भारत सरकार Government Of India
रेल मंत्रालय Ministry Of Railways
रेलवे बोर्ड Railway Board

No.2007/CE.I/CT/18 Pt.XII New Delhi, dated 31.12.2010

Addressed to :
As per list attached.

Sub : Empowerment to Field Organisations (Works Contract matters).

Ref : (i) Board's letter no. 94/CE-I/CT/4, dated 17.10.02
(ii) Board's letter no. 2003/CE-I/CT/4, dated 12/16.5.06
(iii) Board's letter no. 2007/CE-I/CT/18, dated 07.03.08
(iv) Board's letter no. 2007/CE-I/CT/18, dated 28.09.07
(v) Board's letter no. 2007/CE-I/CT/18 Pt., dated 05.03.09
(vi) Board's letter no. 2008/CE-I/CT/Con/7(PCE/GM), dated 15.12.08

Pursuant to the recommendations of EDs' Committee, constituted by Railway Board to give recommendations regarding further empowerment to field organizations of Indian Railways for speedy implementation of projects/works, Board have decided to amend certain Clauses in the existing General Conditions of Contract. These modified clauses/ provisions shall be applicable with prospective effect in all future works contracts.

1. **Performance Guarantee (PG)**

The clause on Performance Guarantee was introduced as Clause 16(4) to GCC vide item (3) of Board's letter no. 2003/CE-I/CT/4, dated 12/16.5.06 and subsequently modified vide item (1) of Board's letter no. 2007/CE-I/CT/18, dated 07.03.08. Board have now decided to supplement following to the Clause 16(4) of the General Conditions of Contract (GCC) :

"The successful bidder shall have to submit a Performance Guarantee (PG) within 30 (thirty) days from the date of issue of Letter Of Acceptance (LOA). Extension of time for submission of PG beyond 30 (thirty) days and upto 60 days from the date of issue of LOA may be given by the Authority who is competent to sign the contract agreement. However, a penal interest of 15% per annum shall be charged for the delay beyond 30 (thirty) days, i.e. from 31st day after the date of issue of LOA. In case the contractor fails to submit the requisite PG even after 60 days from the date of issue of LOA, the contract shall be terminated duly forfeiting EMD and other dues, if any payable against that contract. The failed contractor shall be debarred from participating in re-tender for that work."

Accordingly, Clause 16(4) of the General Conditions of Contract stands modified as detailed in Annexure-A.

2. **Variation In Quantities Of Items Of Contracts – Limits & Rates**

There is general experience that significant effort & time are involved in negotiating the rates with the contractor where quantities of certain items in the agreement are required to be operated beyond 125% of the tendered quantity for those items during the actual execution of the work. After examining pros and cons of the issue, Railway Board have decided that Para 9 (ii) of Board's letter no. 2007/CE-I/CT/18, dated 28.9.07 be modified as under :

"1. In case an increase in quantity of an individual item by more than 25% of the agreement quantity is considered unavoidable, the same shall be got executed by floating a fresh tender. If floating a fresh tender for operating that item is considered not practicable, quantity of that item may be operated in excess of 125% of the agreement quantity subject to the following conditions :

(a) Operation of an item by more than 125% of the agreement quantity needs the approval of an officer of the rank not less than S.A. Grade;

(i) Quantities operated in excess of 125% but upto 140% of the agreement quantity of the concerned item, shall be paid at 98% of the rate awarded for that item in that particular tender;

(ii) Quantities operated in excess of 140% but upto 150% of the agreement quantity of the concerned item shall be paid at 96% of the rate awarded for that item in that particular tender;

(iii) Variation in quantities of individual items beyond 150% will be prohibited and would be permitted only in exceptional unavoidable circumstances with the concurrence of associate finance and shall be paid at 96% of the rate awarded for that item in that particular tender.

(b) The variation in quantities as per the above formula will apply only to the Individual items of the contract and not on the overall contract value.

(c) Execution of quantities beyond 150% of the overall agreemental value should not be permitted and, if found necessary, should be only through fresh tenders or by negotiating with existing contractor, with prior personal concurrence of FA&CAO / FA&CAO(C) and approval of General Manager.

2. In cases where decrease is involved during execution of contract :

(a) The contract signing authority can decrease the items upto 25% of individual item without finance concurrence.

(b) For decrease beyond 25% for individual items or 25% of contract agreement value, the approval of an officer not less than rank of S.A.Grade may be taken, after obtaining 'No Claim Certificate' from the contractor and with finance concurrence, giving detailed reasons for each such decrease in the quantities.

(c) It should be certified that the work proposed to be reduced will not be required in the same work.

