

APPENDIX XI

(RPWA-100)

(See Rule 322 & Note 1 below Rule 331)

**GOVERNMENT OF RAJASTHAN
OFFICE OF THE.....DEPARTMENT.....**

NOTICE INVITING TENDERS FOR WORKS

1. Tenders are hereby invited on behalf of the Governor of Rajasthan for the works offrom enlisted contractors of the appropriate class. Contractors enlisted with the CPWD, Postal, Telecom, Railway, MES, other State Governments/Central Government Undertakings/Organisations equivalent to AA and A Class of Rajasthan are also eligible after giving prescribed Earnest Money to tender for works as under :-
 - (i) Contractors equivalent to AA Class of Rajasthan Works of which cost exceeds Rs. 1.5 crores
 - (ii) Contractors equivalent to A Class of Rajasthan Works of which cost exceeds Rs. 1.5 crore but not exceed Rs. 3.00 crores.
2. Contract document consisting of the detailed plan, complete specifications, the Schedule of the quantities of the various classes of work to be done and the set of Conditions of Contract to be complied with by the persons whose tender may be accepted, which will also be found printed in the form of tenders, can be seen at the office of the _____(name of the officer) every day except on Sundays and Public Holidays, during office hours.
3. Tenders, which should always be placed in sealed covers with the name of the work written on the envelopes, will be received by the _____(name of the officer) upto am/pm (time) on the _____(date) and will be opened by him in his office at am/pm (time) on _____, (date) in the presence of such Contractors or their authorised representatives, as are present.
4. Tenders are to be submitted on a prescribed form, which can be obtained from the office(s) of the..... (name of the officer(s)) on payment of a sum of Rs. in cash or by demand draft. The sale of tender forms will start at least.....days before the date of receipt of Tenders. The sale of Tenders will be closed one day before actual time of receipt of tender. Before submitting tenders, it should be ensured that all the tender papers including Conditions of Contract are signed by the tenderer. Eligibility to get tender forms shall be with reference to the amount mentioned in the NIT.
5. The work is to be completely finished to the satisfaction of Engineer-in-charge within _____ months from the 10th day after the date of written order to commence the work.
6. Earnest Money, amounting to Rs.____, must accompany each tender, and each tender is to be in a sealed cover, superscribed "Tender for_____" and addressed to the (name of the officer). Earnest Money, in cash or Bankers Cheque in the name of

officer inviting tender or Demand Draft of Nationalised/Scheduled Banks, should be deposited with the cashier or authorised clerk and his receipt should be attached with tenders. In case of tenders for works of which tendered cost is Rs. 5 crores and above, Earnest Money of Rs. 10 lac shall be accepted in cash as above and remaining part of Earnest Money can be accepted either in the form of Bank Guarantee (Form RPWA 87) or in cash. Enlisted contractors shall be required to deposit 1/2% of estimated cost of work as Earnest Money while tendering within their enlistment zone. For outside their zone, 2% Earnest Money shall be required to be deposited.

- ¹[7. The security deposit @ 10% of the gross amount of the running bill shall be deducted from each running bill and shall be refunded as per rules on completion of the contract as per terms and conditions. However, the amount of security deposit deducted from running bills shall not be converted into any mode of securities like bank guarantee, FDR etc. The earnest money deposited shall however be adjusted while deducting security deposit from first running bill of the contractor. There will be no maximum limit of security deposit.

However, a contractor may elect to deposit full amount of 10% security deposit in the shape of bank guarantee or any acceptable form of security before or at the time of executing agreement. In that case earnest money may be refunded only after deposition of full 10% as above. However, in case during execution cost of works exceeds as shown at the time of depositing 10% as above, balance security deposit shall be deducted from the Running Account Bills.]

8. The acceptance of the tender will rest with the Competent Authority who does not bind itself to accept the lowest tender, and reserves to itself the authority to reject any or all of the tenders received without assigning any reason.
9. Tender forms, as issued from the office(s) mentioned above (Para 4), must be returned, with all enclosures, to the following office/offices, on the date of receipt of tenders :

	Value of Tenders	Name of office
(i)	Tenders for which sanctioning authority is Executive Engineer/Superintending Engineer	Divisional Office
(ii)	Tenders for which the sanctioning authority is Additional Chief Engineer/Chief Engineer	Circle Office
(iii)	Tenders for which sanctioning authority is Board/State Government.	Additional Chief Engineer/ Chief Engineer Office

10. No refund of tender fees is claimable for tenders not accepted or forms returned or for tenders not submitted.

1. Substituted by Order No.F.2(4)FD/Exp.III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect for - "7.The contractor, whose tender is accepted, will be required, at the time of execution of agreement, to furnish Performance Guarantee for 5% of the tendered amount, as security for the due fulfilment of his contract. However, a contractor registered in class *[xxx] "D" may apply in prescribed form (RPWA 114), if he desires so, for deducting the amount of Performance Guarantee from Fist Running Account Bill, as laid down in clause 1 of conditions of contract. The Earnest Money, lodged by the contractor, if any, at the time of tendering, will be adjusted towards security deposit. The remaining security deposit may be furnished in the form of Bank Guarantee or in any other approved form of security in lumpsum, or the contractor may choose to allow deduction from the Running Account Bills to be made on account of the gross work done."

*Deleted words ["C" or] by Circular No.9/2001 dated 19.3.2021.

11. The tenders for works shall remain open for acceptance for the period as given below from the date of opening of ¹[Potential assessment bid/post-qualification bid/pre-qualification bid, where 2 envelopment system is followed, otherwise from the date of opening of financial bid:]

² [1.	For tenders to be accepted by Executive Engineer	20 days
2.	For tenders to be accepted by Superintending Engineer	30 days
3.	For tenders to be accepted by Additional Chief Engineer	40 days
4.	For tenders to be accepted by Chief Engineer	50 days
5.	For tenders to be accepted by Administrative Department	60 days
6.	For tenders to be accepted by Finance Committee Board/Empowered Committee/Empowered Board etc.	70 days

Note : Communication of acceptance of tender shall also be within the above limits.]

If any tenderer withdraws his tender prior to expiry of said validity period or mutually extended period or makes modifications in the rates, terms and conditions of the tender within the said period, which are not acceptable to the department, or fails to commence the work in the specified period/fails to execute the agreement ³[xxx] the department shall, without prejudice to any other right or remedy, be at liberty to forfeit the amount of earnest money given in any form absolutely. If any contractor, who having submitted a tender does not execute the agreement or start the work or does not complete the work and the work has to be put to retendering, he shall stand debarred from participating in such retendering in addition to forfeiture of Earnest Money/Security Deposit ⁴[xxxx] and other action under agreement.

12. All tenders, in which any of the prescribed conditions are not fulfilled or which have been vitiated by errors in calculations, totalling or other discrepancies or which contain over-writing in figures or words or corrections not initialled and dated, will be liable to rejection.
13. Enlisted Contractors, will be required to pay Earnest Money @ 1/2% of estimated cost of work put to tender, in case of work for which they are authorised to tender under Rules for enlistment of contractors, but the amount to the extent of full Earnest money shall be liable to be forfeited in the event of circumstances explained in Clause 11 above. Degree/Diploma holder Engineers may pay Earnest Money equal to one half of the normal rates, subject to the provisions of Rules for enlistment of Contractors.

.....
 1. Substituted by Order No.F.2(4)FD/Exp.III/99 dated 19.3.2001 (Circular No. 6/2001) with immediate effect for - "financial bid".

2. Substituted by Order No.F.2(4)FD/Exp.III/99 dated 19.3.2001 (Circular No. 6/2001) with immediate effect for -

1.	For tenders to be accepted by Executive Engineer	30 days
2.	For tenders to be accepted by Superintending Engineer	45 days
3.	For tenders to be accepted by Additional Chief Engineer/ Chief Engineer	60 days
4.	For tenders to be accepted by Administrative Department/Board	75 days

Note : Communication of acceptance of tender shall also be within the above limits.

3. Deleted words "and fails to furnish performance guarantee" by Order No.F.2(4)FD/Exp.III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

4. Deleted words "/Performance Guarantee" by Order No.F.2(4)FD/Exp.III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

- ¹[14. The tender should be accompanied with Sales Tax Clearance Certificates from the concerned departmental authorities, without which the tenders may not be entertained.]
- ²[15. The whole work may be split up between two or more contractors or accepted in part and not in entirety if considered expedient.]
- ³[16. If the contractor does not submit performance guarantee within 10 days from the date of communication of acceptance of his tender, his earnest money shall be liable to be forfeited.]

Signature of Engineer-in-charge
For and on behalf of the Governor of Rajasthan

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1. Substituted by Order No.F.2(4)FD/Exp.III/99 dated 1.11.2003(Circular No. 18/2003) with immediate effect for -

"14. The tender should be accompanied with Income Tax and Sales Tax Clearance Certificates from the concerned departmental authorities, without which the tenders may not be entertained."

2. Existing Rules 15 to 17 deleted and Rule 18 re-numbered as Rule 15 by Order No.F.2(4)FD/Exp.III/99 dated 19.3.2001 (Circular No. 6/2001) with immediate effect.

"15. The estimate of the work has been sanctioned by.....(name of the authority) bearing registered No.....

16. It is certified that land for the work has been acquired, alignment has been approved and design/drawing are enclosed.

17. The estimate percentage of Labour/Material/Bitumen/Diesel and Petroleum component for this work are as under :

(a) Labour.....Percent

(b) Material.....Percent

(c) Bitumen.....Percent

(d) Diesel & Petrol.....Percent

Total.....100%."

3. Added by Order No.F.2(4)FD/Exp.III/99 dated 19.3.2001 (Circular No. 6/2001) with immediate effect.

APPENDIX XI (continued)

**GENERAL RULES AND DIRECTIONS
FOR THE GUIDANCE OF CONTRACTORS**

1. All works, proposed for execution by Contract, will be notified in a form of invitation to tender pasted on public places and on a board hung up in the office of and signed by the Chief Engineer or other duly authorised Engineer.

The form of invitation to tender will state the work to be carried out, as well as the date of submitting and opening of tenders and the time allowed for carrying out the work, also the amount of Earnest Money to be deposited with the tender and the amount of the ¹[xxxx] Security Deposit to be deposited by the successful tenderer and the percentage, if any, to be deducted from bills. Copies of the specifications, designs and drawings and estimated rates/scheduled rates and any other documents required in connection with the work signed for the purpose of identification by the Executive Engineer shall be open for inspection by the Contractor at the office of the Chief Engineer or other duly authorised Engineer during office hours.

2. In the event of the tender being submitted by a firm, it must be signed separately by each partner, thereof, or in the event of the absence of any partner, it must be signed on his behalf, by a person holding a power of Attorney, authorising him to do so. Such power of Attorney will be submitted with the tender and it must disclose that the firm is duly registered under the Indian Partnership Act, by submitting the copy of registration certificate.
3. Receipts for payments, made on account of a work when executed, by a firm must also be signed by the several partners, except where the contractors are described in their tender as a firm, in which case the receipts must be signed in the name of the firm by one of the partners or by some other person having authority to give effectual receipts for the firm.
4. Any person, who submits percentage rate tender, shall fill up the usual printed form stating at how much percent above or below the rates specified in Schedule G, he is willing to undertake the work. Only one rate of percentage, more or less, on all the estimated rates/scheduled rates shall be mentioned. Tenders, which propose any alteration in the work, specified in the said form of invitation to tender, or in the time allowed for carrying out the work, or which contain any other conditions of any sort, will be liable to rejection. No single tender shall include more than one work, but Contractors, who wish to tender for two or more works, shall submit a separate tender for each work. Tenders shall have the name and number of work, to which they refer, written outside the envelope.

1. Deleted words "Performance Guarantee and/or" by Order No.F.2(4)FD/Exp.III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

5. The Chief Engineer or other duly authorised Engineer will open the tenders in the presence of any contractor(s) or their authorised representatives who may be present at the time, and will announce and enter the rates/amounts of all tenders in the Register of Opening of Tenders, (Form RPWA 20A). In the event of the tender being accepted, a receipt for the Earnest Money deposited shall be given to the Contractor, who shall sign copies of the specifications and other documents mentioned in Rule 1. In the event of a tender being rejected, the Earnest Money forwarded with such unaccepted tenders shall, be returned to the Contractor making the same.
6. The Chief Engineer or other duly authorised Engineer shall have the right of rejecting all or any of the tender without assigning any reason.
7. The receipt of an Accountant, Cashier or any other official, not authorised to receive such amount, will not be considered as an acknowledgment of payment to the Chief Engineer or other duly authorised Engineer.
8. The memorandum of work tendered for, memorandum of materials and of tools and plant to be supplied by the Department and their rates, shall be filled in and completed in the office of the Chief Engineer or duly authorised Engineer before the tender form is issued.
9. If it is found that the tender is not submitted in proper manner. or contains too many corrections and or unreasonable rates or amounts, it would be open for the Engineer-in-charge not to consider the tender, forfeit the amount of earnest money and/or delist the contractor.
10. The tenderer shall sign a declaration under the Official Secrets Act for maintaining secrecy of the tender documents, drawings or other records connected with the work given to him in form given below. The unsuccessful tenderers shall return all the drawings given to them.

Declaration

"I/We hereby declare that I/We shall treat the tender documents, drawings and other records, connected with the work, as secret confidential documents, and shall not communicate information derived therefrom to any person other than a person to whom I/We am/are authorised to communicate the same or use the information in any manner prejudicial to the safety of the same."

11. Any percentage rate tender containing item-wise rates, and any item rate tender containing percentage rate below or above estimated/scheduled rates, will be summarily rejected. However, if a tenderer voluntarily offers a rebate for payment within a stipulated period, this may be considered.
12. On acceptance of the tender, the name of the accredited representative(s) of the Contractor (with a photograph and signature attested), who would be responsible for taking instructions from the Engineer in charge. shall be communicated to the Engineer-in-charge.

