रेल मंत्रालय (रेलवे बोर्ड)
(Railway Board)
- 6 FEB 2010
पै.रे.सं./C.R. No.
अनुभाग संख्या सं.
Section Dy. No.
वर्गीकरण/Classification

CE-I

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कार्यालय
महाप्रबन्धक / इन्जी.
पूर्वोत्तर रेलवे, गोरखपुर
OFFICE OF THE
GENERAL MANAGER/ ENGG.
N.E. RAILWAY, GORAKHPUR.

No. W/362/O/A/3/Pt-VIII/W-3(G) Dated : 29.01.2010.

Executive Director
Civil Engineering (G)
Railway Board
New Delhi

Sub:- Sanction of variation in works contract where vitiation is involved.

Ref:- Rly. Bd's letter no. 94/CE.1/CT/37 dated 05-05-95.

Regarding competency of sanction for variation in contract value, necessary instructions has been issued vide Para (a) (c) (v) of referred Railway Board's letter. This Para states as under :-

In the above case where total implication in quantities and variation due to introduction of new items in a contract exceeds 25% of the total value of the tender accepted cost, approval of the following authority should be obtained before the corrigendum / addenda is issued:-

(a) In case where work is proposed to be awarded to existing contractor after negotiation with him.

i.	If original contract was approved by G.M. or lower authority.	G.M. provided the enhanced value of the contract lies with his competency.
ii.	In other cases i.e. if original contract was approved by Railway Board or enhanced value of the contract is not with G.M's competency.	Railway Board.

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(b) Incase the work is proposed to be awarded to an agency after negotiating all original tender along with existing contractor or by inviting fresh tenders for extra quantity, necessary sanction will be accorded as per normal delegation prevailing on the Railway for the extra quantity only.

151 24/2/10

(c) In case where decrease is involved up to 25% or above 25% of accepted cost.

(i) The contracting authority can decrease the items up to 25 % of individual items without finance concurrence.

(ii) For decrease in items beyond 25% of individual items or 25 % of contract agreement, the contracting authority can do so after obtaining 'No Claim Certificate' from the contractor and with finance concurrence giving detailed reasons for such decrease in quantities.

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

(iv) It should also be ensured that due to decrease quantities tender is not vitiated.

(v) In case of vitiation of the tender, sanction of the competent authority as per single tender should be obtained.

From the above, it is clear that Railway Board has issued instructions for acceptance of variation with vitiation in cases where decrease is involved upto 25% or above 25% of accepted cost, but no instruction has been issued for cases where vitiation has been caused with increase involved in the accepted cost.

It is further seen that in all cases of vitiation normally through negotiation / dialogue with contractor, it is ensured that the final payment is made in such way that total value of payment against contractor is kept as per lowest tender value only. Therefore no excess payment is being made to the contractor in such cases of vitiation.

Engineering Department of this Railway is of the view that under such circumstances, where contractor agree for payment as per the lowest tender rates, it should not be treated as a case of vitiation and variation should be accepted as normal power delegated for acceptance of contract. Further only in the case where excess over lowest tender is to be paid against the contract due to variation should be treated as case of vitiation and sanction of competent authority as per single tender should be obtained. These conditions for sanction of variation in cases where vitiation is involved should be valid for all type of variation due to either increase or decrease in contract value.

FA&CAO's view on above are as under:-

"Finance is of the view that provision laid down in para 1265 & 1268-E read with Railway Board's instructions contained in their letter No. 94/CE.1/CT/37 dated 05-05-95. amended vide their letter of even No. dt.24.08.95 and latest instruction on the issue as communicated in their letter No. 2007/CE-I/CT/18 dt. 28.09.2007 do not apply to cases where a Contract Agreement has been vitiated due to increase in value of the Contract Agreement.

Accordingly, the issue may be examined at Railway Board's level for issuing necessary guidelines on the subject."

It is requested that Railway Board may issue necessary instructions in this regard, so that old contracts may be finalized smoothly.

29/01/2010

(Hemant Kumar Singh)
Chief General Engineer
For General Manager/Engg.

S.No. 13
List No. 1