3. The aspect of vitiation of tender with respect to variation in quantities should be checked and avoided. In case of vitiation of the tender (both for increase as well as decrease of value of contract agreement), sanction of the competent authority as per single tender should be obtained."

Accordingly, on the subject of 'Variation In Quantities Of Items Of Contracts' Clause 42(4) to the General Conditions of Contract is incorporated as detailed in Annexure-B.

3. **Power For Awarding Single Tender**

Powers have already been delegated to CAOs/C to award contracts on a single tender basis upto a value of Rs. 2 crore each to expedite 'Doubling' and 'Traffic Facility' works vide Para-8 of Board's letter no. 2007/CE-I/CT/18, dated 07.3.08 which is reproduced below verbatim -

> "As per Engineering Code Para 1214-A, General Managers are empowered to award contracts on single tender basis. In partial modification to this Para, it has now been decided to empower CAOs/C to float and finalise single tenders of value not more than Rs. 2 crore each only for the purpose of early completion of last mile of throughput enhancement works relating to 'Doubling' and 'Traffic Facility' plan heads. Tender Committee in all such cases would be at SAG level with acceptance by CAOs/C. The exercise of this power would be done personally by CAOs/C with the personal concurrence of FA&CAOs/C."

Railway Board have decided that the above quoted powers for accepting single tender given to CAOs/C for 'Doubling' & 'Traffic Facility' Plan Heads be extended to 'New Lines' and 'Gauge Conversion' projects also, for only those projects, which are targeted for completion in 2010-11.

4. **Eligibility Criteria For Finalizing Tenders**

Ref : Para - 2.3.4.1 of the recommendations of the committee of Shri B.S. Sudhir Chandra - Railway Board's letter no. 94/CE-1/CT/4, dated 17.10.02, modified vide Board's letter no. 2008/CE-I/CT/Con/7(PCE/GM), dated 15.12.08.

As per extant instructions of Railway Board, issued vide letter no. 2008/CE-I/CT /Con/7(PCE/GM), dated 15.12.08, the eligibility criteria prescribed by Sudhir Chandra Committee would apply only to tenders of value more than Rs. 20 lakh. Since this limit was fixed in the year 2008 and considering the need to increase this limit, Board have now decided that this limit be enhanced to Rs. 50 lakh. Other conditions given in the letters referred above shall, however, remain same.

A thorough review may be undertaken by the Zonal Railways on the extent of implementation of the liberalised powers delegated by the Board on contract management from 2007-08 till date and a report on the benefits derived may be submitted to Board by 31.03.2011.

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

Please acknowledge receipt.

DA/As Above

(आलोक कुमार) 31.12.10
कार्यकारी निदेशक/सिविल इंजीनियरिंग(जी)/रेलवे बोर्ड

No.2007/CE.I/CT/18 Pt.XII **New Delhi, dated 31.12.2010**

Copy forwarded for information to :

1. The FA&CAOs, All Indian Railways.
2. The Deputy Comptroller & Auditor General of India (Railways), Room No. 224, Rail Bhawan, New Delhi.

For Financial Commissioner/Railways

Annexure-A

Revised Clause 16(4) to Indian Railways General Conditions of Contract

{Ref. : Item-1 to Railway Board's letter no. 2007/CE.I/CT/18 Pt.XII, dated 31.12.2010}

Clause 16(4). **Performance Guarantee**

The procedure for obtaining **Performance Guarantee** is outlined below :

(a) The successful bidder shall have to submit a Performance Guarantee (PG) within 30 (thirty) days from the date of issue of Letter Of Acceptance (LOA). Extension of time for submission of PG beyond 30 (thirty) days and upto 60 days from the date of issue of LOA may be given by the Authority who is competent to sign the contract agreement. However, a penal interest of 15% per annum shall be charged for the delay beyond 30 (thirty) days, i.e. from 31st day after the date of issue of LOA. In case the contractor fails to submit the requisite PG even after 60 days from the date of issue of LOA, the contract shall be terminated duly forfeiting EMD and other dues, if any payable against that contract. The failed contractor shall be debarred from participating in re-tender for that work.

(b) The successful bidder shall submit the Performance Guarantee (PG) in any of the following forms, amounting to 5% of the contract value :

(i) A deposit of Cash;
(ii) Irrevocable Bank Guarantee;
(iii) Government Securities including State Loan Bonds at 5% below the market value;
(iv) Deposit Receipts, Pay Orders, Demand Drafts and Guarantee Bonds. These forms of Performance Guarantee could be either of the State Bank of India or of any of the Nationalized Banks;
(v) Guarantee Bonds executed or Deposits Receipts tendered by all Scheduled Banks;
(vi) A Deposit in the Post Office Saving Bank;
(vii) A Deposit in the National Savings Certificates;
(viii) Twelve years National Defence Certificates;
(ix) Ten years Defence Deposits;
(x) National Defence Bonds and
(xi) Unit Trust Certificates at 5% below market value or at the face value whichever is less.