13. Sales tax or any other tax on materials or Income Tax in respect of the contract shall be governed by Clause 36 A, B and C and D of the Conditions of Contract. Deduction of Income Tax at source will be made as per provisions of the Income Tax Act, in force from time to time.
14. The tender to work shall not be witnessed by a Contractor or Contractors who himself/ themselves has/have tendered or who may and has/have tendered for the same work. Failure to observe the secrecy of the tenders will render tenders of the contractors. tendering as well as witnessing the tender, liable to summary rejection.
- ¹[15. If on check, there are some discrepancies, the following procedure shall be followed:]
 - (i) Where there is a difference between the rates in figures and words, lower of the two rates shall be taken as valid and correct rate.
 - (ii) When the rate quoted by the contractor in figures and in words tallies, but the amount is not worked out correctly, the rate quoted by the contractor shall be taken as correct and not the amount worked out.
 - (iii) While quoting rates, if rate/rates against any item or items are found to be omitted, the rate given in the Schedule 'G' by the department for such items will be taken into account while preparing comparative statement and contractor shall be bound to execute such item on 'G' Schedule rates.
 - (iv) In case where percentage is given but the 'above' or 'below' not scored, the tender will be non-responsive.
16. The Contractor shall comply with the provisions of the Apprenticeship Act, 1961, and the rules and orders issued, thereunder, from time to time. If he fails to do so, his failure will be a breach of the contract and the original sanctioning authority in his discretion may cancel the contract. The Contractor shall also be liable for any pecuniary liability arising on account of violations by him of the provisions of the Act.
17. The Contractor shall read the specifications and study the working drawings carefully before submitting the tender.
18. The site for execution of the work will be made available as soon as the work is awarded. In case, it is not possible for the Department to make the entire site available on the award of the work, the Contractor shall arrange his working programme accordingly. No claim, whatsoever, for not giving the site in full on award of the work or for giving the site gradually in parts will be tenable. The contractor may satisfy himself regarding site, acquisition of land, approach roads etc.

1. Substituted by Order No.F.2(4)FD/Exp.III/99 dated 19. .3.2001 (Circular No. 6/2001) with immediate effect for - *"If on check, there are differences between the rate quoted by the Contractor in words and figures, or in the amount worked out by him, the following procedure shall be followed :-"*

19. The tender documents show already the specific terms and conditions on which tenders are required by the Government. Hence, all tenders should be in strict conformity with the tender documents and should be fulfilled in, wherever necessary, and initialed. Incomplete tenders are liable to be rejected. The terms and conditions of the tender documents are firm, as such conditional tenders are liable to be rejected.
20. The tenderer, while submitting tender, must provide adequate information regarding his financial, technical and organisational capacity and working experience to execute the work of the nature and magnitude.
21. The Chief Engineer or other duly authorised Engineer reserves the right to ask for submission of samples as in respect of materials for which the tenderer has quoted his rates before the tender can be considered for acceptance. If the tenderer, who is called upon to do so, does not submit within seven days of written order to do so, the Engineer-in-charge shall be at liberty to forfeit the said earnest money absolutely.
22. The Contractor shall submit the list of the works, which are in hand (progress), in the following form:-

Name of work	Name and particular of the Sub-Division/Division, where work is being executed	Amount of work	Position of works in progress	Remarks
1	2	3	4	5

23. The Contractor should quote his rates only in one language i.e. either in Hindi or English. Rates should be quoted in figures as well as in words. In case a Contractor has quoted rates in both the languages, and the rates so quoted differ, then the lower of the two shall be treated as the rate quoted by the Contractor.
24. All additions, deletions, corrections and overwritings, must be serially numbered and attested by the Contractor at every page, so also by the officer opening the tenders, so as to make further disputes impossible on this score.
25. After acceptance of the tender, the Contractor or all partners (in the case of partnership firm), will append photographs and signatures duly attested, at the time of execution of Agreement.
26. If any contractor, who having submitted a tender does not execute the agreement or start the work or does not complete the work and the work has to be put to retendering, he shall stand debarred from participating in such retendering in addition to forfeiture of Earnest Money/Security Deposit ¹[xxxx] and other action under agreement.

1. Deleted words "/Performance Guarantee" by Order No.F.2(4)FD/Exp.III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

27. The tender documents shall be issued to those contractors only having valid enlistment as on the date of issue of documents.
28. (a) If a tenderer reduces the rates voluntarily after opening of the tenders/negotiations, his offer shall stand cancelled automatically, his earnest money shall be forfeited and action for debarring him from business shall be taken as per enlistment rules.
- (b) If a non-tenderer offers lower rates after opening of tenders, action for debarring him from business shall be taken as per enlistment rules.
29. Contractors shall submit only unconditional tenders. Conditional tenders are liable to be rejected summarily.

Tender for works

I/We hereby tender for the execution for the Governor of the State of Rajasthan of the work specified in the underwritten memorandum within the time specified in such memorandum at the rates, (in figures).....% (as well as in words)..... percent below/above the amount, entered in the schedule G in all respects in accordance with the specifications, designs, drawings and instructions in writing referred to in Rule 1 in all respect in accordance with such conditions so far as applicable. I/We have visited the site of work and am/are fully aware of all the difficulties and conditions likely to affect carrying out the work. I/We have fully acquainted myself/ourselves about the conditions in regard to accessibility of site and quarries/kilns, nature and the extent of ground, working conditions including stacking of materials, installation of tools & plant, conditions effecting accommodation and movement of labour etc. required for the satisfactory execution of contract.

Memorandum

- (a) General description of work.....
- (b) Estimated cost Rs.....
- (c) Earnest money Rs.....@ 2% for enlisted contractors outside their zone and 1/2% within their zone of enlistment.
- (d) ¹[xxxx] Security Deposit :
- ²[i] The security deposit @ 10% of the gross amount of the running but shall be deducted from each running bill and shall be refunded as per rules on completion of the contract as per terms and conditions. However, the amount of security deposit deducted from running bills shall not be converted into any mode of securities like bank guarantee, FDR etc. The earnest money deposited shall however be adjusted while deducting security deposit from first running bill of the contractor. There will be no maximum limit of security deposit.

1. Deleted words "Performance Guarantee &" by Order No.F.2(4)FD/Exp.III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

2. Substituted by Order No.F.2(4)FD/Exp.III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect for -

"(i) **Performance Guarantee @5% (to be furnished after acceptance of tender) (Form RPWA 88)** : Performance Guarantee @ 5% in the form of cash or bank guarantee or any other approved form of security as per Rule 595 of P.W.F.&A.R., to be furnished after acceptance of tender before or at the time of executing agreement of, in the case of contractors of "C" or "D" class, if they apply, by deducting the amount from First Running Account Bill payable to them. In that case, if the contractor does not commence the work, the amount equivalent to performance guarantee shall be forefetable from earnest money, enlistment security deposit and/or any claim of the contractor pending in division."

(ii) Security Deposit @5% in the form of Cash or Bank Guarantee (Form RPWA 88A) or any other approved form of Security as per rule 595, or deductions to be made from Running Account Bills, as per rule 596 (b)."

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- (ii) However, a contractor may elect to deposit full amount of 10% security deposit in the shape of bank guarantee or any acceptable form of security before or at the time of executing agreement. In that case earnest money may be refunded only after deposition of full 10% as above. However, in case during execution cost of works exceeds as shown at the time of depositing 10% as above, balance security deposit shall be deducted from the Running Account Bills.]
- (iii) Bank Guarantee shall in all cases be payable at the headquarter of the Division or the nearest District Headquarters.
- (e) Time allowed for the completion of work (to be reckoned from the 10th day after the date of written order to commence the work) is _____months. Should this tender be accepted in whole or in Part. I/We hereby agree to abide by and fulfill all the terms and provisions of the conditions of contract annexed hereto and of the Notice Inviting Tender, or in default thereof, to forfeit and pay to the Governor of Rajasthan or his successors in office, the sum of money mentioned in the said conditions.

A sum of Rs. _____is forwarded herewith in the form of Cash, Bank Draft, Bankers Cheque as Earnest Money. This amount of earnest money shall absolutely be forfeited to the Governor of Rajasthan or his successor in office without prejudice to any other right or remedies of Governor of Rajasthan or his successor in his office, should I/We fail to commence the work specified in the above memorandum ¹[xxxx].

Signature of Witness
Witness's address & occupation

Signature of Contractor
Address of Contractor

Date :

The above tender is hereby accepted by me on behalf of the Governor of Rajasthan.

Dated the _____Engineer-in-charge

1. Deleted "or should I/We not furnish Performance Guarantee in Cash or in form of Bank Guarantee at the time of execution of agreement, as specified in the above memorandum in accordance with Clause 1 of the said Conditions of Contract" by Order No.F.2 (4)FD /Exp.III/99 dated 23.3.2001(Circular No. 12/2001) with immediate effect.

CONDITIONS OF CONTRACT

Clause 1 : Security Deposit

¹[The security deposit @ 10% of the gross amount of the running bill shall be deducted from each running bill and shall be refunded as per rules on completion of the contract as per terms and conditions. The earnest money deposited shall however be adjusted while deducting security deposit from the first running bill of the contractor. There will be no maximum limit of security deposit.

A contractor may, however, elect to furnish bank guarantee or any acceptable form of security for an amount equal to the full amount of security deposit @ 10% of the work order before or at the time of executing the agreement. In that case, earnest money may be refunded only after furnishing of the bank guarantee as above. During the execution of the work or after completion of the work also a contractor may replace the security deposit by furnishing bank guarantee for an equal amount. However, during execution of the work if cost of work exceeds as shown at the time of furnishing bank guarantee, balance security deposit shall be deducted from the Running Account Bills.]

All compensation of other sums of money payable by the contractor to Government under the terms of his contract may be deducted from or paid by the sale of a sufficient part of his ²[xxxx] Security Deposit, or from interest arising therefrom, or from any sums, which may be due or may become due to the Contractor by the Government on any account whatsoever, and in the event of his Security Deposit being reduced by reason of any such deduction or sale as aforesaid, the Contractor shall within ten days thereafter, make good in cash or Bank Guarantee of Nationalised/Scheduled bank, as aforesaid, any sum or sums which may have been ²deducted from or raised by sale of his ²[xxxx] Security Deposit or any part thereof.

In case of Bank Guarantee of any Nationalised/Scheduled Bank is furnished by the Contractor to the Government, as part of the Security Deposit ³[xxxx] and the bank goes into liquidation or, for any reason, is unable to make payment against the said Bank guarantee, the loss caused thereby shall fall on the Contractor and the Contractor shall forthwith, on demand, furnish additional security to the Government to make good the deficit.

1. Substituted by Order No.F.2 (4)FD /Exp.III/99 dated 19.6.2004(Circular No. 21/2004) with immediate effect for -

"The Performance Guarantee for the contract, being 5 percent of contract value, will be obtained from the contractor in cash or in the form of Bank Guarantee of a Nationalised or Scheduled Bank before or at the time of execution of agreement. However, if a contractor or "C" or "D" Class, applied in writing in prescribed from the application (RPWA 114) the performance guarantee amount may be deducted from fist Running Account Bill of the contractor. In that case, if the contractor does not commence the work, the amount equivalent to performance guarantee shall be forfeitable from earnest money, enlistment security deposit and/or any claim of the contractor pending in division. The format of Performance Guarantee would be standard format, as approved by the State Government. Security Deposit, being 5 percent of the contract value may be deposited by the contractor in cash or in the form of Bank Guarantee or in other forms of Security Deposits vide Rule 595 of PWF&AR or he may elect to get this amount deducted from the amount of Running Account Bills payable to him after adjusting Earnest Money. There will be no maximum limit of Security Deposit. The Performance Guarantee should be irrevocable and unconditional and kept in personal custody of the Divisional officer.

However, a contractor may elect to deposit full amount of 5% of security deposit and performance guarantee (total 10%) in the shape of Bank Guarantee or any acceptable security before or at the time of executing agreement. In that case Earnest Money may be refunded only after deposition of full 10% as above. However in case during execution cost of works exceeds as shown at the time of depositing 10% as above, balance Security Deposit/Performance Guarantee shall be deducted from the Running Account Bills."

2. Deleted words "Performance Guarantee and/or" by Order No.F.2 (4)FD /Exp.III/99 dated 23.3.2001(Circular No. 12/2001).

3. Deleted words "/Performance Guarantee" by Order No.F.2 (4)FD /Exp.III/99 dated 23.3.2001(Circular No. 12/2001).

The liability or obligation of the bank under the Guarantee Bond shall not be affected or suspended by any dispute between the Engineer-in-charge and the Contractor, and the payment, under the Guarantee Bond by the bank to the Government shall not wait till disputes are decided. The bank shall pay the amount under the Guarantee, without any demur, merely on a demand from the Government stating that the amount claimed is required to meet the recoveries due or likely to be due from the Contractor. The demand, so made, shall be conclusive as regards to amount due and payable by the bank, under the guarantee limited to the amount specified in the Guarantee Bond. The guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor.

The Bank Guarantee shall remain valid upto the specified date unless extended on demand by the Engineer-in-charge, which shall include the period of completion of the contract and the defect removal period as per terms of the Agreement. Bank's liability shall stand automatically discharged unless a claim in writing is lodged with the Bank within the period stated in the Bank Guarantee including the extended period. After satisfactory completion of the contract and clearance of all dues by the Contractor, the Chief Engineer or duly authorised Engineer will discharge the Bank Guarantee after expiry of the original or the extended period, as the case may be. In case the date of expiry of the Bank Guarantee is a holiday, it will be deemed to expire on the close of the next working day.

Government is not concerned with any interest accruing to the Contractor on any form of Security (primary or collateral) lodged by him with the bank or any sums payable to sureties obtained by the Bank as counter guarantee to secure its own position. These will be the matters between the Bank and the Contractor.

Clause 2: Compensation for delay

The time allowed for carrying out the work, as entered in the tender, shall be strictly observed by the Contractor and shall be reckoned from the 10th day after the date of written order to commence the work given to the Contractor. If the contractor does not commence the work within the period specified in the work order, he shall stand liable for the forfeiture of the amount of Earnest Money ¹[xxxx] and Security Deposit. Besides, appropriate action may be taken by the Engineer-in-charge/competent authority to debar him from taking part in future tenders for a specified period or black list him. The work shall, through-out the stipulated period of completion of the contract, be proceeded with all due diligence, time being essence of the contract, on the part of the Contractor. To ensure good progress during the execution of work, the contractor shall be bound, in all cases in which the time allowed for any work exceeds one month (save for special jobs), to complete 1/8th of the whole of the work before 1/4th of the whole time allowed under the contract has elapsed, 3/8th of the work before 1/2 of such time has elapsed and 3/4th of the work before 3/4 of such time has elapsed. If the contractor fails to complete the work in accordance with this time schedule in terms of cost in money, and the delay in execution of work is attributable to the contractor, the contractor shall be liable to pay compensation to the Government at every time span as below :-

1. Deleted words "Performance Guarantee" by Order No.F.2 (4)FD /Exp.III/99 dated 23.3.2001(Circular No. 12/2001).

Public Works Financial & Accounts Rules Part-II

A.	Time Span of full stipulated period	1/4th (.....days)	1/2th (.....days)	3/4th (.....days)	Full (.....days)
B.	Work to be completed in terms of money	1/8th (Rs.....)	3/8th (Rs.....)	3/4th (Rs.....)	Full (Rs.....)

