

LECTURE TEN: LABOUR CONTRACTS

Labour Contract: This is a contract where the contractor quotes rates for the item work exclusive of the elements of materials. Here the contractor undertakes the contract for the labour portion alone. All the materials required are arranged and supplied at the site by the owner. The contractor engages labour alone and gets the work done according to the specifications. The contractor is paid only for the portion of the work done as per the agreement. Contractor may use his own tools, but the plants and machineries, scaffolding, centering and shuttering etc. will be arranged by the owner himself.

Merits

1. The materials available in the stores can be used.
2. Increase in the price of the materials is checked.
3. Difficulty in obtaining certain materials can be avoided.

Demerits

1. Contractor should in touch with the department on day to day basis regarding the supply of materials.
2. Large storage space and guarding of materials is necessary.
3. Theft, shortage etc. are constant worries for the department.
4. Refund of excess materials is involved.

Turn-key or Package deal or All-in contract: In this type of contract all the services of both the engineering and construction will be given to only one party. The main contractor can sublet the contact to subcontractors who are specialists in their respective fields. The owner gives his requirements in broad outline to the contractor along with site data. The contractors then proceed to prepare their own design and finally submit the same to the owner along with the estimated cost in lump-sum basis. Thus the owner receives a number of competitive designs. After studying the details, financial aspects and other factors, the owner selects a design that is most suitable for him. The construction work is then given to the contractor whose design has selected. In short this contract involves all planning, designing, plans specification, preparation of estimates and construction services under one contractor on competitive basis.

Merits

1. The main advantage to the owner is that he need not coordinate the work of different contractors.

Demerits

1. This type of contract is suitable only under certain circumstances especially when the project demands special consideration for its design and successful construction.

Target Contract: This is the type of contract where the contractor is paid on a cost-plus percentage work performed under this contract. In addition, he receives a percentage plus or minus on savings or excess effected against either a prior agreed estimate of total cost or a target value arrived at by measuring the work on completion and valuing at prior agreed rates.

Merits

1. The contractor is encouraged to use his skills and experience to lower the cost.
2. Advantageous to both the contractor as well as owner.

Demerits

1. Contractor may show higher construction cost and may gain more.

Measured or Scheduled Contract: Except lump-sum contracts all other contracts are measured contracts. Total cost work is worked out by detailed measurement of different items of work after its completion.

Negotiated Contract: In this type of contract, the contract is awarded simply by negotiation (i.e., dialogue between the owner and contractor). There is no open competition and owner or representatives of the owner carries out negotiations with the contractors based on their experience, financial status, reputation etc.

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for project cost and other conditions of contract. In this type of contract, detailed projects specifications are arrived at by discussions between the owner and the main contractor and consultant. A negotiated contract involves extended discussions for finalization as a competitive contract. Most of the consultancy projects of World Bank are negotiated contracts.

Merits

1. The Lesser chance of dispute as the competition is restricted to small number of equal ranked contractors.
2. Useful in case of emergency or under special circumstances when time of completion is the major consideration.

Demerits

1. Cannot be used in public works under normal circumstances.

Rate Contract: The purchase of common articles by the store purchase department of government is done through rate contract. In order to fix the rate contract the Director General of Supplies and Disposal (DGS&D) of central government will invites tender from the manufacturers or suppliers. After scrutiny he fixes the rates of such articles and make contract with the manufacturers or suppliers for a certain period of time. In state government this is done by the superintendent of store purchase department. The rate contract wit all the rate particulars, specifications etc. are notified in the gazette. The departments will directly places order to the contractors giving the reference of the rate contract number and date. The supplier supplies the materials directly. 80% of the total amount is paid in advance and the rest will be paid on the satisfactory receipt of the materials.

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Rate Contract: When the market is unstable, it is quite likely that no contractor will come forward to carry out the work. In such cases slight modification of item rate contract is made. The contractor will mention the basic prices of some essentials like cement, steel etc. If there is any rise or fall in these prices then the same should be adjusted without conflict.

Continuing Contract: In this type of contract, new or additional work is awarded to the contractor on the basis of agreed terms and conditions of an existing contract. Such contracts do not require re-tendering and hence can save time and money.

Running Contract: Such contracts are made to provide goods and services as and when required by the owner. The contract price is not fixed and payment is based on goods supplied and services rendered as specified in the contract documents.

Fixed rate contract: It means a contract where a set of rates and terms and conditions are fixed for the supply of unit quantities of goods or certain standardized services.

CONTRACT DOCUMENTS:

Documents related to awarding contract are called contract documents, generally it contains following

- i) Drawing.
- ii) Specification of items.
- iii) General conditions of contract
- iv) General explanation

A tender is the offer by the contractor to the owner to construct and the execute the work according to the drawing, specification (provided by owner or changed by contractor) and general condition of controls.

