GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 2007/CE.1/CT/18 New Delhi, dated 28.9.2007

To,

As per list attached.

Sub. Empowerment of Field Organizations (Works Contract matters).

Ref. (i) Board's letter No. 85/W-1/CT/7-Vol.1 dated 4.4.96,
(ii) Board's letter No. 94/CE-1/CT/4 dated 17.10.02
(iii) Board's letter No. 85/W1/CT/7 Pt.I dated 18/19.4.06
(iv) Board's letter No. 2003/CE-1/CT/4 Pt. dated 12/16.5.06, 30.5.06 & 7.12.06

Pursuant to the recommendation of EDs committee constituted by Board to give recommendation on the above subject, Board have amended certain clauses in the existing General Conditions of Contract (GCC) and provisions in the extant policy circulars relating to works contracts, as detailed below, to enable more effective and efficient contract management.

These modified clauses/provisions shall be applicable with prospective effect in all future works contracts.

1. **Introduction of Performance Guarantee (PG)**

A clause on Performance Guarantee was introduced in GCC vide item (3) of Annexure to Board's letter No. 2003/CE-1/CT/4 (Pt) dated 12/16.5.06 in lieu of risk action procedure. This clause stands modified as under:-

"The procedure for obtaining Performance Guarantee is outlined below:-

a. The successful bidder shall submit a Performance Guarantee (PG) in the form of an irrevocable bank guarantee amounting to 5% of the contract value.

b. A Performance Guarantee shall be submitted by the successful bidder after the letter of acceptance has been issued, but before signing of the agreement. The agreement should normally be signed within 15 days after the issue of LOA and the Performance Guarantee shall also be submitted within this time limit. This guarantee shall be initially valid up to the stipulated date of completion plus 60 days beyond that. In case, the time for completion of work gets extended, the contractor shall get the validity of Performance Guarantee extended to cover such extended time for completion of work plus 60 days.

c. The Performance Guarantee (PG) shall be released after the physical completion of the work based on the 'Completion Certificate' issued by the competent authority stating that the contractor has completed the work in all respects satisfactorily. The security deposit, however, shall be released only after the expiry of the maintenance period and after passing the final bill based on 'No Claim Certificate'.

d. Wherever the contract is rescinded, the security deposit shall be forfeited and the Performance Guarantee shall be encashed and the balance work shall be got done independently without risk and cost of the failed contractor. The failed contractor shall be debarred from participating in the tender for executing the balance work. If the failed contractor is a JV or a partnership firm, then every member/partner of such a firm shall be debarred from participating in the tender for the balance work either in his/her individual capacity or as a partner of any other JV/partnership firm.

e. The Engineer shall not make a claim under the Performance Guarantee except for amounts to which the President of India is entitled under the contract (not

withstanding and/or without prejudice to any other provisions in the contract agreement) in the event of:

i) Failure by the contractor to extend the validity of the Performance Guarantee as described herein above, in which event the Engineer may claim the full amount of the Performance Guarantee.

ii) Failure by the contractor to pay President of India any amount due, either as agreed by the contractor or determined under any of the Clauses/Conditions of the agreement, within 30 days of the service of notice to this effect by Engineer.

iii) The contract being determined or rescinded under provision of the GCC the Performance Guarantee shall be forfeited in full and shall be absolutely at the disposal of the President of India.

2. **Amendment to PVC clause in works contract**

In partial modification of Board's letter No. 85/W-1/CT/7-Vol.1 dated 4.4.96, the following changes are introduced regarding Price Variation Clause:-

(i) The minimum prescribed limit of one year of contract completion period for incorporating Price Variation Clause in tenders (para I(a) of above referred letter dated 4.4.96) stands deleted.

(ii) Price Variation Clause (PVC) shall be applicable for tenders of value more than Rs. 1 crore irrespective of the contract completion period and PVC shall not be applicable to tenders of value less than Rs. 1 crore.

(iii) The present stipulation that "*Price Variation Clause will not apply if the price variation is upto 5% and that reimbursement/recovery due to variation in prices will continue to be made only for the amount in excess of 5% of the amount payable to the contractor*" vide para 1 of above

referred letter dated 4.4.96 shall continue to be enforced. However, the existing upper limit prescribed at 15% and 25% (vide para I (b) and I(c) of Board's letter dated 4.4.96 referred above) for price variation claim stands deleted.

3. **Earnest Money Deposit (EMD)**

The rules concerning Earnest Money Deposit modified vide Board's letters Nos. 2003/CE-1/CT/4 Pt-1 dated 12/16.5.06 (item (i) of the Annexure) and letter no. 2003/CE-1/CT/4 Pt-1 dated 7.12.06 are further amended as under:-

Value of the work (Tender Value)	EMD
For works estimated to cost upto Rs.1 crore	2% of the estimated cost of the work.
For works estimated to cost more than Rs.1 crore	Rs.2 lakhs plus ½% (half percent) of the excess of estimated cost of work beyond Rs.1 crore subject to a maximum of Rs.1 crore.

