



ABSTRACT

Works - Introduction of Price Adjustment Clause in Public Works Department and Highways Departments - Extension to Urban Local Bodies Works - Orders issued.

Municipal Administration and Water Supply (MA3) Department

G.O.(Ms) No.227

Dated 23.11.2009.

Read:

- 1 G.O.(Ms).No.60, Public Works (G2) Department, dated 14.3.2008.
- 2 G.O.(Ms) No. 62, Rural Development and Panchayat Raj Department, dated 28.4.2008.

Read also:

- 3 From the Commissioner of Municipal Administration Letter No.9415/2008/03, dated 8.9.2008.
- 4 G.O.(Ms) No.101, Public Works (G2) Department, dated 10.6.2009.

ORDER:

The Government in the order first read above have ordered that all capital / plan works of Public Works Department and Highways Department costing Rs.25 lakhs and above, for which the agreement period is above six months have been brought under the purview of 'Price Adjustment' for critical input materials such as Cement, Steel, Bitumen and Petroleum, Oil, Lubricants (POL). By virtue of the Price Adjustment Clause, permission has been given for Price Variation for cement and steel once in a quarter and in respect of Bitumen and Petroleum Oil Lubricants on a "pass through" basis. The said Government Order is applicable only to works of Public Works Department and Highways Departments. In the order second read above, the Rural Development and Panchayat Raj Department has also issued orders in this regard making the above provision applicable to their rural areas.

2. In the letter third read above, the Commissioner of Municipal Administration has stated that the Urban Local Bodies are taking up large number of works with time frames ranging from 1 year to 3 years, hence it is necessary that the modifications made by the PWD is made applicable to the works done by the Urban Local Bodies also. He has also stated that such items of price adjustment clause is already followed in World Bank aided projects and the above provisions have already been extended to Chennai Metropolitan Water Supply and Sewerage Board and Tamil Nadu Water Supply and Drainage Board. The Commissioner of Municipal Administration has therefore requested to extend the provisions made in G.O.(Ms) No.60, PW (G2) Department dated 14.03.2008 to the works done by Urban Local Bodies also from the date of issue of the above G.O.

3. Meanwhile in the order fourth read above, the Public Works Department has issued amendment to G.O.(Ms) No.60, PW (G2) Department dated 14.03.2008.

4. The Government, after careful examination of the proposal of the Commissioner of Municipal Administration have decided to accept the proposal and accordingly extend the provisions of price adjustment clause made in G.O.(Ms) No.60, Public Works Department, dated 14.3.2008 and as amended in G.O.(Ms) No.101, Public Works Department, dated 10.6.2009 to the works done by the ULBs under various schemes as detailed hereunder.

(1) Price Adjustment

(a) Contracts of more than 12 months:

Full price adjustment on all the components including cement, steel, bitumen and Petroleum, Oil and Lubricants (POL) shall be applicable to the works with contract period of more than 12 months instead of the present system of 18 months.

(b) Contracts of 12 months and below:

In respect of contracts of 12 months and below, price adjustment shall be applicable in respect of cement, steel, bitumen and Petroleum, Oil and Lubricants (POL) only.

- (i) Price adjustment clause will be applicable for all works where value of work put to tender is costing Rs.100 lakhs and above. However, No Price Adjustment will be applicable for Maintenance and Repair works.
- (ii) Price adjustment will apply only when the rates exceed or decrease by 3% or more as compared to the estimate rates (RBI Index Price).
- (iii) The Price adjustment shall be calculated only on the departmental estimated cost of the work.
- (iv) In respect of bitumen and POL, it may be considered on 'pass through' basis with payment of actual rates / price at the rates charged by Indian Oil Corporation.
- (v) All works for which price escalation / variation is contemplated must have milestones fixed in physical terms and have a prefixed time-line for use of inputs-clearly indicating the nature and quantum of eligible inputs to be used for the work for the relevant period between two mile stones. Price variation / escalation will be applicable for those quantities 'actually' used by the contractor including additional quantities, if any, used or achieved ahead of the time-line. However, if the contractor does a certain quantity of the work in the third quarter which ought to have been done in earlier quarter, price variation / escalation will still be applicable on that quantity at the rates applicable in the relevant quarter as per time-line or period of actual use whichever is less.