Finally all the parties involved in the project (owner and contract) sign the legal agreement with respect to well defined intentions. If bidding is carried out with internationally, contract document consists of general conditions of site, its location local laws regarding labor etc., general condition for execution of the work etc.

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BIDDING REQUIREMENTS

Bidding Requirements are used to attract bidders and explain the procedures to be followed in preparing and submitting bids . Bidding requirements help bidders follow established procedures and submit bids that will not be disqualified because of technicalities. They do not become part of the contract documents

Bidding documents

All of the construction documents issued to bidders before the signing of an owner-contractor agreement.

Bid Package

Documents available to the contractor and on which he must make a decision to bid or not .A set of plans and technical specifications, Proposal form, general conditions, special conditions, Description of the project to be constructed.

SPECIFICATION:

In the construction work specification gives full description of work. It indicates the properties of materials and workmanship for each item of work. It is quiet essential to expect quantity and quality of each item of work. So, that the work can be carried out, confirming to the specifications. The tenders and quotations can also be invited enclosing the specifications for quoting the rates.

Objective of Specifications

- The specifications define the quality of material and workman ship.
- It helps the contractor to quote correct rates for different items of the work while tendering.
- The information and instructions mentioned in the specification serve as a guide to the contractor and supervising staff during the execution of work.
- The specification aim to product interests of all the three parties involved in the execution of work. The three parties are the contractor, the engineer and owner which may be an individual or Govt.Department.
- The specification describes the limit of responsibility of owner, contractor and supervising staff. The provisions in the specifications are given more legal strength than that in the drawings. The specifications play an important part in the construction work and the cost of work depends much on the specifications.

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- The specification should be clear and there should not be any ambiguity anywhere at any stage of the work. As far as possible the clauses of the specifications should be arranged in the same order, in which the work will be executed. The specifications depend upon the nature of work, the purpose for which the work is required, strength of availability of materials, quantity of materials.

CLAUSES OF THE CONDITION OF CONTRACTS:

Following are the important conditions of contract:

1. Definitions
2. Time of completion
3. Rate of progress
4. Delay and extension of time
5. Penalty
6. Compensation for delay in completion of work
7. Liquidated damages
8. Valuation of variations
9. Settlement of disputes
10. Force of nature and natural disasters
11. Price escalation
12. Termination of contract
13. Patent rights and royalties
14. Abandonment
15. Temporary works
16. Damages to person or property
17. Insurance of works, materials, construction plants etc.
18. Nominated sub-contractors
19. Alterations, additions and omissions
20. Inferior materials and workman

Definitions: This clause contains the definitions of the words which are frequently used in the specifications. The purpose of this is to avoid confusions and to fix meaning of the particular word. The usual definitions contained are engineer, owner, contractor, site, drawings and works.

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Time of Completion: The Contractor is required to complete the work within the agreed time of completion which is specified in a suitable unit of time (year, month, week etc) depending upon the nature and scope of work.

Rate of Progress: The contractor is also required to maintain a proportionate progress of work.

Delay and Extension Time: Delay in completion of work not attributed to the contractor should be brought to the notice of the owner by the contractor in writing, within the time specified in the contract, for seeking extension of time. The owner will satisfy himself that the delay is not on account of a lapse on the part of the contractor before granting suitable extension of time.

Penalty: It is a fine imposed on the contractor for non-fulfillment of his contractual obligations such as failure to maintain required progress of work, delay in completion, poor quality of work, bad workmanship etc.

Compensation for delay in completion of work: The contractor is liable to pay compensation to the owner for delay attributed to him in completion of work. The amount of compensation may be stated as a percentage of the estimated cost of work for each unit of time delay. The maximum limit of compensation may be 10% of the contract price.

Liquidated Damages: It is a fixed stipulated sum payable by the contractor on account of penalty for delays and does not bear any relationship to the real damage to the owner. It is generally high and fixed per day for excess period over the specified in the contract for completing the work.

Valuation of Variations: The valuation of variations is based on change orders issued in writing by the owner. Generally, the variation in individual items of work should not be more than 25% and variation in total cost should not exceed 10%.

Settlement of Disputes: Efforts should be made to resolve disputes amicably between the owner and the contractor through mutual discussions and negotiations. Arbitration clause may be incorporated in the contract to settle disputes not resolved through mutual discussions and negotiations.