¹ [C. Compensation payable by the contractor for delay attributable to contractor at the stage of :	Delay upto one fourth period of the prescribed time span - 2.5% of the work remained unexecuted. Delay exceeding one fourth period but not exceeding half of the prescribed time span. - 5% of the work remained unexecuted. Delay exceeding half of the prescribed but not exceeding three fourth of the time span. - 7.5% of the work remained unexecuted. Delay exceeding three fourth of the prescribed time span.-10% of the work remained unexecuted.
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Note : In case delayed period over a particular span is split up and is jointly attributable to Government and contractor, the competent authority may reduce the compensation in proportion of delay attributable to Government over entire delayed period over that span after clubbing up the split delays attributable to Government and this reduced compensation would be applicable over the entire delayed period without paying any escalation.

Following illustrations is given:

(i) First time span is of 6 months, delay is of 30 days which is split over as under:-

5 days (attributable to government) + 5 days (attributable to contractor) + 5 days (attributable to government) + 5 days (attributable to contractor) + 5 days (attributable to government) + 5 days (attributable to contractor)

Total delay is thus clubbed to 15 days (attributable to government and 15 days (attributable to contractor).

Total normal compensation of 30 days as per clause 2 of agreement is 2.5% which can be reduced as $2.5 * 15/30 = 1.25\%$ over 30 days without any escalation by competent authority.]

Note : The compensation, levied as above, shall be recoverable from the Running Account Bill to be paid immediately after the concerned time span. Total compensation for delays shall not exceed 10 percent of the total value of the work.

The contractor shall, further, be bound to carry out the work in accordance with the date and quantity entered in the progress statement attached to the tender.

In case the delay in execution of work is attributable to the contractor, the spanwise compensation, as laid down in this clause shall be mandatory. However, in case the slow progress in one time span is covered up within original stipulated period, then the amount of such compensation levied earlier shall be refunded. The Price escalation, if any, admissible under clause 45 of Conditions of Contract would be admissible only on such rates and cost of work, as would be admissible if work would have been carried out in that particular time span. The Engineer-in-charge shall review the progress achieved in every time span, and grant stagewise extension in case of slow progress with compensation, if the delay is attributable to contractor, otherwise without compensation.

1. Substituted by Order No.F.2 (4)FD /Exp.III/99 dated 19.3.2001(Circular No. 5/2001) with immediate effect for -

"C	Compensation payable by the contractor for delay at the stage of :	10% of scheduled work remained unexecuted on the last day of (1/4) time span.	10% of Scheduled work remained unexecuted on the last day of (1/2) time span.	10% of Scheduled work remained unexecuted on the last day of (3/4) time span.	10% of Scheduled work remained unexecuted on the last day of contracted full period."
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However, if for any special job, a time schedule has been submitted by the Contractor before execution of the agreement, and it is entered in agreement as well as same has been accepted by the Engineer-in-charge, the Contractor shall complete the work within the said time schedule. In the event of the Contractor failing to comply with this conditions, he shall be liable to pay compensation as prescribed in forgoing paragraph of this clause provided that the entire amount of compensation to be levied under the provisions of this Clause shall not exceed 10% of the value of the contract. While granting extension in time attributable to the Government, reasons shall be recorded for each delay.

[Clause 2A: Incentive for early completion: In the event that the Project (cost more than Rs. 50 crore) Completion Date occurs prior to the Scheduled Completion Date (after taking into account any time extension approved by the competent authority for delays not attributable to the contractor), the Contractor shall be entitled to receive a payment of incentive equivalent to 0.03% (zero point zero three percent) of the Contract Price for each day by which the Project Completion Date precedes the Scheduled Completion Date, but subject to a maximum of 3% (three per cent of the Contract Price). Provided, however, that the payment of incentive, if any, shall be made only after the issue of the Completion Certificate.

Note: Contract Price for calculation of above incentive means Original Cost of Work, plus cost of Additional and Extra items, if any, but excluding price variations/ escalations granted, if any.]

Clause 3: Risk & Cost Clause

The Engineer-in-charge or the Competent Authority defined under rules may, without prejudice to his rights against the Contractor, in respect of any delay or inferior workmanship or otherwise, or to any claims for damages in respect of any breaches of the contract and without prejudice to any rights or remedies under any of the provisions of this contract or otherwise, and whether the date for completion has or has not elapsed, by notice in writing, absolutely determine the contract in any of the following cases:-

- (i) If Contractor having been given by the Engineer-in-charge, a notice in writing to rectify, reconstruct or replace any defective work or that the work is being performed in any inefficient or otherwise improper or unworkmanlike manner, shall omit to comply with the requirements of such notice for a period of seven days, thereafter, or if the Contractor shall delay or suspend the execution of the work so that either in the judgement of the Engineer-in-charge (which shall be final and binding) he will be unable to secure completion of the work by the date for completion or he has already failed to complete the work by that date,
- (ii) If the Contractor, being a company, shall pass a resolution of the Court shall make an order that the company shall be wound up or if a receiver or a manager, on behalf of a creditor, shall be appointed or if circumstances shall arise, which entitle the Court or Creditor to appoint a receiver or a manager or which entitle the Court to make a winding up order,

- (iii) If the Contractor commits breach of any of the terms and conditions of this contract,
- (iv) If the Contractor commits any acts mentioned in Clause 19 hereof.

When the Contractor has made himself liable for action under any of the cases aforesaid, the Engineer-in-charge on behalf of the Governor of Rajasthan shall have powers:-

- (a) To determine or rescind the contract, as aforesaid (of which determination or rescission notice in writing to the Contractor under the hand of the Engineer-in-charge shall be conclusive evidence), upon such determination or rescission, the earnest money, full security deposit of the contract ¹[xxxx] shall be liable to be forfeited and shall be absolutely at the disposal of Government.
- (b) To employ labour paid by the 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 certified by the Engineer-in-charge shall be final and conclusive against the Contractor) and crediting him with the value of the work done in all respects in the same manner and at the same rates, as if it had been carried out by the Contractor under the terms of this contract. The certificate of the Divisional Officer, as to the value of the work done, shall be final and conclusive evidence against the Contractor provided always that action under the sub-clause shall only be taken after giving notice in writing to the Contractor. Provided also that if the expenses incurred by the department are less than amount payable to the Contractor at his agreement rates, the difference shall not be paid to the Contractor.
- (c) After giving notice to the Contractor 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 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 Engineer-in-charge 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 this contract or on any other account, whatsoever, or from his Earnest Money, Security Deposit, ²[xxxx] Enlistment Security or the proceeds of sales thereof, or a sufficient part thereof, as the case may be. In the event of any one or more of the above courses being adopted by the Engineer-in-charge, 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

1. Deleted words "and performance guarantee of the contractor" by Order No.F.2 (4)FD /Exp.III/99 dated 23.3.2001(Circular No. 12/2001).

2. Deleted words "Performance Guarantee" by Order No.F.2 (4)FD /Exp.III/99 dated 23.3.2001(Circular No. 12/2001).

on account or with a view to the execution of the work or the performance of contract. And, in case action is taken under any of provisions aforesaid, the Contractor shall not be entitled to recover or be paid, any sum for any work thereof or actually performed under this contract unless and until the Engineer-in-charge has 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 remains liable to pay compensation, if action not taken under Clause 3

(i) in any case in which any of the powers conferred by Clause 3 hereof, shall have become exerciseable and the same shall have not been exercised, the non-exercise, thereof, shall not constitute waiver of any of the conditions hereof, and such power shall, not with standing, be exerciseable 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/Performance Guarantee/Earnest Money/Enlistment security and the liability of the Contractor for past and future compensation shall remain unaffected.

Powers to take possession of, or require removal, sale of Contractor's Plant

(ii) In the event of the Engineer-in-charge putting in force, powers vested in him under the preceding Clause 3 he may, if he so desires, take possession of all or any tools, plants, materials and stores, in or upon the works 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 Chief Engineer or duly authorised Engineer (whose certificate, thereof, shall be final and conclusive). otherwise the Engineer-in-charge may, by notice in writing to the contractor or his clerk of the works, foreman or other authorised 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 requisition, the Chief Engineer or other duly authorised Engineer may remove them at the Contractor's expenses, sell them by auction or private sale on account of the Contractor and at his risk in all respects, and the certificate of the Chief Engineer or other duly authorised Engineer, as to the expense of any such removal, and the amount of the proceeds and expense of any such sale shall be final and conclusive against the Contractor.

Clause 5: Extension of Time

If the Contractor shall desire an extension of time for completion of the work on the ground of his having been unavoidably hindered in its execution or on any other grounds, he shall apply, in writing, to the Engineer-in-charge within 30 days, of the date of the hindrance, on account of which he desires such extension as aforesaid, and the Authority Competent to grant extension under the rules/delegations of powers or other duly authorised Engineer shall, if in his opinion, (which shall be final) reasonable grounds be shown therefor, authorise such extension of time, if any, as may, in his opinion, be necessary or proper, if the period of

completion of contract expires before the expiry of the period of one month provided in this Clause, the application for extension shall be made before the expiry of the period stipulated for completion of the contract. The competent authority shall grant such extension at each such occasion within a period of 30 days of receipt of application from contractor and shall not wait for finality of work. Such extensions shall be granted in accordance with provisions under clause (2) of this agreement.

Clause 5A: Monthly return of Extra Claims

Contractor has to submit a return every month for any work claimed as extra. The Contractor shall deliver the return in the office of the Executive Engineer and obtain Receipt Number of the Receipt Register of the day on or before 10th day of every month during the continuance of the work covered by this contract, a return showing details of any work claimed as extra by the contractor which value shall be based upon the rates and prices mentioned in the contract or in the Schedule of Rates in force in the District for the time being. The contractor shall be deemed to have waived all claims, not included in such return, and will have no right to enforce any such claims not included, whatsoever be the circumstances.

Clause 6: Final Certificate

On completion of the work, the Contractor shall send a registered notice to the Engineer-in-charge, giving the date of completion and sending a copy of it to the officer accepting the contract, on behalf of the Governor and shall request the Engineer-in-charge to give him a certificate of completion, but no such certificate shall be given nor shall the work be considered to be complete until the contractor shall have removed from the site on which the work shall be executed, all scaffolding, surplus materials and rubbish and cleared off the dirt from all wood work, doors, walls, floors, or other parts of any building in, upon or about which the work is to be executed or of which he may have possession for the execution thereof, he had filled up the pits. If the contractor shall fail to comply with the requirements of this Clause as to removal of scaffolding, surplus materials and rubbish and cleaning off dirt and filling of pits on or before the date fixed for completion of the work, the Engineer-in-charge may, at the expense of the contractor, remove such scaffolding, surplus materials, and the rubbish and dispose of the same, as he thinks fit, and clean off such dirt and fill the pits, as aforesaid, and the contractor shall forthwith pay the amount of all expenses, so incurred, and shall have no claim in respect of any such scaffolding or surplus materials, as aforesaid, except for any sum actually realised by the sale thereof. On completion, the work shall be measured by the Engineer-in-charge himself or through his subordinates, whose measurements shall be binding and conclusive against the contractor. Provided that, if subsequent to the taking of measurements by the subordinate, as aforesaid, the Engineer-in-charge had reason to believe that the measurements taken by his subordinates are not correct, the Engineer-in-charge shall have the power to cancel the measurements already taken by his subordinates and acknowledged by the Contractor and to take measurements again, after giving reasonable notice to the Contractor, and such re-measurements shall be binding on the Contractor.

Within ten/thirty days of the receipt of the notice, Engineer-in-charge shall inspect the work and if there is no visible defects on the face of the work, shall give the Contractor, a certificate of completion. If the Engineer-in-charge finds that the work has been fully completed, it shall be mentioned in the certificate so granted. If, on the other hand, it is found that there are certain visible defects to be removed, the certificate to be granted by Engineer-in-charge shall specifically mention the details of the visible defects alongwith the estimate of the cost for removing these defects. The final certificate of work shall be given after the visible defects pointed out as above have been removed.

(delete whichever is not applicable). (Ten days will apply to works at the headquarters of Engineer-in-charge and thirty days for works at other place.)

Clause 7: Payment on Intermediate Certificate to be regarded as advance

No payments shall be made for works estimated to cost less than rupees twenty five thousand, till after the whole of the works shall have been completed and a certificate of completion given. But in the case of works estimated to cost more than Rupees twenty five thousand, the contractor shall on submitting the bill therefor, be entitled to receive a monthly payment proportionate to the part, thereof, then approved and passed by the Engineer-in-charge, whose certificate of such approval and passing of sum, so payable, shall be final and conclusive. Running Account Bill shall be paid within 15 days from presentation. But all such intermediate payments shall be regarded as payments by way of advance against the final payment only and not as payments for work actually done and completed, and shall not preclude the requiring of bad unsound and imperfect or unskillful work to be removed and taken away and re-constructed or re-erected, or considered as an admission of the due performance of the contract, or any part thereof, in any respect, or the accruing of any claim, nor shall it conclude, determine, or effect in any way the powers of the Engineer-in-charge under these conditions or any of them to the final settlement and adjustment of the accounts or otherwise or in any other way vary or affect the contract. The final bill shall be made/submitted by the Contractor within one month of the date fixed for completion of the work otherwise the Engineer-in-charge's certificate of the measurement and of the total amount payable for the work accordingly shall be final and binding on all parties.

Clause 7A : Time Limit for Payments of Final Bills

The final bill shall be paid within 3 months on presentation by the contractor after issuance of final completion certificate in accordance with clause 6 of the conditions of contract. If, there shall be any dispute about any item(s) of the work, then the undisputed item(s) only, shall be paid within the said period of 3 months. If a final bill (which contains no disputed item or disputed amount of any item) is not paid within the period of 3 months from presentation of final bill or 6 months from the date of receipt of registered notice regarding completion of work in accordance with clause 6 of the conditions of the contract, the defects, if any, shall be brought to the notice of the higher authority. The period of 3 months shall commence from the date of rectification of the defects. The higher authority shall ensure that in no case final bill should be left unpaid after 9 months from the receipt of registered notice regarding completion of work. The contractor shall submit a memorandum of the disputed items alongwith justification in support within 30 days from the disallowance

thereof, and if he fails to do so, his claims shall be deemed to have been fully waived and absolutely extinguished.

Clause 8 : Bills to be submitted monthly

A bill shall be submitted by the Contractor each month on or before the date fixed by the Engineer-in-charge for all work executed in the previous month and the Engineer-in-charge shall take or cause to be taken the requisite measurement for the purpose of having the same verified and the claim, as far as admissible, authorised or paid, if possible, before the expiry of ten days from the presentation of the bill. If the Contractor does not submit the bill within the time fixed, as aforesaid, the Engineer-in-charge may depute a subordinate to measure up the said work in the presence of the Contractor, whose signature in the Measurement Book will be sufficient warrant and the Engineer-in-charge may prepare a bill from such Measurement Book, which shall be binding on the Contractor in all respects.

