

MEMORANDUM

Sub: Amendment in the Special Terms and Conditions of Contract in WB Form No.2911(II) for execution of works.

Public Works Department has been engaging Supervision Consultant for high valued road works exceeding Rs.25 Crores with an eye to ensuring effective implementation of these works that conform to stipulated quality and also minimise problem regarding abidance of contractual obligations both by the client as well as by the contractors during pre and post implementation stages of the work. So, a need is being felt that certain duties that are assigned to Divisional Engineer Office earlier would henceforth be performed by the Supervision Consultant though original duties and responsibilities of Divisional Engineer Officer as per PWD Codal provision will remain unaltered.

In P.W.Department, work contracts are executed in terms of conditions laid down in Form No.2911(II) in which among several things, Divisional Engineer Officer has been designated as Engineer-in-Charge. Therefore, with a view to giving more specific meaning of the role to be assigned to Supervision Consultant and also enabling him to discharge his duties, some amendment to existing clauses of Form No.2911(II) have been felt necessary.

After careful consideration of the entire matter, the Governor is pleased to make following amendments to some of the existing clauses as detailed hereunder for their inclusion as new clauses in the Special Terms and Conditions of Contract in WB Form No.2911(II).

AMENDMENTS IN CLAUSES:

Clause 2

Compensation for delay

Replace the second sentence of the Clause with the following:

“The work shall throughout the stipulated period of the contract be proceeded with all due diligence (time being deemed to be the essence of the contract, on the part of the contractor) and the contractor shall pay as compensation an amount equal to one percent or such smaller amount as the Supervision Consultant Engineer may evaluate and as the Superintending Engineer (whose decision in writing shall be final) may decide, on the amount of the tendered amount of the whole work as shown in the tender for everyday that the work remains uncompleted, or unfinished after the proper date.”

Clause 3

Action when Whole of security Deposit is forfeited

Sub-Clause 3(b) shall be replaced as follows:

“To employ labour paid by the Public Works Department and to supply materials to carry out the work, or any part of the work, debiting the contractor with the cost of the labour and the price of the materials (of the amount of which cost and price a certificate of the Supervision Consultant Engineer shall be final and conclusive against the contractor) and crediting him with the value of work done, in all respects in the same manner and the same rates as if it had been carried out by the contractor under the terms of his contract; the certificate of the Supervision Consultant Engineer as to the value of the work done shall be final and conclusive against the contractor.”

Sub-Clause 3(c) shall be replaced as follows:

“To measure up the work of the contractor, and to take such part thereof as shall be unexecuted out of his hands, and to give it to another contractor to complete, in which case any expenses which Compensation for delay Action when whole of security deposit is forfeited may be incurred in excess of the sum which would have been paid to the original contractor if the whole work had been executed by him (of the amount of which excess the certificate in writing of the Supervision Consultant Engineer shall be final and conclusive) shall be borne and paid by the original contractor and may be deducted from any money due to him by Government under the contract or otherwise, or from his security deposit or the proceeds of sale thereof, or a sufficient part thereof.”

The last paragraph shall be replaced as follows:

“In the event of the above courses being adopted by the Divisional Officer and Supervision Consultant Engineer, the contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials, or entered into any engagements, or made any advances on accounts, or with a view to the execution of the works or the performance of the contract. And in case the contract shall be rescinded under the provision aforesaid, the contractor shall not be entitled to recover or be paid any sum for any work therefore actually performed under this contract, unless and until the Supervision Consultant Engineer will have certified in writing the performance of such work and the value payable in respect thereof, and he shall only be entitled to be paid the value so certified.”

Clause 4

Contractor remain
liable to pay
compensation if
action not taken
under Clause 3

Substitute Clause 4 by the following:

“In any case in which any of the powers, conferred upon the Divisional Officer and the Supervision Consultant Engineer by clause 3 hereof, shall have become exercisable and the same shall not be exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions thereof and such powers shall notwithstanding be exercisable in the event of any future case of default by the contractor for which by any clause or clauses hereof, he is declared liable to pay compensation amounting to the whole of his security deposit, and the liability of the contractor for past and future compensation shall remain unaffected. In the event of either the Divisional Officer putting in force of the power (a) vested in him or the Supervision Consultant Engineer putting in force of the power (c) vested in him under the preceding clause the Divisional Engineer may, if he so desire, take possession of all or any tools, plant, materials and stores, in or upon the work, or the site thereof or belonging to the contractor, or procured by him and intended to be used for the execution of the work or any part thereof, paying or allowing for the same in account at the contract rates, or in case of these not being applicable, at current market rates to be certified by the Supervision Consultant Engineer whose certificate thereof shall be final, otherwise the Divisional Officer may by notice in writing to contractor or his clerk of the works, foreman or other authorized agent require him to remove such tools, plant, materials or stores from the premises (within a time to be specified in such notice); and in the event of the contractor failing to comply with any such requisition, the Divisional Officer may remove them