Also, FDR in favour of FA&CAO (free from any encumbrance) may be accepted.

NOTE : The instruments as listed above will also be acceptable for Guarantees in case of Mobilization Advance.

(c) The Performance Guarantee shall be submitted by the successful bidder after the Letter Of Acceptance (LOA) has been issued, but before signing of the contract agreement. This P.G. shall be initially valid upto 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 P.G. extended to cover such extended time for completion of work plus 60 days.

(d) The value of PG to be submitted by the contractor will not change for variation upto 25% (either increase or decrease). In case during the course of execution, value of the contract increases by more than 25% of the original contract value, an additional Performance Guarantee amounting to 5% (five percent) for the excess value over the original contract value shall be deposited by the contractor."

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

(f) Whenever the contract is rescinded, the Security Deposit shall be forfeited and the Performance Guarantee shall be encashed. The balance work shall be got done independently without risk & 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 in his/her individual capacity or as a partner of any other JV/partnership firm.

(g) 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.

Annexure-B

New Clause 42(4) to Indian Railways General Conditions of Contract

{Ref. : Item-9 to Railway Board's letter no. 2007/CE-I/CT/18, dated 28.09.2007 and Item-2 to letter no. 2007/CE.I/CT/18 Pt.XII, dated 31.12.2010}

The procedure detailed below shall be adopted for dealing with variations in quantities during execution of works contracts :

.1 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.

.2 In case an increase in quantity of an individual item by more than 25% of the agreement quantity is considered unavoidable, the same shall be got executed by floating a fresh tender. If floating a fresh tender for operating that item is considered not practicable, quantity of that item may be operated in excess of 125% of the agreement quantity subject to the following conditions :

(a) Operation of an item by more than 125% of the agreement quantity needs the approval of an officer of the rank not less than S.A. Grade;

(i) Quantities operated in excess of 125% but upto 140% of the agreement quantity of the concerned item, shall be paid at 98% of the rate awarded for that item in that particular tender;

(ii) Quantities operated in excess of 140% but upto 150% of the agreement quantity of the concerned item shall be paid at 96% of the rate awarded for that item in that particular tender;

(iii) Variation in quantities of individual items beyond 150% will be prohibited and would be permitted only in exceptional unavoidable circumstances with the concurrence of associate finance and shall be paid at 96% of the rate awarded for that item in that particular tender.

(b) The variation in quantities as per the above formula will apply only to the Individual items of the contract and not on the overall contract value.

(c) Execution of quantities beyond 150% of the overall agreemental value should not be permitted and, if found necessary, should be only through fresh tenders or by negotiating with existing contractor, with prior personal concurrence of FA&CAO / FA&CAO(C) and approval of General Manager.

.3 In cases where decrease is involved during execution of contract :

(a) The contract signing authority can decrease the items upto 25% of individual item without finance concurrence.

(b) For decrease beyond 25% for individual items or 25% of contract agreement value, the approval of an officer not less than rank of S.A. Grade may be taken, after obtaining 'No Claim Certificate' from the contractor and with finance concurrence, giving detailed reasons for each such decrease in the quantities.

(c) It should be certified that the work proposed to be reduced will not be required in the same work.

.4 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.

.5 No such quantity variation limit shall apply for foundation items.

.6 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).

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

.8 For tenders accepted by General Manager, variations upto 125% of the original agreement value may be accepted by General Manager.

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

.10 The aspect of vitiation of tender with respect to variation in quantities should be checked and avoided. In case of vitiation of the tender (both for increase as well as decrease of value of contract agreement), sanction of the competent authority as per single tender should be obtained.

LIST

1. General Managers, All Indian Railways & Production Units.
1a. General Manager (Con), N.F. Railway, Guwahati.
2. Principal Chief Engineers, All Indian Railways.
3. Chief Administrative Officers (Con), All Indian Railways.(Except N.F. Railway)
4. Chief Vigilance Officers, All Indian Railways.

Copy to:

(A)

1. CAO/CAO(R), COFMOW, Tilak Bridge, New Delhi.
2. CAO/CAO(R), Diesel Locomotive .Works,Patiala(Punjab).

(B)

1. Director General, RDSO, Manak Nagar, Lucknow.
2. Principal, Railway Staff College, Vadodara
3. Chief Commissioner of Railway Safety, Ashoka Road, Lucknow.

