meeting held on 14th December 2009 at my office regarding Price Variations in Capital Projects for your information and necessary action please.



General Manager

07/01
06/01

Minutes of the Meeting held on Price Variations in Capital Projects held at the General Manager's Office on 14th December 2009

Participants: General Manager
Addl. GM (Western / S&E)
DGM (PC / P&D / F)
AGM (Doc / N&C/ F / T&C)

1. **Objective**

The objective of the meeting was to identify the appropriate authority to vary the price contingency during implementation and agreeing upon a workable procedure.

2. **Definitions**

For the easy understanding following definitions have been agreed by the participants.

[a] TCE – Total Cost Estimate

TCE means the total anticipated cost for the project including [Ref. Chapter 4.3 of Procurement Guidelines, 2006 & Procurement Manual]

- Direct Construction cost
- Provisions for procurement preparedness activities
- Provision for physical contingencies
- Reasonable amount for price contingency
- Applicable VAT and duties

TCE may include more than one contract package.

[b] Contract Budget (Engineer's Estimate)

Means the estimated cost for one contract package of a project which includes

- Direct Construction cost
- Provision for physical contingencies
- Reasonable amount for price contingency
- Applicable VAT and duties

3. **Adjustments For Changes In Cost (Price Variations)**

DGM (P&D) indicated that action has already been taken to amend the SBD for future tenders providing a Provisional Sum in General Bill for adjustments for changes in cost.

Addl. GM (S/E) indicated that even though a provision has been allowed in the contract for price variations, it is necessary to vary this amount due to various reasons beyond the control of either parties.

**Approving Authority for Adjustments for Changes In Cost (Price Variation Claims)
IF such adjustments are allowed in the contract**

i. Contract Price < Engineer's Estimate

- A. Net Variations can be paid within the Contract Price

Engineer's Representative may approve the adjustments for changes in cost (Price Variation)

- B. Net Variations exceeds the provisions in the contract + accumulated savings but can be paid within the Engineer's Estimate.

Engineer's formal approval to utilize balance allocation shall be obtained before approving the adjustments for changes in cost (Price Variation) by Engineer's Representative.

ii. Contract Price > Engineer's Estimate or net variations exceeds the provisions in the Engineer's Estimate + Accumulated Savings

- A. Net variations can be paid within the TCE

Formal approval shall be obtained from the relevant approving authority (up to 5 million – DGM, more than 5 million – GM) to rearrange within the TCE considering unutilized provisions of VAT etc. before approving the variations by Engineer's representative.

- B. Net Variations cannot be paid within the TCE.

TCE shall be updated, taking into consideration inflation and other factors and shall be sanctioned by the respective authority before approving any variation.

Note: For definition of "Contract Price" – please refer General Conditions of FIDIC & ICTAD.

4. Other Variations to Contracts –

Please refer supplement – 14 to the procurement manual issued on 03/10/2007 on this Connection (copy attached)

However Project Management must ensure that all professional and human efforts are taken to minimize these situations.



Democratic Socialist Republic of Sri Lanka

Supplement – 14

To the

PROCUREMENT MANUAL

Issue Date: 2007-10-03

(To be used along with Procurement Guidelines 2006 Goods & Works)

This supplement supersedes the sections
PROCUREMENT GUIDELINE REFERENCE: 8.13.4
Variation to Contracts

NATIONAL PROCUREMENT AGENCY

Variation to Contracts

The variations to contracts during the implementation stage cause very high burden on the PE and to the Government. If the contribution from the variation to the final contract sum is high it will dilute the procurement process that was carried out when awarding the contract.

Therefore PE must ensure that all professional efforts are taken to minimize this situation. Variations are required mainly due to scope change, and quantity variations and omissions. All professionals involved in preparation of Bills of quantities must ensure that quantities included in the BOQ are as accurate as possible and allow not more than 5% to round off the quantity. **No variation order on change of scope which involves the increase of contract price shall be issued without the prior approval obtained following the procedure indicated.** However, any savings accumulated on the reduction of quantities and/or deletion of items in the original BOQ may be used to issue variation orders without following the approval procedure. To minimise variations due to change of scope, the PE should obtain a comprehensive briefing before inviting bids, from the person/s who are involved in design, whether they are internal staff or external consultants; This is required to minimize the scope change during the implementation.

To minimize variations due to quantity variations/omissions:

- (i) before the start of preparation of bidding documents, PE should obtain a certificate from the persons who have prepared the Bills of Quantities (BOQ) that a second person has checked the BOQ for its accuracy and completeness;
- (ii) when "similar structure or building" is constructed, to compare the BOQ with the final measurements made for such a "similar structure or building" previously, before finalizing the current BOQ;
- (iii) use any other steps to increase the accuracy of the BOQ

Approving authority for Contract Variations:

A: Net variation within 10% of the Contract Award Price:

Head of the Department (HD) or Project Director (PD) may approve the variation by revising the TCE, if required and subject to the following:

- a) By obtaining explanatory note from the persons involved;
- b) By Satisfying that:
 - i. Change of scope could not have foreseen at the time of award of contract;
 - ii. the change of scope is justifiable;
 - iii. The quantity variation/s are marginal or are due to unforeseen situation/s;

If not

- c) By following procedure describe under 'B' below.

B: Net variation exceeds 10% of the Contract Award Price:

- a) HD/PD shall forward all the relevant documents together with a statement prepared in accordance with a) and b) above to the CAO; HD/PD shall also submit all the documents required for the revision of TCE.
- b) If the net variation is within 15% of the Contract Award Price and CAO is satisfied with the HD/PD statement CAO may approve it;
- c) If the net variation is more than 15% of the Contract Award Price or the net variation is below 15% and CAO is not satisfied with the statement submitted by HD/PD, CAO shall refer it to a the appropriate PC assisted by the TEC; In this situation the appropriate PC shall be decide on the basis of increased amount of the contract price and not necessarily the PC relevant to the revised contract price.

PROCUREMENT GUIDELINE REFERENCE: 8.13.4

VARIATION TO CONTRACTS

If the aggregate amount of the variations (due to quantity changes and extra works orders issued), is exceeding the contingency provision (which should be 10% maximum) the HD/PD shall obtain the approval from the CAO before issuing such variation orders. HD/PD may use the following format.

1. Amount of the original TCE		Rs.
2. Original Contract Price		Rs.
3. Percentage of Contingencies provided in the TCE		
4. Aggregate variations (including changes in quantities) to-date.		
Amount:		
Percentage from the original contract price		
5. What is/are the reason/s for current variation/s? (tick as one or both as appropriate)		
	Tick below	Amount/s
Quantity error in the BOQ		Rs.
Change of Scope		Rs.
Sub total		Rs.
Variations issued to-date (from 4 above)		Rs.
Aggregate variations with the current		Rs.
Percentage of the aggregate from the original TCE		
<i>Note:</i>	<p><i>If the aggregate amount of variation as computed above is still within the 5% limit of the original TCE, the CAO, if he satisfy with the variation and by obtaining the assistance of a TEC appointed by him may approve the variation.</i></p> <p><i>If the aggregate amount of variation as computed above is more than or equal to 5% of the original TCE, and if the CAO is satisfy with the variation, the variation should be approved by the appropriate PC assisted by the appropriate TEC. For this purpose the appropriate committees should be decide on the basis of revised TCE and not necessarily the committees that handled the original procurement.</i></p>	
6. If the current variation/s is due error in BOQ, explanation from the officer who was responsible in preparing the original BOQ: (use attachments)		
7. If the current variation/s is due change in scope, explanation from the procuring Entity on why it was not foreseen at the design stage: (use attachments)		
Signature		Date