Clause 8A : Contractor to be given time to file objection to the Measurements recorded by the Department

Before taking any measurement of any work, as have been referred to in preceding Clauses 6,7 & 8, the Engineer-in-charge or a subordinate, deputed by him, shall give reasonable notice to the Contractor. If the Contractor fails to be present at the time of taking measurements after such notice or fails to sign or to record the difference within a week from the date of measurement in the manner required by the Engineer-in-charge, then in any such event, the measurements taken by the Engineer-in-charge or by the subordinates deputed by him, as the case may be, shall be final and binding on the Contractor and the Contractor shall have no right to dispute the same.

1[Clause 8B : Recovery of cost of preparation of the Bill

In case of Contractors of Class "A" and "AA" do not submit the bill within time fixed, the Engineer-in-Charge may prepare the bill as per provision of clause 8 of the Conditions of Contract but deduction @ 0.5% of amount of such a bill shall be made and credited to the general revenue on account of preparation of bill.]

Clause 9 : Bills to be on printed forms

The Contractor shall submit all bills on the printed forms, to be had on application, at the office of the Engineer-in-charge and the charges in the bills shall always be entered at the rates specified in the tender or in the case of any extra work ordered in pursuance of these conditions, and not mentioned or provided for in the tender, at the rates hereinafter provided for such work.

Clause 9A : Payments of Contractor's Bills to Banks

Payments due to the Contractor may if so desired by him, be made to his Bank instead of direct to him, provided that the contractor has furnished to the Engineer-in-charge (i) an authorisation in the form of a legally valid document, such as a Power of Attorney conferring authority on the Bank to receive payments, and (ii) his own acceptance of the correctness of

1. Added by Order No.F.2(4)FD/Exp.III/99 dated 14.8.2002 (Circular No.15/2002) with immediate effect.

the account made out, as being due to him, by Government, or his signature on the bill or other claim preferred against Government before settlement by the Engineer-in-charge of the account or claim, by payment to the Bank. While the receipt given by such bank shall constitute a full and sufficient discharge for the payment, the Contractor should, whenever possible, present his bill duly receipted and discharged through his Banker. Nothing, herein contained, shall operate to create in favour of the Bank any rights vis-a-vis the Governor.

Clause 10 : Stores supplied by Government

If the specification or estimate of the work provides for the use of any special description of material, to be supplied from Engineer-in-charge's stores, or if, it is required that contractor shall use certain stores to be provided by the Engineer-in-charge specified in the schedule or memorandum hereto annexed, the Contractor shall be bound to procure and shall be supplied such materials and stores as are, from time to time, required to be used by him for the purpose of the contract only, and the value of the full quantity of materials and stores, so supplied, at the rates specified in the said schedule or memorandum, may be set off on which may be deducted from any sum, then due or thereafter become due, to the contractor under the contract or otherwise or against or from the Performance Guarantee and/or Security Deposit or the proceeds of sale, if the same is held in Government securities, the same or a sufficient portion thereof being in this case, sold for this purpose. All materials supplied to the Contractor, either from departmental stores or with the assistance of Government, shall remain the absolute property of Government. The Contractor shall be the trustee of the Stores/Materials, so supplied/procured, and these shall not, on any account, be removed from the site of work and shall be, all times, open to inspection by the Engineer-in-charge. Any such material, unused and in perfectly good condition at the time of completion or determination or rescinding of the contract, shall be returned to the Divisional Officer's Stores, if, by a notice in writing under his hand, he shall so require, and if on service of such notice, the contractor fails to return the materials, so required, he shall be liable to pay the price of such materials in accordance with the provision of Clause 10B *ibid*. But the Contractor shall not be entitled to return any such materials, unless with such consent, and shall have no claim for compensation on account of any such materials, so supplied to him as aforesaid being unused by him, or for any wastage in or damage to any such materials. For the stores returned by the Contractor, he shall be paid for, at the price originally charged excluding storage charges, in case of materials supplied from departmental stores and actual cost including freight, cartage, taxes etc., paid by the Contractor, in case of supplies received with the assistance of Government, which, however, should in no case exceed market rate prevailing at the time the materials are taken back. The decision of the Engineer-in-charge, as to the price of the stores returned, keeping in view its condition etc., shall be final and conclusive. In the event of breach of the aforesaid condition, the Contractor shall, in addition to throwing himself open to account for contravention of the terms of the license or permit and/or for criminal breach of trust, pay to the Government, all advantages or profits resulting or which in the usual course, would result to him by reason of such breach. Provided that the Contractor shall, in no case be entitled to any compensation or damage on account of any delay in supply, or non-supply thereof, all or any such materials and stores.

Clause 10A : Rejection of materials procured by the Contractor

The Engineer-in-charge shall have full powers to require the removal from the premises of all materials which in his opinion, are not in accordance with the specifications and, in case of default, the Engineer-in-charge shall be at liberty to employ other person(s) to remove the same without being answerable or accountable for any loss or damage, that may happen or arise to such materials to be substituted thereof, and in case of default, Engineer-in-charge may cause the same to be supplied and all costs, which may attend such removal and substitution, are to be born by the Contractor.

Clause 10B : Penal rate in case of excess consumption

The Contractor shall also be charged for the materials consumed in excess of the requirements calculated on the basis of standard consumption approved by the department, at double of the issue rate including storage and supervision charges or market rate, whichever is higher. A Material Supply and Consumption Statement, in prescribed Form RPWA 35A, shall be submitted with every Running Account Bill, distinguishing material supplied by the Government and material procured by the Contractor himself. The recovery for such material shall be made from Running Account Bill next after the consumption and shall not be deferred. Certificate of such nature shall be given in each Running Account Bill.

Clause 10C : Hire of Plant and Machinery

Special Plant and Machinery, required for execution of the work, may be issued to the Contractor, if available, on the rates of hire charges and other terms and conditions as per departmental Rules, as per Schedule annexed to these conditions. Rates of such Plant & Machinery shall be got revised periodically so as to bring them at par with market rate.

Clause 11: Works to be executed in accordance with Specifications, Drawings, Orders etc.

The Contractor shall execute the whole and every part of the work in the most substantial and satisfactory manner and both as regards materials and otherwise in every respect, in strict accordance with the Specifications. The Contractor shall also conform exactly fully and faithfully to the designs, drawings and instructions in writing relating to the work signed by the Engineer-in-charge and lodged in his office and to which the Contractor shall be entitled to have access at such office or on the site of the work for the purpose of inspection during office hours and the Contractor shall, if he so require, be entitled, at his own expense, to make or cause to be made copies of specifications and of all such designs, drawings and instructions, as aforesaid. A certificate of executing works as per approved design and specifications etc. shall be given on each Running Account Bill.

The specifications of work, material, methodology of execution, drawings and designs shall be signed by the Contractor and Executive Engineer while executing agreement and shall form part of agreement.

Clause 12 :

The Engineer-in-Charge shall have power to make any alterations, omissions or additions to or substitutions for the original specifications, drawings, designs and instructions, that may appear to him to be necessary during the progress of the work and the contractor

shall carry out the work in accordance with any instructions which may be given to him in writing signed by the Engineer-in-Charge, and such alterations, omission, additions or substitutions shall not invalidate the contract and any altered, additional or substituted work, which the contractor may be directed to do in the manner above specified as part of the work, shall be carried out by the contractor on the same conditions in all respects on which he agreed to do the main work. The time for the completion of the work shall be extended in the proportion that the altered, additional or substituted work bears to the original contract work, and the certificate of the Engineer-in-Charge shall be conclusive as to such proportion. The rates for such additional, altered or substituted work under this clause shall be worked out in accordance with the following provisions in their respective order:

- (i) If the rates for the additional, altered or substituted work are specified in the contract for the work, the contractor is bound to carry out the additional, altered or substituted work at the same rates as are specified in the contract for the work.
- (ii) If the rates for the additional, altered or substituted work are not specifically provided in the contract for the work, the such rates will be derived from the rates for a similar class of work as are specified in the contract for the work.
- (iii) If the rates for the altered, additional or substituted work can not be determined in the manner specified in the sub-clauses (i) to (ii) above, then the rates for such composite work item shall be worked out on the basis of the concerned Schedule of Rates of the District/area specified above minus/plus the percentage which the total tendered amount bears to the estimated cost of the entire work put to tender. Provided always that if the rate for a particular part or parts of the item is not in the Schedule of Rates, the rate for such part or parts will be determined by the Engineer-in-Charge on the basis of the prevailing market rates when the work was done.
- (iv) If the rates for the altered, additional or substituted work item can not be determined in the manner specified in sub-clauses (i) to (iii) above, then the contractor shall within 7 days of the date of receipt of order to carry out the work, inform the Engineer-in-Charge of the rate which it is his intention to charge for such class of work supported by analysis of the rate or rates claimed and the Engineer-in-Charge shall determine the rate or rates on the basis of prevailing market rates, and pay the contractor accordingly. However, the Engineer-in-Charge, by notice in writing, will be at liberty to cancel his order to carry out such class of work and arrange to carry it out in such manner as he may consider advisable. But under no circumstances, the contractor shall suspend the work on the plea of non-settlement of rates on items falling under the clause.
- (v) Except in case of items relating to foundations, provisions contained in sub-clauses (i) to (iv) above shall not apply to contract or substituted items as individually exceed the percentage set out in the tender documents under clause 12A.

For the purpose of operation of clause 12 (v) the following works shall be treated as work relating to foundations :

- (a) For buildings, compound wall plinth level or 1.2 meters (4 ft.) above ground level whichever is lower, excluding items above flooring and D.P.C. but including base concrete below the floors.

- (b) For abutments, piers, retaining wall of culverts and bridges, walls of water reservoir and the bed of floor level.
- (c) For retaining walls, where floor levels is not determine 1.2 meters above the average ground level or bed level.
- (d) For roads, all items of excavation and filling including treatment of sub base and soling work.
- (e) For water supply lines, sewer lines under ground storm water drains and similar work, all items of work below ground level except items of pipe work for proper masonry work.
- (f) For open storm water drains, all items of work except lining of drains.
- (g) Any other items of similar nature which Engineer-in-Charge may decide relating to foundation.

The rate of any such work, except the items relating to foundations, which is in excess of the deviation limit shall be determined in accordance with the provisions contained in Clause 12A.

Clause 12A

The quantum of additional work for each item shall not exceed 50% of the original quantity given in the agreement and the total value of additional work shall not exceed 20% of the total contract value, unless otherwise mutually agreed by the Engineer-in-charge and the Contractor. This limit shall not be applicable on items relating to foundation work which shall be executed as per original rates or provision of clause 12(i) to (iv).

In case of contract substituted items or additional items, which results in exceeding the deviation limit laid down in this clause except items relating to foundation work, which the contractor is required to do under clause 12 above, the contractor shall within 7 days from the receipt of order, claim revision of the rate supported by proper analysis in respect of such items for quantities in excess of the deviation limit notwithstanding the fact that the rates for such items exist in the tender for the main work or can be derived in accordance with the provision of sub clause (ii) of clause 12 and the Engineer-in-Charge, may revise their rates having regard to the prevailing market rates and the contractor shall be paid in accordance with the rates so fixed. The Engineer-in-Charge shall, however, be at liberty to cancel his order to carry out such increased quantities of work by giving notice in writing to the contractor and arrange to carry it out in such manner as he may consider advisable. But under no circumstances, the contractor shall suspend the work on the plea of non-settlement of rates of items failing under this Clause.

All the provisions of the preceding paragraph shall equally apply to the decrease in rates of items for quantities in excess of the deviation limit notwithstanding the fact that the rates for such items exist in the tender for the main work or can be derived in accordance with the provisions of sub-clause (ii) of the preceding clause 12 and the Engineer-in-Charge may revise such rates having regard to the prevailing market rates unless otherwise mutually agreed by the Engineer-in-Charge and the Contractor.

Clause 13 : No compensation for alterations in or restriction of work to be carried out

If, at any time after the commencement of the work, the Government shall, for any reason, whatsoever, not require the whole work, thereof, as specified in the tender, to be carried out, the Engineer-in-Charge shall give notice, in writing, of the fact to the Contractor, who shall have no claim to any payments or compensation, whatsoever, on account of any profit or advantage, which he might have derived from the execution of the work in full but which he did not derive in consequence of the full amount of the work not having been carried out. Neither, shall he have any claim for compensation by reason of alterations having been made in the original specifications, drawings and design and instructions, which shall involve any curtailment of the work, as originally contemplated. Provided, that the Contractor shall be paid the charges for the cartage only, of materials actually brought to the site of the work by him for bonafide use and rendered surplus as a result of the abandonment or curtailment of the work or any portion thereof, and taken them back by the Contractor provided, however, that the Engineer-in-charge shall have, in all such cases, the option of taking over all or any such materials at their purchase price or at local market rates whichever may be less. In the case of such stores, having been issued from Government Stores, charges recovered, including storage chares, shall be refunded after taking into consideration any deduction for claim on account of any deterioration or damage while in the custody of the contractor, and in this respect the decision of the Engineer-in-charge shall be final.

Clause 14 : Action and compensation payable in case of bad work

If, it shall appear to the Chief Engineer or any authorised authority or the Engineer-in-Charge or his subordinates in-charge of the work, or to the committee of retired officers/officers appointed by the State Government for the purpose that any work has been executed with unsound, imperfect or unskillful workmanship, or with material of any inferior description, or that any materials or articles provided by him for the execution of the work are unsound or of a quality inferior to that contracted, or otherwise not in accordance with contract, the Contractor shall on demand in writing from the Engineer-in-Charge, specifying the work/materials or articles complained of, notwithstanding that the same may have been inadvertently passed, certified and paid for, will rectify or remove and reconstruct the work, so specified, in whole or in part, as the case may be, remove the materials or articles, so specified, and provide other proper and suitable materials or articles, at his own cost and in the event of his failing to do so, within a period to be specified by the Engineer-in-Charge in his demand, as aforesaid, then the Contractor shall be liable to pay compensation, at the rate of one percent, on the tendered amount of work for every week not exceeding ten percent, while his failure to do so shall continue, and in the case of any such failure, the Engineer-in-Charge may rectify or remove and re-execute the work or remove and replace with others, the materials or articles complained of as the case may be, at the risk and expense, in all respects of the contractor.

