

PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA

Subject: Provision for price Adjustment for specified materials for works - Revision Reg.

Read : Govt. Order No. FD 59 PRO CELL 2004, dated:26-11-2004

Preamble :

In Government Order No. FD 59 PRO CELL 2004 dated: 26th November 2004 read above, the following instructions were issued about price adjustment.

- (a) A Price Adjustment clause shall be included in all Works contracts whose estimated cost put to tender is Rs.100 lakhs or more and the period of completion is 12 months or more. The Price Adjustment clause and the formulae for adjustment shall be as per Annexure-1 of the said G.O.
- (b) In works contracts where, Price Adjustment Clause is provided the Price Adjustment shall be admissible from the date of opening of tenders (original or extended).
- (c) Price Adjustment Clause shall not be included in Goods and Equipment tender documents. However in respect of tender documents for procurement of electric cables, transformers, generators, motors, that have raw material component subject to price fluctuations, appropriate Price Adjustment clauses may be incorporated by the Tender Inviting Authority in the tender documents, with the specific approval of the concerned Head of the Department or Managing Director of the Public Undertaking/Board.

The PWD has requested for certain modifications in the above conditions as the Department is facing problem in procurement of agencies for implementation of various works due to rapid fluctuation of rates of construction materials especially cement, steel and bitumen. This has resulted in poor response to the tenders floated by the department and also slowdown or stoppage of on-going works by the agencies. Further, the tender premiums being quoted by the agencies are very high which creates an opinion that the Schedule of Rates or the estimates are defective. Hence, P.W.D has requested to resolve this problem suitably by modifying the existing contract agreement to absorb the fluctuation in the market prices of major construction viz.,

cement, steel and bitumen.

In the procurement Reforms Standing Committee Meeting held on 2-8-2008, the proposal of PWD for effecting certain changes in the price adjustment clause in the Tender Documents was discussed in detail and considering the frequent fluctuations in the basic rates of construction materials i.e. Cement, Steel, Bitumen, it was recommended by the Committee to modify the Government Order dated: 26.11.2004 referred to above.

The Government has considered the issue in detail and accordingly the following orders are issued.

Government Order No.FD 3 PCL 2008, Bangalore, dated:21-11-2008.

In the circumstances explained in the preamble, in modification of the Government Order dated: 26-11-2004, it is directed that the following price adjustment methods are applicable hereafter.

- a) For all works costing more than Rs.50 lakhs, if the period of execution is more than 12 months, the price adjustment will be calculated as prescribed in Annexure to G.O. No: FD 59 PRO Cell/ 2004, dt: 26.11.2004.
- b) If the period of execution is more than 6 months but less than or equal to 12 months for work costing more than Rs.50 lakhs, star rates in respect of specified materials (cement, steel and bitumen) only shall be payable to the contractor based on the all India average wholesale price index for the said materials. The star rates adjustment shall be as per the increase or decrease in the index as applied to the said materials between the last date for receiving bids and the date of execution as per the approved programme of works submitted by the contractor at the time of execution of agreement which shall mandatorily be a part of the agreement.
- c) If the period of execution is less than or equal to 6 months, for all works irrespective of the cost of the works, price adjustment or star rates shall not be applicable.
- d) In works contracts where price adjustment clause is provided, the price adjustment shall be admissible from the date of opening of tenders (Original or extended).

- e) Price adjustment clause shall not be included in Goods and Equipment tender documents. However, in respect of tender documents for procurement of Electric Cables, Transformers, Generators, Motors that have raw material component subject to price fluctuations, appropriate price adjustment clauses may be incorporated by the Tender Inviting Authority in the tender documents, with the specific approval of the concerned Head of the Department or Managing Director of the Public Sector Undertaking/ Board.

2. The above mentioned methods of price adjustment clause are subject to the following conditions:

- i) The price adjustment clause or the star rates shall not be admissible if the contract period is extended due to lapse on the part of the contractor.
- ii) For the cases (a) and (b) above, if the contract period is extended due to no fault of the contractor, the modified programme shall be approved by the competent authority and shall become a part of agreement for which price adjustment/star rates will be applicable.
- iii) For the purpose of working out price adjustment and star rates, the price index issued from time to time by the Ministry of Commerce and Industry, Government of India should be adopted.
- iv) The formulae for price adjustment shall be as prescribed in Annexure-1 to the G.O. No: FD 59 PRO.Cell/2004 dated: 26.11.2004, which is appended.

3. The above instructions will only be applicable prospectively and shall not be applicable for contracts concluded in the past or being concluded presently or for tenders already invited.

4. The above instructions shall apply to all Procurement Entities as defined in Section 2(d) Chapter I of the Karnataka Transparency in Public Procurement Act, 1999.

5. The above instructions should be appropriately incorporated in the Standard Tender Documents.

By order and in the name of the
Governor of Karnataka,

Sd/-
(M.R. Sreenivasa Murthy)
Principal Secretary to Government,
Finance Department

To:

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} With a covering letter