

Works – Introduction of Price Adjustment Clause in PWD and Highways Departments - Extension to RD & PR Department works

---

Rural Development and Panchayat Raj (CGS.3) Department

G.O. (Ms) No.62

Dated 28.04.2008  
Read

1. G.O. (Ms) No.187, RD & PR (CGS-2) Department, dated 26.12.2006.
2. G.O. (Ms) No.34, RD & PR (CGS-2) Department, dated 12.03.2007.
3. G.O. (Ms) No.100, RD & PR (CGS-2) Department, dated 13.06.2007
4. G.O. (Ms) No.203, RD & PR (PR-1) Department, dated 20.12.2007.
5. G.O. (Ms) No.60, Public Works (G2) Department, dated 14.03.2008

Read also

6. From the DRD & PR D.O. Letter No.22702/08/ TU-3, dated 25.03.2008.

**ORDER**

The Government in the order fifth read above has ordered that all capital/plan works of Public Works Department (PWD) 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 & 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.

2. In the letter 6<sup>th</sup> read above the Director of Rural Development and Panchayat Raj (DRD & PR) has stated that the works undertaken by Rural Development and Panchayat Raj Department include various capital works over Rs.25 Lakhs each which also involve extensive use of key input materials such as Cement, Steel and Bitumen. The key capital works executed by this Department get severely affected due to rise in the cost of these input materials with the passage of time, for which there is no 'Price Escalation clause' provided at present. In the existing provisions, price variation is allowed only for works whose execution period exceeds 18 months. This is detrimental to the interest of the State while claiming further installments of funds from Government of India and other funding agencies. The works undertaken by the Rural Development and Panchayat Raj Department come within the direct purview of the public and local body representatives. The delay in the implementation of works due to the cost escalation during that period of implementation also leads to severe public criticism.

3. In the above circumstances, the Director of Rural Development and Panchayat Raj has recommended that the 'Price Variation clause' permitted to Public Works Department and Highways Departments need be extended to the works executed through the Rural Development and Panchayat Raj Department also. After careful examination of the proposals of the Director of Rural Development and Panchayat Raj, the Government has decided to accept the proposal and accordingly issue the following orders.

- 1) The Government permit the introduction of 'Price adjustment clause' for works executed through the Rural Development and Panchayat Raj Department.
- 2) The price variation in works implemented through the Rural Development and Panchayat Raj Department shall be operated by the District Collector based on the recommendation of the Executive Engineer (Rural Development) or Executive Engineer (Tsunami) of the district as the case may be.
- 3) The powers of 'tender excess' as specified in clause 3.1 (h) of the G.O. (Ms) No.60 Public Works Department dated 14.3.2008 shall be exercised by the Director of Rural Development and Panchayat Raj for all works excluding Tsunami rehabilitation works as per the provision of G.O. (Ms) No.203 Rural Development and Panchayat Raj dated 20.12.2007. The Project Director, Tsunami Project Implementation Unit, Rural Development and Panchayat Raj Department shall exercise the power for tender excesses upto 5% and the Sub-Committee of the Empowered Committee shall exercise the power for excesses greater than 5% as per G.O. (Ms) No.187 Rural Development and Panchayat Raj Department dated 26.12.2006 and G.O. (Ms) No.100 Rural Development & Panchayat Raj dated 13.6.2007 for Tsunami rehabilitation works, instead of the 'Tender Award Committee' as specified in the G.O. (Ms) No.60 Public Works Department dated 14.3.2008.
- 4) The existing powers for approving tender premium now vested with the District Collectors for all Rural Development and Panchayat Raj works as per the G.O. Ms.No.203, Rural Development & Panchayat Raj (PR-I) Department dated 20.12.2007 shall stand cancelled in respect of works where one or more of the critical input materials are procured by the contractor.
- 5) In respect of works for which value put to tender is below Rs.25 lakhs or where all the critical input materials are supplied departmentally, there will be no change in the powers.

4. Detailed guidelines for implementation of the price adjustment clause are given in Annexure.

5. The Director of Rural Development and Panchayat Raj shall send suitable amendments to the Tamil Nadu Panchayats (Preparation of Plans & Estimates for Works and Mode and Conditions of Contracts) Rules, 2007 in due course.