Clause 15 : Work to be open to inspection : Contractor or his responsible Agent to be present

All work, under or in course of execution or executed in pursuance of the contract, shall, at all times, be open to inspection and supervision of the Engineer-in-Charge and his superior officers e.g. Superintending Engineer, Additional Chief Engineer, Chief Technical Engineer, Chief Engineer, and his subordinates and any other authorised agency of the Government and the contractor shall, at all times during the usual working hours, and at all other times at which reasonable notice of the intention of the Engineer-in-charge or his subordinate and any other authorised agency of Government or committee of retired officers/officers appointed by the State Government for the purpose to visit the works shall have been given to the Contractor, either himself be present to receive orders and instructions or have a responsible agent, duly accredited in writing, present for the purpose. Orders given to the Contractor's agent shall be considered to have the same force as if they had been given to the Contractor himself.

Clause 16 : Notice to be given before any work is covered up

The Contractor shall give not less than 7 days notice, in writing, to the Engineer-in-charge or his subordinate-in-charge of the work, before covering up or otherwise placing beyond the reach of measurement, any work in order that the same may be measured, and correct dimensions thereof, be taken before the same is so covered up or placed beyond the reach of measurement and shall not cover up or place beyond the reach of measurement any work without the consent in writing of the Engineer-in-charge of the work, and if, any work shall be covered up or placed beyond the reach of measurement without such notice having been given or consent obtained, the same shall be uncovered at the Contractor's expense or in default, thereof, no payment or allowance shall be made for such work, or for the materials, with which the same was executed.

Clause 17 : Contractor liable for damage done and for imperfections

If the Contractor or his work people or servants shall break, deface, injure or destroy any part of a building, in which they may be working or any building, road, fence, enclosure, or cultivated ground contiguous to the premises on which the work or any part of it is being executed, or if any damage shall happen to the work, while in progress, from any cause, whatsoever, or any imperfections become apparent in it, within a period specified in Clause 37, after a Certificate, final or otherwise of its completion, shall have been given by the Engineer-in-charge, may cause the same to be made good by other workmen and deduct the expense (of which the certificate of the Engineer-in-charge shall be final) from any sums that may be then, or at any time thereafter, may become due to the Contractor, or from his security deposit, or the proceeds of sale thereof, or of a sufficient portion thereof.

Clause 18 : Contractor to supply Plant, Ladders, scaffolding etc.

The Contractor shall arrange and supply, at his own cost, all material (except such special materials, if any, as may, in accordance with the contract, be supplied from the Engineer-in-charge's stores), plants, tools, appliances, implements, ladders, cordage, tackle, scaffolding and temporary works requisite or proper for the proper execution of the work,

whether original, altered, or substituted, and whether included in the specification or other documents, forming part of the contract, or referred to in these conditions or not, or which may be necessary for the purpose of satisfying or complying with the requirements of the Engineer-in-charge, as to any matter as to which, under these conditions, he is entitled to be satisfied or which he is entitled to require, together with carriage thereof, to and from the work. The Contractor shall also arrange and supply, without charge, the requisite number of persons with the means and materials, necessary for the purpose of setting out work and counting, weighing and assisting in the measurement or examination at any time and from time to time of the work, or materials. Failing his so doing, the same may be provided by the Engineer-in-charge, at the expense of the Contractor, and the expenses may be deducted from any money due to the Contractor under the contract, or from his Performance Guarantee and/or Security Deposit or the proceeds of sale thereof, or a sufficient portion thereof. The Contractor shall also provide all necessary fencing and lights required to protect the public from accident and shall be bound to bear the expenses of defense of every suit, action or other proceeding at law, that may be brought by any person for injury sustained owing to neglect of the above precautions, and to pay any damages and costs, which may be awarded in any such suit, action proceeding to any such person or which may, with the consent of the Contractor, be paid to compromise any claim by any such person.

Clause 19 : Work not to be sub-let, Contract may be rescinded and Security Deposit and Performance Forfeited for sub-letting, bribing or if Contractor becomes insolvent

The contract shall not be assigned or sublet without the written approval of the Chief Engineer, and if the Contractor shall assign or sublet his contract or attempt so to do, or become insolvent, or commence any insolvency proceedings or make any composition with his creditors, or attempt so to do, or if any bribe, gratuity, gifts, loan, requisite reward or advantage, pecuniary or otherwise, shall either, directly or indirectly, be given, promised or offered by the Contractor or any of his servants or agents, to any public officer or person, in the employ of Government, in any way, relating to his office or employment, or if, any such officer or person shall become, in any way, directly or indirectly, interested in the contract, the Chief Engineer may, thereupon, by notice, in writing, rescind the contract and the Performance Guarantee and Security Deposit of the Contractor shall, thereupon, stand forfeited and be absolutely at the disposal of Government and the same consequences shall ensue as, if the contract had been rescinded under Clause 3 hereof, and in addition the Contractor shall not be entitled to recover or be paid for any work therefor, actually performed under the contract.

Clause 20 : Sums payable by way of compensation to be considered as reasonable compensation without reference to actual loss

All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the use of Government without reference to the actual loss or damage sustained and whether or not any damage shall have been sustained.

Clause 21 : Changes in Constitution of firm

Where the Contractor is a partnership firm, the previous approval, in writing, of the Engineer-in-charge shall be obtained before any change is made in the constitution of the firm. Where the Contractor is an individual or a Hindu undivided family business concern, such approval, as aforesaid, shall likewise be obtained before the Contractor enters into any partnership agreement where under the partnership firm would have the right to carry out the work thereby undertaken by the Contractor. If, previous approval, as aforesaid, is not obtained, the contract shall be deemed to have been assigned in contravention of Clause 19 hereof, and the same action may be taken, and the same consequences shall ensure as provided in the said clause 19.

Clause 22 : Works to be under direction of Engineer-in-charge

All the works, to be executed under the contract, shall be executed under the direction and subject to the approval, in all respect, of the Engineer-in-charge of the Government of Rajasthan for the time being, who shall be entitled to direct, at what point or points, and in what manner, they are to be commenced, and from time to time, carried on.

¹[Clause 23 : Standing Committee for Settlement of Disputes

If any question, difference or objection, whatsoever shall arise in any way, in connection with or arising out of this instrument, or the meaning of operation of any part thereof, or the rights, duties or liabilities of either party then, save in so far, as the decision of any such matter, as herein before provided for, and been so decided, every such matter constituting a total claim of Rs. 50,000/- or above, whether its decision has been otherwise provided for and whether it has been finally decided accordingly, or whether the contract should be terminated, or has been rightly terminated, and as regards the rights or obligations of the parties, as the result of such termination, shall be referred for decision to the empowered Standing Committee, which would consist of the followings:-

- (i) Administrative Secretary concerned.
- (ii) Finance Secretary or his nominee, not below the rank of Deputy Secretary.
- (iii) Law Secretary or his nominee, not below the rank of Joint Legal Remembrancer.

1. Substituted by Order dated 2.11.2011(Circular No. 48/2011) for -

"Clause 23 : Standing Committee for Settlement of Disputes : If any question, difference or objection, whatsoever shall arise in any way, in connection with or arising out of this instrument, or the meaning of operation of any part thereof, or the rights, duties or liabilities of either party then, save in so far, as the decision of any such matter, as herein before provided for, and been so decided, every such matter constituting a total claim of Rs. 50,000/- or above, whether its decision has been otherwise provided for and whether it has been finally decided accordingly, or whether the contract should be terminated, or has been rightly terminated, and as regards the rights or obligations of the parties, as the result of such termination, shall be referred for decision to the empowered Standing Committee, which would consist of the followings:-

- (i) Administrative Secretary concerned.
- ^{*}(ii) Finance Secretary or his nominee, not below the rank of Deputy Secretary.]
- (iii) Law Secretary or his nominee, not below the rank of Joint Legal Remembrancer.
- (iv) Chief Engineer-cum-Addl. Secretary of the concerned department.
- (v) Chief Engineer concerned (Member - Secretary)

The Engineer-in-charge, on receipt of application along with non-refundable prescribed fee, (the fee would be two percent of the amount in dispute, not exceeding Rs. One lac) from the Contractor, shall refer the disputes to the committee, within a period of one month from the date of receipt of application.

Procedure and Application for referring cases for settlement by the Standing Committee shall be, as given in Form RPWA 90."

* Substituted by Order No.F.2 (4)FD /Exp.III/99 dated 30.11.1999 (Cir. No.2/99) for "Finance Secretary or his nominee, not below the rank of Deputy Secretary" and again order dated 30.11.1999 withdrawn vide (Circular No. 19/2004).

- (iv) Chief Engineer-cum-Addl. Secretary of the concerned department.
- (v) Chief Engineer concerned (Member - Secretary)

The Engineer-in-charge, on receipt of application along with non-refundable prescribed fee, (the fee would be two percent of the amount in dispute, not exceeding Rs. One lac) from the Contractor, shall refer the disputes to the committee, within a period of **three months** from the date of receipt of application.

Procedure and Application for referring cases for settlement by the Standing Committee shall be, as given in Form RPWA 90.]

[विवाद जिसको निस्तारण हेतु स्टेपिंग कमेटी के समक्ष रखा जाना है, new work process (online) के अन्तर्गत अधिशाषी अभियंता के द्वारा कार्य की प्रगति एवं बिल के सत्यापन की दिनांक से 90 दिवस की समय सीमा में इंजिनियर इंचार्ज के समक्ष प्रस्तुत किया जा सकता है]

Clause 23A : Contractor to indemnify for infringement of Patent or design

Contractor shall fully indemnify the Governor of Rajasthan against any action, claim or proceeding, relating to infringement or use of any patent or design, or any alleged patent or design, rights, and shall pay any royalties, which may be payable in respect of any article or part thereof, included in the contract, in the event of any claims made under or action brought against Government. In respect of any such matters, as aforesaid, the Contractor shall be, immediately, noticed thereof, and the Contractor shall be at liberty, at his own expense, to settle any dispute or to conduct any litigation, that may arise therefrom provided that the Contractor shall not be liable to indemnify the Governor of Rajasthan, if the infringement of the patent or design or any alleged patent or design, right is the direct result of an order passed by the Engineer-in-charge in this behalf.

Clause 24 : Imported Store articles to be obtained from Government

The Contractor shall obtain from the stores of the Engineer-in-charge, all imported store articles, which may be required for the work or any part thereof, or in making up articles required thereof, or in connection therewith, unless he has obtained permission, in writing, from the Engineer-in-charge, to obtain such stores and articles from else-where. The value of such stores and articles, as may be supplied to the Contractor by the Engineer-in-charge, will be debited to the Contractor, in his account, at the rates shown in the schedule attached to the contract, and if they are not entered in the schedule, they will be debited at cost price, which for the purposes of this contract, shall include the cost of carriage and all other expenses, whatsoever, which shall have been incurred in obtaining delivery of the same at the stores aforesaid plus storage charges.

Clause 25 : Lump-sums in estimates

When the estimate, on which a tender is made includes lump sums, in respect of parts of the work, the Contractor shall be entitled to payment in respect of the item of work involved, or the part of the work in question at the same rates, as are payable under the contract for such items or if the part of the work in question is not, in the opinion of the Engineer-in-charge, capable of measurement, the Engineer-in-charge may at his discretion pay the lump sum amount entered in the estimate and the certificate in writing of the Engineer-in-charge shall be final and conclusive with regard to any sum or sums payable to him under the provisions of this clause.

1. Added by Order No.F.3(2)FD/GF&AR/2020 dated 13.09.2021.

Clause 26 : Action where no Specification

In case of any Class of work for which there is no such specification as is mentioned in Rule 1, such work shall be carried out in accordance with the detailed specification of the department and also in accordance with the instructions and requirement of the Engineer-in-charge.

Clause 27 : Definition of work

The expression "works" or "work" where used in these conditions, shall, unless there be some thing either in subject or context, repugnant to such construction, be construed and taken to mean the works by or by virtue of the contract contracted to be executed, whether temporary or permanent, and whether original, altered, substituted or additional.

Clause 27A : Definition of Engineer-in-charge

The term "Engineer-in-charge" means the Divisional Officer, who shall supervise, and be in charge of the work, and who shall sign the contract on behalf of the Governor.

Clause 28 :

It can not be guaranteed that the work will be started immediately after the tenders have been received. No claims for increase of rate will be entertained, if the orders for starting work are delayed.

Clause 29 : Payments at reduced rates on account of items of work not accepted and not completed to be at the discretion of the Engineer-in-charge

The rates for several items of works, estimated to cost more than Rs. 1,000/-, agreed within, will be valid only when the item concerned is accepted, as having been completed fully in accordance with the sanctioned specifications. In cases, where the items of work are not accepted, as so completed, the Engineer-in-charge may make payment on account of such items, at such reduced rates, as he considers reasonable, in the preparation of final or on account bills, and his decision in the matter shall be final and binding.

Clause 29A: Payments at part rates

The rates for several items of works may be paid at part rates provisionally in running bills in proportion to the quantum of items executed at the discretion of Engineer-in-charge. In case of item rates, if the rate quoted for certain items are very high in comparison to the average/overall tendered premium, then the payment at running stages shall not be made more than the average sanctioned premium. The deferred payment, will however be released after successful completion of the work.

Clause 30 : Contractor's percentage, whether applied to net or gross amount of bills

The percentage referred to in the "Tender for works" will be deducted/added from/to the gross amount of the bill before deducting the value of any stock issued.

Clause 31 : Contractor to adhere to labour laws/regulation

The Contractor shall adhere to the requirements of the Workmen's Compensation Act and Labour Legislation in force from time to time and be responsible for and shall pay any compensation to his workmen which would be payable for injuries under the Workmen's

Compensation Act, here-in-after called the said Act. If such compensation is paid by the State as Principal employer under Sub Section (1) of section 12 of the said Act, on behalf of the Contractor, it shall be recoverable by the State from the Contractor under Sub Section (2) of the said section. Such compensation shall be recovered in the manner laid down in Clause 1 of the Conditions of Contract.

¹[Note: All Contracts with Government shall require registration of workers under the Building & other Construction Workers (Regulation of Employment & Conditions of Services) Act, 1996 and extension of benefit to such workers under the Act. Deductions of cess at source will be made as per provisions of the said Act, in force from time to time.]

Clause 32 : Withdrawal of work from the Contractor

If the Engineer-in-charge shall at any time and for any reasons, whatever, including inability to maintain prorata progress, think any portion of the work should not be executed or should be withdrawn from the contractor, he may, by notice in writing to that effect, require the Contractor not to execute the portion of the work specified in the notice, or may withdraw from the Contractor the portion of work, so specified, and the contractor shall not be entitled to any compensation, by reason of such portion of work having been withdrawn from him. The Engineer-in-charge may supplement the work by engaging another agency to execute such portion of the work at the cost of the original contractor, without prejudice to his rights under clause 2. He shall also be competent to levy compensation for delay in progress. The recovery of excess cost shall be made from next available running bill or any other claim and shall not be deferred.