- (vi) Liquidated damages will be imposed on the contractor for the lapses / shortfall in achieving the rate of progress as per existing schedule.
 - (vii) The price adjustment mechanism will cease to operate for value of work executed beyond the agreement period. But agreement period shall include the "actual period" for which the work was "suspended officially" and extension of time permitted for any valid reasons such as, war, natural calamities, like flood, earthquake and other risks arising out of acts of God during the agreement period; work delayed due to the land acquisition process; change in design, change in scope of work, etc., which is given in writing by the Tender Calling Officer of the respective work.
- (c) Price variation will be calculated once in a quarter (i) in respect of cement and steel for the works with contract period upto 12 months and (ii) in respect of all components except bitumen and Petroleum, Oil & Lubricants (POL), for the works with contract period of more than 12 months, as per the specified formula from the last date of submission of bid, upto the end of agreement period provided, if the agreement is signed within the specified time, failing which, the price variation will be applicable from the date of agreement only, based on the wholesale price indices of RBI. The quarter would be reckoned with reference to the quarter of the calendar year in which the last date on bid submission is fixed. In case of delayed agreement, the quarter in which the agreement is signed will be reckoned for the purpose of calculation of price adjustments.
- (d) In order to avoid Revised Administrative Sanction proposals, provision for escalation can be included in the original estimate itself at the rate of 5% of cost of works for every one year of the duration of the contract.
- (e) Price variation will be operated jointly by the respective Corporation / Commissioners/ Municipal Commissioners/ / Executive Officers and the Project Engineers indicated in the Agreement.
- (f) Tender excess shall not be allowed on the tendered value of the work towards the probable increase in costs due to factors covered under para 4(1)(a), 4(1) (b) and 4 (1) (c) above. In such cases, if a cost increase is foreseen due to factors not covered under the above clauses, tender excess may be considered and provided based on justification of such factors and this power shall vest only with the State Level / Regional Level Tender Award Committee.

(2) OVERHEAD CHARGES AND PROFITS:

The question of inclusion of overhead charges and profits is being considered in Finance Department and orders will be issued separately.

(3) SOLVENCY CERTIFICATE

The present practice of accepting solvency certificate issued by the Revenue Department may be continued.

(4) TESTING CHARGES

As regards the testing charges, no separate provision is required to be included in the estimate itself, since it could be considered as part of overhead charges.

(5) BANK GUARANTEE FOR EMD

The practice of receiving bank guarantees for Earnest Money Deposit should not be a favoured mode of payment.

(5) COST OF TENDER DOCUMENTS

As the e-tendering system has been introduced and presently tender documents can be downloaded free of cost from the websites no change is necessary with regard to cost of tender documents, in respect of works costing Rs.10.00 lakhs and above. For the works costing less than Rs.10.00 lakhs, the cost of tender documents may be reduced by 50% on the cost fixed in G.O.(Ms) No.538, Public Works (G2) Department, dated 01.10.2004, limiting to Rs.1,500/- (+) VAT maximum and necessary amendment issued by Public Works Department will be applicable to ULB works also.

(6) BONUS FOR ADVANCE COMPLETION OF WORK

Bonus as a incentive for advance completion of work may be introduced. Any work completed in advance by not less than 10% of agreement period can be considered and bonus of 1% on the value of actual quantum of works executed at the tendered rate may be paid.

(7) BID CAPACITY

There should be a system to assess the bid capacity of the contractor in relation to all the works he had executed at any point of time based on which the capability, efficiency and eligibility of that particular contractor shall be assessed before awarding a new work.

5. This order comes into effect retrospectively with effect from 14.3.2008, (i.e) from the date of issue of the G.O. first read above. However, if no such provision for price adjustment is made in the Tender Documents, then the facility should not be extended retrospectively to such works.

6. This order issues with the concurrence of Finance Department vide U.O. No. 266/DS(B)/09, dated 20.11.2009.

(BY ORDER OF THE GOVERNOR)

**NIRANJAN MARDI,
SECRETARY TO GOVERNMENT.**

To

The Director of Municipal Administration, Chennai – 600 005.

The Chairman and Managing Director, Tamil Nadu Water Supply and Drainage Board, Chennai- 600 005.

The Managing Director,

Chennai Metropolitan Water Supply & Sewerage Board, Chennai–600 002.

All District Collectors.

The Chief Engineer, Office of the Director of Municipal Administration, Chennai-600 005.

The Accountant General , Chennai – 600 018/35.

The Senior Deputy Accountant General (Works), Chennai– 600 018.

The Director of Local Fund Audit, Chennai- 600 108.

Copy to:

The Principal Secretary to Government, Finance Department, Chennai -600 009.

The Secretary to Chief Minister, Chennai – 600 009.

The Senior Personal Assistant to Minister (Finance) Chennai-600 009.

The Senior Personal Assistant to Deputy Chief Minister, Chennai -600 009.

The Personal Secretary to Secretary, Municipal Administration and Water Supply Department, Chennai - 600 009.

The Public Works Department, Chennai - 600 009.

The Municipal Administration and Water Supply (Election/OPII) Department, Chennai -600 009.
SF/SC.

//FORWARDED BY ORDER//

SECTION OFFICER.