(C)

1. Director, IRICEN, Rail Path, Pune. Pin-411001 (Maharashtra).
2. Director, IRIEEN, P.B.No.-233, Nasik Road-422101 (Maharashtra).
3. Director, IRISET, Taa Naka Road, Lalla Guda , Secunderabad.
4. Director, IRIMEE, Jamalpur Distt., Jamalpur – 811214. (Bihar)
5. Director, IRITM, Saraswati Residential Estate, IRITM Campus, Manak Nagar Lucknow.

(D)

1. MD, DMRC, Metro Bhawan, 13, Fire Bridge Lane, Barakhamba Road, New Delhi- 110 001,
2. MD, CONCOR, Concor Bhawan, C-3, Mathura Road, Opp. Apollo Hospital, New Delhi- 11076.
3. IRCON International Limited, C-4, District Centre, Saket, New Delhi- 110017
4. MD, RITES Ltd., RITES Bhawan, Plot No.1, Sector-29, Gurgaon.
5. MD, RVNL, August Kranti Bhawan,Plot No.25, 1st Floor, Bhikaji Cama Place, New Delhi.
6. MD, MRVC Ltd., Churchgate Station Bldg, Mumbai- 400020
7. MD, KONKAN Railway Corporation Ltd, Rail Bhawan, New Delhi-110001.
8. MD, DFCCIL, 5th Floor, Pragati Maidan Metro Station Building Complex, New Delhi-110001
9. MD, RLDA, Near Safdarjung Railway Station, Moti Bagh, Phase-I, New Delhi- 110021
10. RCF, Rae Bareilly, Kishan Ganj, Delhi.
11. CME, IROFAF, 12th Floor, Core-1, Scope Minar, Distt. Centre, Laxmi Nagar, Delhi- 110092
12. CAO, Indian Railways (Workshop Projects), Chamber Bhawan, Judge's Court Road, Anta Ghat, Patna-800001, Bihar.

(E)

1. General Secretary, IRCA, DRM Office, New Delhi.
2. General Secretary, AIRF, Rail Bhawan, New Delhi.
3. General Secretary, NFIR, Rail Bhawan, New Delhi.
4. General Secretary, IRPOF, Rail Bhawan, New Delhi.
5. General Secretary, FROA, Rail Bhawan, New Delhi.
6. General Secretary, AIRPA, Rail Bhawan, New Delhi.
7. The Secretary, RBSS, Group (A) Officers Association, Rail Bhawan.
8. The Secretary, RBSS, Group (B) Officers Association, Rail Bhawan.
9. The Secretary, RBMSA, Rail Bhawan.
10. The Secretary, Railway Board , Group (D) Employees Association, Rail Bhawan.

Copy to:

CRB, FC, ME, ML, MS, MM, MT, Secy., AM(CE), AM(WORKS), AM(PLG.) AM(STAFF), AM(Mech.), AM(Elec.), AM(PU), AM(Tele), AM(Sig.), AM(Traffic), AM(F), AM(B), Adv.(Prj), Adv.(L&A), Adv.(Vig.), Adv(Rates), AM(Stores), AM(IT), AM(T&C), AM(Comml.) DG(RHS), DG(RPF), EDTK(M), EDTK(MC), EDTK(P), EDW(Plg.), EDME(Track), EDCE(B&S), EDCE(RC&F), EDF(X)-I, EDF(X)II, DF(X)-II, ED(W), EDCE(P), ED(PROJECT), ED(L&A)-I, ED(L&A)-II, EDVE, ED/DM, ED(Safety), ED(Sig.), ED(Tele), EDRS(G), ED(E&R)EDEE(Dev.), EDEE(G), EDEE(RS), EDRE, EDRE(S), EDE, EDE(N), EDE(Res.), EDFE, EDPC, ED(Accounts), ED(T&MPP), EDE(GC), EDME(CHG), EDME(F), EDME(Dev.),EDME(W), ED(Plg.), ED(CHG), EDRS(P), EDRS(S), EDF(S), ED(FC), EDPM, EDPG, EDTC(R), EDTT(F), EDTT(M), EDTT(S), EDV(S), EDV(T), DCE(B&S), DCE(P), Dir(L&A), JS(Conf.), JS(G), JS(P), LA, Eco.(Adv.) F(X)I, II, Vig.III, Vig.(Conf.), L&A, Track I & II, Telecom, Signal, RS(G), & Electrical Branches of Rly. Board.