Clause 33 :

The contract includes clearance, levelling and dressing of site within a distance of 15 meters of the building on all sides except where the building adjoins another building.

Clause 34 : Protect works

The contractor shall arrange to protect, at his own cost, in an adequate manner, all cut stone work and other work, requiring protection and to maintain such protection, as long as work is in progress. He shall remove and replace this protection, as required by the Engineer-in-charge, from time to time. Any damage to the work, so protected, no matter how it may be caused, shall be made good by the Contractor free of cost.

All templates, forms, moulds, centering, false works and models, which in the opinion of the Engineer-in-charge, are necessary for the proper and workman like execution of the work, shall be provided by the Contractor free of cost.

Clause 35 : Contractor liable for settlement of claims caused by his delays

If the progress of the work has fallen so much in arrears as to prevent other contractors on the work, from carrying out their part of the work within the stipulated time, he will be liable for the settlement of any claim, put in by any of these contractors for the expenses of keeping their labour unemployed, to the extent considered reasonable by the Engineer-in-charge.

1. Added. vide Circular No. 46/2010 dated 28.5.2010 and substituted vide Circular No. 47/2010 dated 27.7.2010 for - "All Contracts with Government shall require registration of workers under the Building & other Construction Workers (Regulation of Employment & Conditions of Services) Act, 1996 and extension of benefit to such workers under the Act."

Clause 36A :

The liability, if any, on account of quarry fees, royalties, octroi and any other taxes and duties in respect of materials actually consumed on public work, shall be borne by the Contractor.

Clause 36B :

The cost of all water connection, necessary for the execution of work, and the cost of water consumed and hire charges of meters and the cost of electricity consumed in connection with the execution of work, shall be paid by the Contractor, except where otherwise specifically indicated.

Clause 36C : Payment of Sales Tax, and any other Taxes

Royalty or other tax on materials, issued in the process of full-filling contract payable to the Government under rules in force, will be paid by the Contractor himself.

Clause 36 D:

In respect of goods and materials procured by the Contractor, for use in works under the contract, sales tax will be paid by the Contractor himself. But in respect of all such goods manufactured and supplied by the Contractor and works executed under the contract, the responsibility of payment of sales tax would be that of the Engineer-in-charge.

¹[Clause 36E:

If any rates of Tax are increased or decreased, a new tax is introduced in India only, an existing Tax is abolished, or any change in interpretation or application of any Tax resulting from a change or Introduction in India only due to any National or State Statute, Ordinance, Decree or other law or any regulation or bye-law of any local or other duly constituted authority in India only, in the course of performance of contract, which was or will be assessed on the Contractor, in connection with the performance of the Contract, an equitable adjustment of the Contract price shall be made to fully take into account any such change by addition to the Contract Price or deduction there from, as the case may be.

However, these adjustments would be restricted to direct transactions between the Owner and Contractor only those items which are included in bid. Further, no adjustment of the Contract Price shall be made on account of variation in deemed export benefits, if any. Any increase or decrease which is included in price variation formula incorporated in the contract shall not be accounted for this purpose.

Such increase including GST shall not be made in the extended period of contract for which the contractor alone is responsible for delay as determined by authority for extension of time.]

Clause 37: Refund of Performance Guarantee and Security Deposit

The Performance Guarantee and/or Security Deposit will be refunded after the expiry of the period as prescribed below:-

1. Added by Order No.F.3(2)FD/GF&AR/2020 dated 7.1.2021 (PWF&AR 81/2021).

- (a) In case of contracts relating to hiring of trucks and other T&P, transportation including loading, unloading of materials, the amount of **Performance Guarantee/Security Deposit** is refundable alongwith the final bill.
- (b) **Supplies of material** : As per provisions of the G.F.& A.R.
- (c) **Ordinary repairs** : 3 months after completion of the work provided the final bill has been paid.
- ¹[(d) **Original works/special repairs works** : Security deposit will be refunded six months after completion, or expiry of one full rainy season, or after expiry of defect liability period as defined in the special condition of agreement, whichever is later provided the final bill has been paid.]
- ²[(e) In case of PWD original works/special repairs works costing more than Rs. 10.00 lacs, partial amount of Security Deposit will be refunded during the defect liability period @ 10% of SD amount after lapse of one year of completion and there after 10% of original amount of SD at the end of each subsequent year. The remaining amount of SD be refunded after the expiry of defect liability period.]

Clause 38: Fair Wage Clause

- (a) The Contractor shall pay not less than fair wages/minimum wages to labourers engaged by him on the works as revised from time to time by the Government, but the Government shall not be liable to pay any thing extra for it except as stipulated in price escalation clause (clause 45) of the agreement.

Explanation : "Fair Wage" means minimum wages for time or piece work, fixed or revised, by the State Government under the Minimum Wages Act, 1948.

- (b) The Contractor shall, notwithstanding the provisions of any contract to the contrary, cause to be paid fair wages to labourers indirectly engaged on the work, including any labour engaged by his sub-contractors in connection with the said work as if the labourers have been immediately or directly employed by him.
- (c) In respect of all labourers, immediately or directly employed on the work, for the purpose of Contractor's part of this agreement, the Contractor shall comply with or cause to be complied with the Public Works Department Contractor's Labour Regulations made, or that may be made by the Government from time to time, in regard to payment of wages, wage period, deductions from wages, recovery of wages not paid, and unauthorised deductions, maintenance of wages register, wage card, publication of scale of wages and other terms of employment, inspection and submission of periodical returns and other matters of a like nature.

1. Sub.by Order No.F.2(4)FD/PWFAR/99 Pt.II, dated 15.9.2009 (Circular No. 43/2009) with immediate effect for - "(d) **Original works/special repairs works** : Six months after completion except in case of works, such as building works, bridge works, cross drainage works, Dams, Canals, water supply and sewerage schemes (except where provided otherwise in any specified case) etc., the Performance Guarantee/Security Deposit will be refunded 6 months after completion or expiry of one full rainy season, or after expiry of defect liability period, whichever is later, provided the final bill has been paid."

2. Added by Order No.F.2(4)FD/PWFAR/99 Pt.II, dated 15.9.2009 (Circular No. 43/2009) with immediate effect.

- (d) The Engineer-in-charge shall have the right to deduct from the money due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker or workers, by reasons of non-fulfillment of the conditions of the contract, for the benefit of the worker or workers, non-payment of wages or of deductions made therefrom, which are not justified by the terms of the contract, or as a result of non-observance of the aforesaid regulations.
- (e) Vis-a-Vis the Government of Rajasthan, the Contractor shall be primarily liable for all payments to be made and for the observance of the regulations aforesaid, without prejudice to his right to claim indemnity from his sub-contractors.
- (f) The regulations, aforesaid, shall be deemed to be part of this contract and any breach, thereof, shall be deemed to be breach of the contract.

Clause 39 : Contractor to engage technical staff

The Contractor shall engage the technical staff, as follows, on the contract works.

- (a) For works costing Rs. 100 lac and above - One Graduate Engineer.
- (b) For works costing between Rs. 50 lac to Rs. 100 lac - One qualified diploma holder having experience of not less than 3 years.
- (c) For works costing between Rs. 15 lac and Rs. 50 lac - One qualified diploma holder.

The technical staff should be available at site, whenever required by Engineer-in-charge to take instructions.

Clause 39A :

The Contractor shall comply with the provisions of the Apprenticeship Act, 1961, and the Rules and Orders issued, thereunder, from time to time. If he fails to do so, his failure will be a breach of contract. The Contractor shall also be liable for any pecuniary liability arising on account of any violation by him of the provisions of the said Act.

Clause 40 : Safety Code

The Contractor shall follow the safety code of the Department.

Clause 41 : Near Relative barred from tendering

The Contractor shall not be permitted to tender for works in Circle, in which his near relative is posted as Divisional Accountant or as an officer in any capacity between the grades of the Superintending Engineer and Assistant Engineer (both inclusive). He shall also intimate the names of persons, who are working with him in any capacity, or are subsequently employed by him and who are near relatives to any gazetted officer in the Organization/Department. Any breach of this condition by the Contractor would render him liable to be removed from the approved list of contractors of the Department. If such facts are noticed (a) before sanction of tender, his offer shall be declared invalid and earnest money shall be forfeited, (b) after sanction of the tender then the tender sanctioning authority may at his discretion forfeit his earnest money, performance guarantee, security deposit and enlistment deposit and the work/remaining work may allot to any registered contractor on the same rates as per rules.

Note : By the term '**near relative**' is meant wife, husband, parents and grand-parents, children and grand children, brothers and sisters, uncles and cousins and their corresponding in-laws.

Clause 42 : Retired Gazetted Officers barred for 2 years

No Engineer of Gazetted rank or other Gazetted Officer, employed in Engineering or Administrative duties in an Engineering Department of the Government of Rajasthan, is allowed to work as a Contractor for a period of 2 years of his retirement from Government service without the previous permission of Government of Rajasthan. The contract is liable to be cancelled, if either the Contractor or any of his employee is found, at any time, to be such a person, who had not obtained the permission of Government, as aforesaid, before submission of the tender or engagement in the contractor's service, as the case may be.

Clause 43 : Quality Control

The Government shall have right to exercise proper Quality Control measures. The Contractor shall provide all assistance to conduct such tests.

Clause 43A :

The work (whether fully constructed or not) and all materials, machines, tools and plant, scaffolding, temporary buildings and other things connected therewith, shall be at the risk of the contractor until the work has been delivered to the Engineer-in-charge, and a certificate from him, to the effect, obtained.

Clause 44 : Death of Contractor

Without prejudice to any of the rights or remedies under the contract, if the Contractor dies, the legal heirs of the Contractor or the Chief Engineer or duly authorised Engineer shall have the option of terminating the contract without any compensation.

¹[Clause 45 : Price Variation Clause

If, during the progress of the contract of value exceeding Rs. 50 lac (accepted tendered amount minus cost of material supplied by the department), and where

1. Substituted by Order No.F.2 (4)FD /Exp.III/99 dated 13.7.2006 (Cir. No.26/2006) for - "If, during the progress of the contract of value exceeding Rs. 100 lac (accepted tendered amount minus cost of material supplied by the department), and where stipulated completion period is more than 12 months (both the conditions should be fulfilled), the price, of any materials/bitumen/diesel and petrol incorporated in the works (not being materials to be supplied by the department) and/or wages of labour increases or decreases, as compared to the price and/or wages prevailing at the date of opening of tender or date of negotiations for the work, the amounts payable to contractors for the work shall be adjusted for increase or decrease in the rates of materials (excepting those materials supplied by the department)/labour/bitumen/diesel and petrol. If negotiated rates have been accepted, prices as on the date of negotiation shall be considered for price adjustment. Similarly, if rates received on the date of opening of tenders have been accepted, then prices on the date of opening of tender shall be considered for price adjustment."

Again amended by Order dated 5.7.2018 (Circular No. 71/2018) for - "If, during the progress of the contract of value exceeding Rs. 50 lac (accepted tendered amount minus cost of material supplied by the department), and where stipulated completion period is more than * [3 months] (both the conditions should be fulfilled), the price, of any materials/bitumen/diesel and petrol/cement/steel incorporated in the works (not being materials to be supplied by the department) and/or wages of labour increases or decreases, as compared to the price and/or wages prevailing at the date of opening of tender or date of negotiations for the work, the amounts payable to contractors for the work shall be adjusted for increase or decrease in the rates of materials (excepting those materials supplied by the department)/labour/bitumen/diesel and petrol/cement/steel. If negotiated rates have been accepted, prices as on the date of negotiation shall be considered for price adjustment. Similarly, if rates received on the date of opening of tenders have been accepted, then prices on the date of opening of tender shall be considered for price adjustment."

*Substituted by Order No.F.2 (4)FD /PWF&AR/99 Part-II dated 24.10.2008 (Cir. No.38/2008) for - "6 months" wherever appearing in said clause.

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stipulated completion period is more than 3 months (both the conditions should be fulfilled), the price, of any materials/ bitumen/diesel and petrol/ cement/steel incorporated in the works (not being materials to be supplied by the department) and/or wages of labour increases or decreases, as compared to the price and/or wages prevailing at the last date of submission of bids, the amounts payable to contractors for the work shall be adjusted for increase or decrease in the rates of materials (excepting those materials supplied by the department) /labour/ bitumen/diesel and petrol/ cement/ steel.]

नोट : मूल्य विचलन की गणना हेतु इस क्लॉज 45 में नीचे दिए गए सूत्र (A) से (F) तक तथा क्लॉज 45A में जो सूत्र दिये गये हैं उनमें भी क्लॉज 45 एवं 45A में किये गये उक्त संशोधन अनुसार "last date of submission of bid" को ही आधार तिथि मानते हुए तदनुरूप ही संशोधन समझा जाकर मूल्य विचलन की गणना की जावे।

यह आदेश जारी होने की दिनांक (अर्थात् 5.7.2018) से जो 'बोली आमंत्रित करने वाले नोटिस(NIB) प्रकाशित किए जाएंगे उन सभी उपापनों पर यह संशोधित प्रावधान लागू होंगे।

इस आदेश दिनांक से पूर्व प्रारंभ हो चुकी बोली/उपापन प्रक्रियाओं एवं अनुबंधों में पूर्व के ही प्रावधान लागू होंगे।

(उपर्युक्त दिया गया नोट दिनांक 5.7.2018 को जारी आदेश PWF&AR -71/2018 का ही भाग है। कृपया उक्त आदेश का वित्त विभाग की वेबसाईट पर अवलोकन करें।)

¹[Increase or decrease in the cost of labour/material/diesel and petrol/cement/steel shall be calculated quarterly and cost of bitumen shall be calculated on monthly basis in accordance with the following formula:-]

(A) Labour

$$V_L = 0.75 \times \frac{P_L}{100} \times R \times \frac{(I_{L1} - I_{L0})}{I_{L0}}$$

V_L = Increase or decrease in the cost of work during the quarter under consideration due to change in rates for labour.

R = The value of the work done in rupees during the quarter under consideration excluding the cost of materials supplied by the department and excluding other items as mentioned in this clause.

I_{L0} = The average consumer price index for industrial workers (whole-sale prices) for the quarter in which tenders were opened/negotiated (as published in Reserve Bank of India Journal/Labour Bureau Simla, for the area).

I_{L1} = The average consumer price index for industrial workers (whole-sale prices) for the quarter of calendar year under consideration (as published in Reserve Bank of India Journal/Labour Bureau Simla, for the area).

P_L = Percentage of labour components.