6. Orders regarding amendment to Rule 14 (8) of the Tamil Nadu Transparency in Tender Rules, 2000 will be issued separately by Finance Department.

7. This order issues with the concurrence of Finance Department vide U.O. No.1027/FS/P/08 dated 29.3.2008.

(By order of the Governor)

**K. ASHOK VARDHAN SHETTY**  
SPECIAL COMMISSIONER &  
SECRETARY TO GOVERNMENT.

**Annexure**

**Guidelines for price adjustment for critical inputs such as Cement, Steel, Bitumen, Petroleum, Oil and Lubricants (POL) for Rural Development and Panchayat Raj Department works (including Tsunami rehabilitation works):--**

- a) The full price adjustment on all the components other than Cement, Steel, Bitumen, 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, with all other conditions remaining the same subject to amendment for Rule 14 (8) of Tamil Nadu Transparency in Tenders Rules, 2000.
- b) Price adjustment clause may be considered for contract with agreement period of **6 to 12 months** subject to the following conditions:
  - (i) Price adjustment clause will be applicable for select critical construction inputs namely Cement, Steel, Bitumen and POL and that too for Capital / Plan works only. No price adjustments will be applicable for repairs and maintenance works.
  - (ii) Price adjustment will be applicable for works put to tender costing Rs.25 lakhs and above.
  - (iii) Price adjustment will apply only when the fluctuation of rates exceeds 3% compared to the estimate rates (RBI Index price). Price adjustment shall be made for both increase and decrease in the cost of materials.
  - (iv) Price variation will be calculated once in a quarter in respect of cement and steel as per the specified formula from the date of agreement upto the end of agreement period based on Wholesale Price Indices of Reserve Bank of India. The quarter would be reckoned with reference to the quarter of the calendar year in which the agreement is signed, for the purpose of calculation of price adjustment.
  - (v) The price adjustment shall be calculated only on the departmental estimated cost of the work.
  - (vi) 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.
- (c) All works for which price escalation is contemplated must have milestones fixed in physical terms and have a pre-fixed timeframe for usage of inputs which would clearly stipulate the nature and quantum of cement, steel and other inputs which would be utilized for the work in each time frame between two milestones. Escalation will be given only for those quantities which would have been used had the contractor stuck to this original timeframe. However, if the contractor does a certain quantity of the work in the third quarter which he should have done in the second

quarter, he can still claim escalation on that quantity at the rates as applicable in the second quarter.

- (d) Liquidated damages will be imposed on the contractor for the lapses / shortfall in achieving the rate of progress as per existing schedule.
- (e) 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 Nature (force majeure) 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.
- (f) 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.
- (g) Price variation will be operated by the District Collector based on the recommendation of the Executive Engineer (RD) or Executive Engineer (Tsunami) of the district as the case may be.
- (h) With the advent of price adjustment mechanism, there is no justification for allowing tender excess based on price related factors and it needs to be given only in rare cases of non-input related difficulties. These powers shall vest with the Director of Rural Development and Panchayat Raj for all works not related to Tsunami rehabilitation as per the provision G.O. (Ms.) No.203 R.D. & P.R. (PR-1) Department, dated 20.12.2007. They may be vested with the Project Director, Tsunami Project Implementation Unit for tender excesses upto 5% and with Sub-Committee of the Empowered Committee for tender excesses greater than 5% as per G.O. (Ms) No.187, RD & PR (CGS-2) Department, dated 26.12.2006, G.O. (Ms) No.34, RD & PR (CGS-2) Department, dated 12.03.2007 and G.O. (Ms) No.100, RD & PR (CGS-2) Department, dated 13.06.2007. The existing powers for approving tender excesses now vested with District Collectors for all Rural Development and Panchayat Raj Department works as per G.O.Ms. No.203 R.D. & P.R (PR-1) Department, dated 20.12.2007 shall stand cancelled in respect of works eligible for Price Adjustment. In respect of works for which the value is below Rs.25 lakhs, there will be no change in the existing powers.
- (i) The revised price adjustment system shall come into effect prospectively and shall be available only for those tenders which have been called for on or after the date of this Government order.
- (j) The above price adjustment mechanism will be put on trial and reviewed after one year from the date of implementation.

**K. ASHOK VARDHAN SHETTY**

Special Commissioner and Secretary to Government.