4. **Interest Rate for Advances extended by Railways**

The extant interest rate for advances extended by Railways to contractors fixed at 18% vide Board's letter No. 90/CE-I/CT/1 dated 21.5.97 and advance correction slip issued under Board's letter No. F(X)II-97/PW/4 dated 5.5.98 has since been reviewed by Board and the same has now been downwardly revised as 14%.

5. **Solvency Certificate**

In partial modification to para 2.3.4.1 of Annexure-1 of Board's letter No.94/CEI/CT/4 dated 17.10.2002, the requirement of Revenue/Banker Solvency Certificate as one of the minimum eligibility criteria (vide item (i) of the table under para 2.3.4.1 of the above referred Board's letter) stands deleted. However, the Tender Committee shall still examine the overall financial soundness of the tenderers based upon the volume of work handled, turn over, balance sheet etc.

6. **Imposition of token penalty for delay in the completion of work.**

The existing clause 17(B) of GCC provides for recovery of liquidated damages from the contractor for delay in completion of work. It has now been decided that the competent authority while granting extension to the currency of contract under clause 17(B) of GCC may also consider levy of token penalty as deemed fit based on the merit of the case.

7. **Limited Tenders**

Paras 2.4.4.4 and 2.4.4.5 of Annexure-1 of Board's letter No.94/CE.I/CT/4 dated 17.10.2002, which deal with monetary slabs for calling limited tenders stand modified as under:

2.4.4.4 The existing monetary ceiling for calling limited tenders may be raised from Rs. 1 crore to Rs. 5 crore.

2.4.4.5 Existing four monetary slabs for calling limited tenders stand reduced to three and revised as under:-

Sl no.	Monetary slab for LT	Lowest Authority competent to approve calling of LT
1	Upto Rs.25 lakhs.	JAG and SG
2	More than Rs 25 lakhs and upto Rs.1 cr.	SAG/DRM
3	More than Rs. 1 crore and upto Rs.5 crore.	PHOD/CHOD

Individual Railways may decide the "category of works" for which list of approved contractors should be maintained for each monetary slab.

8. **Special Limited Tender (SLT)**

In partial modification to item (i) of para 2.6.4.1 of Annexure-1 of Board's letter No. 94/CE-1/CT/4 dated 17.10.2002, it has now been decided that CAO(C) with the concurrence of FA&CAO(C) may

invite Special Limited Tenders not only for specialized nature of work but all types of works depending upon the merit of the case.

9. **Variation in contract quantities**

In supersession of paras 5.3.6, 5.3.7 and 5.3.9 of Annexure-1 of Board's letter No. 94/CE-1/CT/4 dated 17.10.2002, the procedure as detailed below shall be adopted for dealing with variation in quantities during execution of works contracts:-

(i) Individual NS items in contracts shall be operated with variation of plus or minus 25% and payment would be made as per the agreement rate. For this, no finance concurrence would be required.

(ii) In case of increase in quantity of an individual item by more than 25% of the agreement quantity is considered as unavoidable, the same shall be got executed by floating a fresh tender. If floating a fresh tender is considered not practicable, negotiations may be held with the existing contractor for arriving at reasonable rates for additional quantities in excess of 125% of agreement quantity.

(iii) The limit for varying quantities for minor value items shall be 100% (as against 25% prescribed for other items). A minor value item for this purpose is defined as an item whose original agreement value is less than 1% of the total original agreement value.

(iv) No such quantity variation limit shall apply for foundation items.

(v) As far as SOR items are concerned, the limit of 25% would apply to the value of SOR schedule as a whole and not on individual SOR items. However, in case of NS items, the limit of 25% would apply on the individual items irrespective of the manner of quoting the rate(single percentage rate or individual item rate)

(vi) For the tenders accepted at the Zonal Railways level, the variation in the quantities will be approved by the authority in whose powers the revised value of the agreement lies.

(vii) For tenders accepted by General Manager, variations upto 125% of the original agreement value (even if the revised agreement value is beyond GM's competence to accept tenders) may be accepted by General Manager.

(viii) For tenders accepted by Board Members and Railway Ministers, variations upto 110% of the original agreement value may be accepted by General Manager.

(ix) The aspect of vitiation of tender with respect to variation in quantities should be checked and avoided.

10. This issues with the concurrence of Finance Directorate of Ministry of Railways.

Please acknowledge the receipt.

(T. Gupta)
Executive Director Civil Engg.(G)
Railway Board

No. 2007/CE.1/CT/18 New Delhi, dated 28.9.2007

Copy forwarded for information to:

(i) FA&CAOs and FA&CAO/Cs - all Indian Railways.
(ii) Deputy Comptroller and Auditor General of India (Railways), New Delhi (with 46 copies)

28/9/2007

for Financial Commissioner (Railways)