Note : In case of revision of minimum wages by the Government or other competent authority, nothing extra would be payable except the price escalation permissible under this clause.

1. Substituted vide Circular No.F.2(4)FD/PWF&AR/99 Part-II dated 24.10.2008 for - "Increase or decrease in the cost of labour/material/bitumen/diesel and petrol shall be calculated quarterly in accordance with the following formula:-"

(B) Material (excluding material supplied by the department).

$$V_M = 0.75 \times \frac{P_M}{100} \times R \times \frac{(L_{M1} - I_{M0})}{L_{M0}}$$

V_M = Increase or decrease in the cost of work during the quarter under consideration due to change in rates for material.

R = The value of the work done in rupees during the quarter under consideration excluding the cost of materials supplied by the department and excluding other items as mentioned in this clause.

L_{M0} = The average wholesale price index (all commodities) for the quarter in which tenders were opened/ negotiated (as published in Reserve Bank of India Journal/Economic Adviser to Government of India, Ministry of Industries, for the area).

L_{M1} = The average wholesale price index (all commodities) for the quarter under consideration (as published in Reserve Bank of India Journal/ Economic Adviser to Government of India, Ministry of Industries, for the area).

P_M = Percentage of material components (excluding materials supplied by the Department).

1[(C) Bitumen

$$V_b = 0.85 \times \frac{P_b}{100} \times R \times \frac{(B_i - B_o)}{B_o}$$

V_b = Increase or decrease in the cost of work during the month under consideration due to changes in the rate for bitumen.

R = The value of the work done in rupees during the month under consideration excluding the cost of materials supplied by the department and excluding other items as mentioned in this clause.

B_o = The official retail price of bitumen at the IOC depot at nearest center on the day 28 days prior to date of opening of Bids.

B_i = The official retail price of bitumen of IOC depot at nearest center for the 15th day of the month under consideration.

P_b = Percentage of bitumen component of the work.]

1. Substituted vide Circular No. 38/2008 dated 24.10.2008 for - "(C) Bitumen

$$V_b = 0.75 \times \frac{P_b}{100} \times R \times \frac{(B_i - B_o)}{B_o}$$

V_b = Increase or decrease in the cost of work during the month under consideration due to changes in the rate for bitumen.

R = The value of the work done in rupees during the month under consideration excluding the cost of materials supplied by the department and excluding other items as mentioned in this clause.

B_o = The whole-sale price for bitumen on the day of opening of tenders/negotiation, as published by the Economic Adviser to Govt. of India, Ministry of Industry.

B_i = The average wholesale price Index for bitumen for the quarter under consideration as published weekly by Economic Adviser to Government of India, Ministry of Industry.

P_b = Percentage of bitumen component excluding bitumen supplied by the Department (Specified in the sanctioned estimate of the work."

(D) Petroleum

$$V_f = 0.75 \times \frac{P_f}{100} \times R \times \frac{(F_i - F_o)}{F_o}$$

V_f = Increase or decrease in the cost of work during the quarter under consideration due to change in rates for fuel and lubricants.

R = The value of the work done in rupees during the quarter under consideration excluding the cost of materials supplied by the department and excluding other items as mentioned in this clause.

F_o = The average wholesale price index of High Speed Diesel (HSD) as published by the Economic Adviser to the Government of India, Ministry of Industry on the day of opening of tender/negotiations.

F_i = The average whole sale price Index of H.S.D. for the quarter under consideration as published weekly by the Economic Adviser to the Government of India, Ministry of Industry for the quarter under consideration.

P_f = Percentage of fuel and lubricants components excluding fuel and lubricants supplied by the Department (Specified in the sanctioned estimate for the work).

R = Total work done during the quarter as prescribed under this clause.

Note : For application of this clause price of HSD is chosen to indicate fuel and lubricant component.

¹(E) Cement

$$V_C = 0.75 \times \frac{P_C}{100} \times R \times \frac{(L_{CI} - L_{C0})}{L_{C0}}$$

V_C = Increase or decrease in the cost of work during the quarter under consideration due to change in the rates of cement.

R = The value of the work done in rupees during the quarter under consideration excluding the cost of cement supplied by the department and excluding other items as mentioned in this clause.

L_{C0} = The average wholesale price index for the quarter in which tenders were opened/negotiated (as published by the Economic Adviser to the Government of India, Ministry of Industries).

L_{CI} = The average whole sale price Index for the quarter under consideration (as published by the Economic Adviser to Government of India, Ministry of Industries).

P_C = Percentage of cement components (excluding cement supplied by the Department).

1. Added by Order No.F.2 (4)FD/Exp.III/99 dated 13.7.2006 (Cir. No.26/2006) with immediate effect.

(F) Steel

$$V_S = 0.75 \times \frac{P_S}{100} \times R \times \frac{(L_{S1} - L_{S0})}{L_{S0}}$$

V_S = Increase or decrease in the cost of work during the quarter under consideration due to change in the rates of steel.

R = The value of the work done in rupees during the quarter under consideration excluding the cost of steel supplied by the department and excluding other items as mentioned in this clause.

L_{S0} = The average wholesale price index for the quarter in which tenders were opened/negotiated (as published by the Economic Adviser to the Government of India, Ministry of Industries).

L_{S1} = The average whole sale price Index for the quarter under consideration (as published by the Economic Adviser to Government of India, Ministry of Industries).

P_S = Percentage of steel components (excluding steel supplied by the Department).]

[Clause 45A : Price Variation in installation of elevators, supply/installation of Centrally Air Conditioning and Central Evaporating Cooling Works

In all cases of contracts for installation of elevators, supply /installation of Central Air Conditioning and Central Evaporating Cooling Works, the price quoted shall be based on the Indian Electrical and Electronics Manufacturers Association (IEEMA) price variation clause based on the cost of raw materials/components and labour cost as on the last date of submission of bids, and the same is deemed to be related to wholesale price index number of metal products and All India Average consumer price index number of industrial workers as specified below. In case of any variation in these index numbers, the prices shall be subject to adjustment up or down in accordance with following formula.]

नोट : मूल्य विचलन की गणना हेतु क्लॉज 45 में नीचे दिए गए सूत्र (A) से (F) तक तथा इस क्लॉज 45A में जो सूत्र दिये गये हैं उनमें भी क्लॉज 45 एवं 45A में किये गये उक्त संशोधन अनुसार "last date of submission of bid" को ही आधार तिथि मानते हुए तदनुरूप ही संशोधन समझा जाकर मूल्य विचलन की गणना की जावे।

यह आदेश जारी होने की दिनांक (अर्थात् 5.7.2018) से जो बोली आमंत्रित करने वाले नोटिस(NIB) प्रकाशित किए जाएंगे उन सभी उपापनों पर यह संशोधित प्रावधान लागू होंगे।

इस आदेश दिनांक से पूर्व प्रारंभ हो चुकी बोली/उपापन प्रक्रियाओं एवं अनुबंधों में पूर्व के ही प्रावधान लागू होंगे।

(उपर्युक्त दिया गया नोट दिनांक 5.7.2018 को जारी आदेश PWF&AR -71/2018 का ही भाग है। कृपया उक्त आदेश का वित्त विभाग की वेबसाईट पर अवलोकन करें।)

$$P = \frac{P_0}{100} (15 + 55 \frac{MP}{MP_0} + 15 \frac{W_0(D)}{W_0} + 15 \frac{W_0(I)}{W_0})$$

Where :

P = Price payable as adjusted in accordance with the above price variation formula.

P_0 = Price quoted/confirmed.

1. Substituted by Order No.F.2 (4)FD/PWFAR/99-II dated 5.7.2018 (Circular No. 71/2018) for -

"Clause 45A : Price Variation in installation of elevators, supply/installation of Centrally Air Conditioning and Central Evaporating Cooling Works. In all cases of contracts for installation of elevators, supply/installation of Central Air Conditioning and Central Evaporating Cooling Works, the price quoted shall be based on the Indian Electrical and Electronics Manufacturers Association (IEEMA) price variation clause based on the cost of raw materials/components and labour cost as on the date of quotation/tender, and the same is deemed to be related to wholesale price index number of metal products and All India Average consumer price index number of industrial workers as specified below. In case of any variation in these index numbers, the prices shall be subject to adjustment up or down in accordance with following formula."

MP_O = Wholesale Price Index Number for metal product as published by the office of the Economic Adviser, Ministry of Industry, Government of India, in their weekly bulletin, Revised Index Number of Wholesale Prices (Base : 1981 - 82=100) for the week ending first Saturday of the relevant calendar month. The relevant month shall be that in which price was offered or negotiated whichever is later.

W_O = All India Average Consumer Price Index Number for Industrial workers (Base 1982=100), as published by Labour Bureau, Ministry of Labour, Government of India, for relevant calendar month. The relevant month shall be that in which price was offered or negotiated whichever is later.

The above index number MP_o & W_o are those published by IEEMA as prevailing on the first working day of the calendar month FOUR months prior to the date of tendering.

MP = Wholesale Price Index Number of Metal Products as published by the office of Economic Adviser, Ministry of Industry, Government of India, in their weekly bulletin Revised Index Number of wholesale prices (Base : 1981-82=100). The applicable wholesale price Index Number for Metal Products as prevailing on 1st Saturday of the month covering the date FOUR months prior to the date of delivery and would be as published by IEEMA.

$W_o(D)$ = All India Average Consumer Price Index Number for Industrial workers prevailing for the month covering the date FOUR months prior to the date of delivery of manufactured material and would be as published by IEEMA.

$W_o(1)$ = All India Average Consumer Price Index Number for Industrial workers (Base : 1982=100) as published by Labour Bureau, Ministry of Labour, Government of India. The applicable All India Consumer Price Index Number of Industrial workers prevailing for the FOUR months prior to the date of completion of installation/progress parts of installation and would be as published by IEEMA. The date of delivery shall be the date on which the manufactured material is actually supplied at site. The date of completion of installation (or progress part of installation shall be the date on which the work is notified as being completed and is available for inspection/duly tested. In the absence of such notification, the date of completion is not intimated, such completion shall be considered by the Engineer-in-charge which shall be final.

Note-1: The Wholesale Price Index Number for Metal Products is published weekly by the office of the Economic Adviser, but if there are any changes, the same are incorporated in the issue appearing in the following week. For the purpose of this Price Variation Clause, the final index figures shall apply.

Note-2: The sole purpose of the above stipulation is to arrive at the entire contract under the various situations. The above stipulation does not indicate any intentions to sell materials under this contract as movables.

Note-3: The indices MP & M_o are regularly published by IEEMA in monthly basis price circulars based on information bulletins from the authorities mentioned. These will be used for determining price variation and only IEEMA Circulars will be shown as evidence, if required.

General Conditions for admissibility of Escalation

- ¹[1. The exact percentage of labour/material (excluding materials to be supplied by the department)/bitumen/diesel and petrol/cement/steel component for the work shall be approved by the authority while sanctioning the detailed Estimates.
2. The breakup of components of labour/materials (excluding materials to be supplied by the department)/bitumen/diesel and petrol/cement/steel as indicated in Clause 45 have been pre-determined as below:-
 - (a) Labour-----percent
 - (b) Material-----percent
 - (c) Bitumen-----percent
 - (d) Diesel and Petrol-----percent
 - (e) Cement-----percent
 - (f) Steel-----percent

Total-----100%]
3. While allowing price escalation the following shall be deducted from the value of work done (R):
 - (a) Cost of material supplied by the Department.
 - (b) Cost of services rendered as per Clause 34.
 - (c) Secured Advance/any advance added earlier but deducted now after work is measured.
 - (d) Cost of extra items, the rates for which have been worked out based on market rates/mutually agreed rates.
4. The first statement of escalation shall be prepared at the end of three months in which the work was awarded and the work done from the date of start to the end of this period shall be taken into account. For subsequent statement, cost of work done during every quarter shall be taken into account. At the completion of work, the work done during the last quarter or fraction, thereof, shall be taken into account.
5. For the purpose of reckoning the work done during any period, the bills prepared during the period shall be considered. The dates of recording measurements in the Measurement Book by the Assistant Engineer shall be the guiding factor to decide the bills relevant to any period. The date of completion, as finally recorded by the competent authority in the Measurement Book, shall be the criterion.

1. Substituted by Order No.F.2 (4)FD /Exp.III/99 dated 13.7.2006 (Cir. No.26/2006) with immediate effect for -

- ¹1. The exact percentage of labour/material (excluding materials to be supplied by the department)/bitumen/diesel and petrol component and labour component for the work shall be approved by the authority while sanctioning the detailed Estimates.
2. The breakup of components of labour/materials (excluding materials to be supplied by the department)/bitumen/diesel and petrol as indicated in Clause 45 have been pre-determined as below:-
 - (a) Labour-----percent
 - (b) Material-----percent
 - (c) Bitumen-----percent
 - (d) Diesel and Petrol-----percent

Total-----100%

6. The index relevant to any quarter, for which such compensation is paid, shall be the arithmetical average of the indices relevant of the calendar month.
7. Price adjustment clause shall be applicable only for the work that is carried out within the stipulated time, or extension thereof, as are not attributable to the contractor.
8. If during the progress in respect of contract works stipulated to cost ¹[Rs.50 lacs] or less, the value of work actually done excluding cost of material supplied by the Department, exceeds ¹[Rs. 50 lacs] and completion period is more than ²[3 months] then escalation would be payable only in respect of value of work in excess over ¹[Rs.50 lacs,] from the date of satisfying both the conditions.
9. Where originally stipulated period is ²[3 months] or less but actual period of execution exceeds beyond ²[3 months] on account of reasons not attributable to contractor, escalation amount would be payable only in respect of extended period if amount of work is more than ¹[Rs.50 lacs].
10. In case the contractor does not make prorata progress in the first or another time span and the short fall in progress is covered up by him during subsequent time span within original stipulated period then the price escalation of such work expected to be done in the previous time span shall be notionally given based upon the price index of that quarter in which such work was required to be done.
11. No claims for price adjustment other than those provided herein, shall entertained.
12. If the period of completion including extended period attributable to Government exceeds ²[3 months] but cost does not exceeds more than ¹[Rs. 50 lacs], no escalation is admissible.
13. Similarly, if cost of works increases more than ¹[Rs.50 lacs] but completion period including extended period attributable to government is less than ²[3 months], no escalation is admissible.
14. No provisional escalation is payable on the basis of indices of the previous quarter in absence of non publication of indices for concerned quarter by the RBI.
15. Escalation is always payable quarterly and no provisional escalation is payable monthly or fortnightly.
16. In case at the time of executing agreement, both the conditions (completion period ²[3 months] and amount of work ¹[Rs.50 lacs] for admissibility of price escalation are not fulfilled and subsequently due to additional work and extension of time attributable to Government, both the conditions become fulfilled, in that case the escalation shall be payable from the date of satisfying both the conditions and only for work done beyond ¹[Rs.50 lacs] and in period of work beyond ²[3 months].