Forces of Nature and Natural Disasters: Natural disasters are acts of nature, such as unprecedented floods / rainfall, earthquake, hurricanes, typhoons, fire etc. These disasters along with occurrence of riots, civil commotion, revolt etc. are beyond the control of the

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contractor and may lead to financial and time loss. The contractor should obtain an insurance policy for such risks as can be covered by insurance. In the event of financial or time loss, the contractor can claim financial compensation from the owner for risks which are not insurable and an extension of time for all such risks.

Price Escalation: During execution of the work, labour wages and material prices may increase as a result of inflation. The contract conditions should therefore, include an appropriate clause for payment of escalation to the contractor. The compensation for escalation is normally worked out at quarterly intervals with respect to the cost of work executed during that period.

Termination of Contract: The owner can terminate the contract in the event of default or bankruptcy of the contractor and may impose penalty as per the contract agreement. Default on the part of the contractor includes abandoning the work, failure to maintain required progress, non-observance of rules / instructions etc. for which the owner may rescind the contract and impose penalty upto 10% of the estimated cost of work. Due notice must be served on the contractor before termination of the contract.

Patent rights and royalties: This clause is to warn the contractor regarding the use of patented design, articles etc. This includes the inclusion of the royalties, if any, in the tender amount itself, keeping the owner unaccounted for the such violations, and for the operation even after the contract period.

Abandonment: This clause is provided to meet the situation when the contractor deliberately stops the works. Normally provision is made to finish the remaining works by the owner by employing other person(s) and the difference in amount will be deducted from the security deposit of the contractor.

Temporary works: This clause will speak about the temporary works required for the actual construction. Contractor will be responsible for design and construction all such temporary works.

Damages to person or property: This clause contains the details of the persons responsible in case of any damages to person or property. The claims will be made only to those persons. Normally contractors will be held responsible.

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Insurance of works, materials, construction plants etc.: Insurance should be in the joint names of the owner and the contractor. Surplus insurance amount will be given to the contractor.

Nominated sub-contractors: This clause talks about some special cases where any special works to be carried out or for the supply of special materials, nominated sub-contractor will be approved by the engineer. In such cases contractor has to pay the sub-contractors.

Alterations, additions and omissions: Some alterations, additions or omissions will be required, in every contract, at some stage. Unless some provision is made for this, the contractor may refuse to carry out such alterations, additions or omissions. Due consideration has to be given for the adjustments in price, changes do not affect the original contract including finishing time and the authority to carry out such alterations, additions or omissions.

Inferior materials and workman: This clause provided to reject the materials and workmanship which are not conforming to the specifications. This includes the marking and removal of the rejected materials, and replacing or repairing the construction or workmanship

IMPORTANT CONDITIONS OF CONTRACT:

- a. The rates quoted by contractor are for complete work including materials, Transport, labour and other arrangements.
- b. The contractor shall deposit 1.5% of the estimate cost as Earnest money deposit along with tender.
- c. The contractor has to complete the work within the prescribed time and to maintain the rate of progress as fixed in tender.
- d. The extension of time is to be granted by the competent authority on valid reasons with penalty.
- e. The part payment shall be made to the contractor from time to time based on the progress of work in site.
- f. The cost of materials issued to the contractor will be deducted from the running bills.

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g. The contractor has to execute the work as per the specifications and quantity fixed in the tender schedule.

h. The work shall be kept open and free for inspection of departmental Engineers.

i. The compensation to the work men shall be paid by the contractor for any accident or damage.

j. The labour camps and required amenities are to be provided and maintained by the contractor.

TERMINATION OF CONTRACT:

Termination of contract may be for any one of the following reasons:

1. Termination by performance
2. Termination by agreement
3. Termination by breach
4. Termination by the impossibility of performance
5. Termination by operation of provisions of the law

Termination by performance: This is the ideal condition for the termination of the contract. When the contractor is complete the work as per the terms and conditions of the contract, then the contract is treated as terminated.

Termination by agreement: The parties concerned may terminate the contract at any time by mutual agreement at any time of the work. The contractor will be paid for the amount of work done by him up to the time of termination.

Termination by breach: The owner can terminate the contract in the event of contractor abandoning the work, failure to maintain required progress, non-observance of rules / instructions etc. for which the owner may terminate the contract and impose penalty upto 10% of the estimated cost of work. Due notice must be served on the contractor before termination of the contract.

Termination by the impossibility of performance: A contract can be cancelled when unexpected condition arise and make the provisions of the contract impossible. For instance natural disasters such as unprecedented floods / rainfall, earthquake, hurricanes, typhoons, fire etc. or conditions like occurrence of riots, civil commotion, revolt etc. In such cases it is the duty of the defaulting party to prove the impossibility of the performance.

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Termination by operation of provisions of the law: A contract can be terminated by the operation of any prevailing laws such as laws pertaining to bankruptcy or inheritance or limitations of time