1. Substituted by Order No.F.2 (4)FD /Exp.III/99 dated 13.7.2006 (Cir. No.26/2006) with immediate effect for "Rs. 100 lacs".
2. The existing figure & word "12 months" substituted "6 months" by Order No.F.2 (4)FD /Exp.III/99 dated 13.7.2006 (Cir. No.26/2006) and again "6 months" substituted "3 months" vide Circular No. 38/2008 dated 24.10.2008 for "6 months".

17. The contractor shall for the purpose of this conditions keep such books of account and other documents as are necessary to show the amount of any increase climbed or reduction available and shall allow inspection of the same by a duly authorised representative of Government and further shall at the request of the Engineer-in-charge furnish, verified in such a manner as the Engineer-in-charge may require any documents so kept and such other information as the Engineer-in-charge may require.
- ¹[18. Price variation clause shall be applicable in case of lump sum contracts estimated to more than Rs. 100 crore with stipulated completion period of more than 18 months.
19. The component of operation and maintenance (O&M) cost included in the contract price shall not be subject to price variations. The price may be adjusted by the use of prescribed formula (or formulae) which breaks down the total price into components.
20. The amount of price variation in case of lump sum contracts will be made by adding or deducting, as the case may be, from the payments made at the stages of work specified in the contract document.]

Clause 46: Force Majeure

Neither party shall be liable to each other, for any loss or damage, occasioned by or arising out of acts of God such as unprecedented floods, volcanic eruptions, earthquake or other invasion of nature and other acts.

Clause 47: General Discrepancies and Errors

In case of percentage rate tenders, if there is any typographical or clerical error in the rates shown by the Department in the "G" Schedule, the rates as given in the Basic Schedule of Rates of the Department for the area shall be taken as correct.

Clause 48: Post payment Audit & Technical Examination

The Government shall have right to cause an audit and technical examination of the works, and the final bills of the contractor, including all supporting vouchers, abstracts etc., to be made within 2 years after payment of the final bill, and if, as a result of such audit and technical examination, any sum is found to have been over paid in respect of any work done by the Contractor under the contract, or any work claimed by him to have been done by him under the contract and found not to have been executed or executed below specifications, the Contractor shall be liable to refund the amount of over payment, and it shall be lawful for Department to recover the same from him in the manner prescribed in Clause 50 or in any other manner legally permissible, and if it is found that the Contractor was paid less than what was due to him under the contract in respect of any work executed by him under it, the amount of such under-payment shall be duly paid by the Government to the Contractor.

1. Condition No. 18 to 20 added by Order No.F.2 (4)FD /Exp.III/99 dated 27.1.2012 (Cir. No.49/2012).

Clause 48A : Pre Check or Post Check of Bills

The Government shall have right to provide a system of pre-check of Contractor's bills by a specified Organisation, and payment by an Engineer or an Accounts Officer/Sr. Accounts Officer/Chief Accounts Officer/Financial Advisor, as the Government may in its absolute discretion prescribe. Any over-payments/excess payments detected, as a result of such pre-check or post-check of Contractor's bills, can be recovered from the Contractor's bills, in the matter, herein before provided, and the Contractor will refund such over/excess payments.

Clause 48B : Check Measurements

The department reserves to itself, the right to prescribe a scale of check measurement of work, in general, or specific scale for specific works, or by other special orders (about which the decision of the department shall be final). Checking of measurement by superior officer shall supersede measurements by the subordinate officer, and the former will become the basis of the payment. Any over/excess payments detected, as a result of such check measurement or otherwise at any stage upto the date of completion and the defect removal period specified else-where in this contract, shall be recoverable from the Contractor, as any other dues payable to the Government.

Clause 49: Dismantled Materials

The Contractor, in course of the work, should understand that all materials e.g. stone, bricks, steel and other materials obtainable in the work by dismantling etc. will be considered as the property of the Government and will be disposed off to the best advantage of the Government, as per directions, of the Engineer-in-charge.

Clause 50 : Recovery from Contractors

Whenever any claim against the Contractor for the payment of a sum of money arises out of or under the contract, the Department shall be entitled to recover such sum by appropriating, in part or whole of the Performance Guarantee and/or Security Deposit, Security Deposit at the time of enlistment of the Contractor. In the event of the security being insufficient, or if no security has been taken, then the balance or the total sum recoverable, as the case may be, shall be deducted from any sum, then due or which at any time, thereafter, may become due to the Contractor, under this or any other contract with the Governor of Rajasthan. Should this sum be not sufficient to cover the full amount recoverable, the Contractor shall pay to the Department on demand the balance remaining dues.

The department shall, further, have the right to effect such recoveries under Public Demands Recovery Act.

Clause 51 : Jurisdiction of Court

In the event of any dispute arising between the parties hereto, in respect of any of the matters comprised in this agreement, the same shall be settled by a competent Court having jurisdiction over the place, where agreement is executed and by no other court, after completion of proceedings under Clause 23 of this Contract.

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Schedule of Materials to be supplied by the Department, if available (Referred to in Clause 10)

S.No.	Particulars	Quantity	Rates		Place of Delivery
			Unit	Rupees	

Schedule of Machinery/T&P to be supplied by the Department.

The following Machinery/T&P shall be supplied by the Department, if available, to the Contractor, on hire as per "Rules of the Department for supply for machinery and T&P to the Contractors on hire".

(Referred to in Clause 10C)

S.No.	Item	Rate	Place of Delivery and Return

Progress Statement referred to in Clause 2 of Conditions of Contract

Name of Work	Date from which the work should be commenced	Date by which the work should be completed	Monthly rate of Progress

The Contractor has been informed that his tender has been accepted.

Dated Signature of Engineer-in-charge

Dated Signature of Contractor

Notes :- For filling in the Progress Statement Form

- Columns 2, 3 and 4 must be initialed and dated by the Contractor.
- Column 4 must be initialed and dated by the Chief Engineer or other duly authorised Engineer also.
- The date in column 2 should correspond to the date on which the order to commence work is given to the contractor read with Clause 2 of the conditions of contract.
- The date in column 3 must correspond to the period stated in Sub clause (e) of the Memorandum below "Tender for works".
- Column 4. This will ordinarily be worked out proportionately, thus if Rs. 24,000/- is the cost of the whole or portion of work tendered for, and six months period of completion, then the monthly rate of progress should be Rs. 4,000/-. If necessary, quantities may also be specified in this column at the discretion of the Chief Engineer.
- The Certificate as to intimation of acceptance of tender printed at the foot of the form, must be signed and dated both by the Chief Engineer or other duly authorised Engineer and the Contractor.

ANNEXURE TO APPENDIX XI

**RAJASTHAN PUBLIC WORKS DEPARTMENT CONTRACTORS
LABOUR REGULATIONS**

1. **Short title** : These regulations may be called "The Rajasthan Public Works Department Contractor's Labour Regulations".
2. **Definition** : In these regulations unless otherwise expressed or indicated, the following words and expressions shall have the meaning hereby assigned to them respectively, that is to say :-
 - (i) "**Labour**" means workers employed by a Rajasthan P.W. Department contractor directly, or indirectly through a sub-contractor or other person or by an agent on his behalf.
 - (ii) "**Fair Wage**" means minimum wages for time or piece work fixed or revised by the State Government under the Minimum Wages Act, 1948.
 - (iii) "**Contractor**" shall include every person whether sub-contractor or headman or Agent employing labour on the work taken on contract.
 - (v) "**Wages**" shall have the same meaning as defined in the Payment of Wages Act and includes time and piece rate wages.
3. **Display of Notice regarding wages etc.:** The contractor shall (a) before the commences his work on contract, display and correctly maintain and continue to display and inconspicuous places on the work notices in English and the correctly maintain in Hindi by the majority of the workers giving the rate of wages which have been certified by the Executive Engineer, the Superintending Engineer, the Chief Engineer or Labour Commissioner, as fair wages and the hours of works for which such wages are earned, and (b) send a copy of such notices to the Certifying Officers.
4. **Payment of Wages** :
 - (i) Wages due to every worker shall be paid to him direct.
 - (ii) All wages shall be paid in current coin or currency or in both.
5. **Fixation of wage periods** :
 - (i) The contractor shall fix the wage periods in respect of which the wages shall be payable.
 - (ii) No wage period shall exceed one month.
 - (iii) Wages of every workman employed on the contract shall be paid before the expiry of ten days after the last day of the wage period in respect of which the wages are payable.
 - (iv) When the employment of any worker is terminated by or on behalf of the contractor, the wages earned by him shall be paid before the expiry of the day succeeding the one on which his employment is terminated.

- (v) All payments of the wages shall be made on a working day except when the work is completed before the expiry of the wage period, in which case, final payments shall be made within 48 hours of the last working day.

Note : The term "working day", means a day on which the labour is employed in progress.

6. Wage Book and Wage Slips etc. :

- (i) The Contractor shall maintain a Wage Book of each worker in such form as may be convenient but the same include the following particulars :-
- (a) Rate of daily or monthly wages.
 - (b) Nature of work on which employed.
 - (c) Total number of days worked during each wage period.
 - (d) Total amount payable for the work during each wage period.
 - (e) All deductions made from the wages with an indication in each case of the ground for which the deduction is made.
 - (f) Wages actually paid for each wage period.
- (ii) The contractor shall also maintain a wage slip for each worker employed on the work.
- (iii) The Executive Engineer may grant an exemption from the maintenance of the wage books and wages slips to a contractor who, in his opinion, may not directly or indirectly employ more than 50 persons on the work.

7. Fines and deductions which may be made from wages :

- (i) The wages of a worker shall be paid to him without any deductions of any kind except those authorized, namely the following :
- (a) Fines.
 - (b) Deductions for absence from duty i.e. from the place of places where, by the terms of his employment, he is required to work. The amount of deduction shall be in proportion to the period for which he was absent.
 - (c) Deductions for damages to or loss of goods expressly entrusted to the employed person for custody or for loss or any other deductions of money, which he is required to account where such damages or losses are directly attributable to his neglect or default.
 - (i-a) The Rajasthan Government may, from time to time, allow deductions other than those specified in clause 1 above.
- (ii) No fines shall be imposed on a worker and no deductions for damage or loss shall be made until worker has been given an opportunity of showing cause against each fine or deductions.

- (iii) The total amount of fines, which may be imposed in any one wage period on a worker, shall not exceed an amount equal to three paise in rupee of the wage payable to him in respect of that wage period.
- (iv) No fine imposed on any worker shall be recovered from him by installments or after the expiry of 60 days from the date on which it was imposed.
8. **Register of fines etc.** : The contractor shall maintain a register of fines and of all deductions for damage or loss. Such register shall mention the reasons for which fine was imposed or deduction for damage or loss was made.
- The Contractor shall maintain both in English and local Indian Language, a list approved by the Labour Commissioner clearly stating the acts and omission for which penalty of fine may be imposed on a workman and display it in a good condition in a conspicuous place on the work.
9. **Preservation of Register** : The wage register, the wage card and the register of fines deductions required to be maintained under these regulations, shall be preserved for 12 months after the date of the 1st entry made in them.
10. **Powers of Labour Welfare Officer to make investigation of enquiry** : The Labour Welfare Officer or any other person, authorized by the State Government on their behalf, shall have power to make enquiries with a view to ascertained and enforcing due and proper observance of the fair wage clauses and provisions of the regulations. He shall investigate into any complaint regarding default made by the Contractor or Sub-Contractor in regard to such provisions.
11. **Report of Labour Welfare Officer** : The Labour Welfare Officer or other person, authorized as aforesaid, shall submit a report of the result of his investigation or enquiry to the Executive Engineer concerned indicating the extent, if any, to which the default has been committed with a note that necessary deductions from the contractors bill be made and the wage and other dues be paid to the labour concerned. In case an appeal is made by contractor under clause 12 of these regulations, actual payment to Labours will be made by the Executive Engineer after the Labour Commissioner had given decision on such appeal.
12. **Appeal against the decision of Labour Welfare Officers** : Any person aggrieved by the decision and recommendation of the Labour Welfare Officer or other persons, so authorised, may appeal against such decision to the Labour Commissioner within 30 days from the date of decision forwarding simultaneously a copy of his appeal to Executive Engineer concerned but subject to such appeal the decision of the Officer shall be final and binding upon the contractor.
- 12-A. No party shall be allowed to be represented by a lawyer during any investigation, enquiry, appeal or any other proceedings.
13. **Inspection of Wage Books and Slips** : The Contractor shall allow inspection of the wage books and wage slips and register of fines and deductions to any of his workers or to his agent at a convenient time and place after due notice is received or to the

Labour Welfare Officer or any other person authorised by the State Government on his behalf.

14. **Submission of Returns** : The Contractor shall submit periodical returns, as may be specified from time to time.
15. **Amendments** : The State Government may, from time to time, add to or amend these regulations and on any questions as to the application, interpretation or effect of these regulations, the decision of the Labour Commissioner to the Government of Rajasthan or any other person authorized by the State Government in that behalf, shall be final.

**SCHEDULE OF FAIR WAGE TO BE GIVEN BY
EXECUTIVE ENGINEER**

LIST OF ACTS AND COMMISSION FOR WHICH FINE CAN BE IMPOSED

1. Willful insubordination or disobedience whether alone or in combination with another.
2. The fraud or dishonesty in connection with the contractor's business or property of the Rajasthan P.W.D.
3. Taking or giving bribes or any illegal gratification.
4. Habitual late attendance.
5. Drunkenness, fighting, riot or disorderly or indecent behaviour.
6. Habitual negligence.
7. Smoking near or around the area where combustible or other materials are stocked.
8. Habitual indiscipline.
9. Causing damage work in progress or to property of the Rajasthan P.W.D. or the contractor.
10. Sleeping on duty.
11. Malingering or sowing down work.
12. Giving of false information regarding name, age, father's name.
13. Habitual loss of wage cards supplied by the employers.
14. Unauthorised use of employer's property or manufacturing or making of unauthorised articles at the work placed.
15. Bad workmanship in construction and maintenance by skilled workers which is not approved by the department and for which contractors are compelled to undertake rectification.
16. Making false complaints and/or misleading statement.
17. Engaging in trade within the premises of the establishment.
18. Any delinquency of business affairs of the employers.
19. Collection or canvassing for the collection of any money within the premises of an establishment unless authorised by the employer.
20. Holding meeting inside the premises without previous sanction of the employer.
21. Threatening or intimidating any workman or employee during the working hours within the premises.