

## GOVERNMENT OF INDIA

## CENTRAL PUBLIC WORKS DEPARTMENT

State :

Division

Branch :

Sub-Division

## TENDER AND CONTRACT

## FOR

## SUPPLY OF MATERIALS

(Central P.W.D. Code paragraph 89)

## GENERAL RULES &amp; DIRECTIONS FOR THE GUIDANCE

## OF CONTRACTS

1. All supplies proposed to be obtained by contract will be notified in a form of invitation to tender posted in public places and signed by the Divisional Officer.

This form will state the supplies to be made, as well as the date for submitting and opening tenders and the time allowed for carrying out the work; also the amount of the earnest money to be deposited with the tender, and the amount of the security deposit to be deposited by the successful tenderer and the percentages, to be deducted from bills. Copies of the specifications and any other documents required in connection with the work, signed for the purpose of identification by the Divisional Officer shall also be open for inspection by the contractor at the office of the Divisional Officer during office hours.

2. In the event of the tender being submitted by a firm, it must be signed separately by each member thereof, or, in the event of the absence of any partner, it must be signed on his behalf by a person holding a power-of-attorney authorizing him to do so, such power-of-attorney to be produced, with the tender, and it must disclose that the firm is duly registered under the Indian Partnership Act.

3. Receipts for payments made to a firm, must also be signed by the several partners, except where the contractors are described in their tender as a firm, in which case the receipts must be signed in the name of the firm by one of the partners, or by some other person having authority to give effectual receipts for the firm.

4. Any person who submits a tender shall fill up the usual printed form, stating at what rate he is willing to undertake each item of the work. Tenders which propose any alteration in the work specified in the said form of invitation to tender, or in the time allowed for carrying out the work, or which contain any other condition or any sort, will be liable to rejection. No single tender shall include more than one work, but contractors who wish to tender for two or more works shall submit a separate tender for each. Tenders shall have the name and number of the work to which they refer written outside the envelope.

5. The Divisional Officer, or his duly authorised assistant, will open tender in the presence of any intending contractors who may be present at the time, and will enter the amounts of the several tenders in a Comparative Statement in a suitable form. In the event of a tender being accepted, a receipt for the earnest money forwarded therewith shall thereupon be given to the contractor who shall thereupon for the purpose of identification sign copies of the specifications and other documents mentioned in Rule 1. In the event of a tender being rejected, the earnest money forwarded with such unaccepted tender shall thereupon be returned to the contractor making the same.

6. The Officer inviting tenders shall have the right of rejecting all or any of the tenders, and will not be bound to accept the lowest tender.

7. The receipt of an accountant or clerk for any money paid by the contractor will not be considered as any acknowledgement of payment to the Divisional Officer and the contractor shall be responsible for seeing that he procures a receipt signed by the Divisional Officer, or a duly authorised cashier.



## CENTRAL PUBLIC WORKS DEPARTMENT GOVERNMENT OF INDIA CONDITIONS OF CONTRACT

**Clause 1** — The person/persons whose tender may be accepted (hereinafter called the contractor) shall within one day for a contract of Rs.1,000/- or less, two days for one of Rs.2,000/- or less, and so on, to a limit of 10 days of the receipt by him of the notification or the acceptance of his tender deposit with the Engineer-in-charge in cash including Guarantee Bonds executed of Fixed Deposit Receipts tendered by the State Bank of India or Scheduled Banks. In the case of Guarantees offered by the Scheduled Banks, the amounts should be within the financial limits prescribed by the Reserve Bank of India or Government securities endorsed to the Engineer-in-charge (if deposited for more than 12 months) a sum sufficient with the amount of the earnest money deposited by him with this tender to make up the full security deposits specified in the tender, or deposit a sum as will, with the earnest money deposited by him, if any, amount to  $2\frac{1}{2}\%$  of the estimated cost of the work put to tender and permit Government at the time of making any payment to him for work done under the contract to deduct such sum as along with the sum already deposited will amount to 10% of the estimated cost of work put to tender such deductions to be held by Government by way of security deposit. Provided always that Government for this purpose be entitled to recover  $7\frac{1}{2}\%$  of the amount of each running bill till the balance of  $7\frac{1}{2}\%$  of the estimated cost of the work put to tender is realised. All compensation or other sums of money payable by the contractor to Government under the terms of his contract may be deducted from, or paid by the sale of a sufficient part of his security deposit, or from the interest arising therefrom, or from any sums which may be due or may become due to the contractor by Government on any account whatsoever, and in the event of his security deposit being reduced by reason of any such deduction or sale as aforesaid, the contractor shall within 10 days thereafter make good in cash or Government securities endorsed as aforesaid any sum or sums which may have been deducted from, or raised by sale of his security deposit, or any part thereof.

2. The contractor is to deliver the materials on or before the dates mentioned in the tender. Failing which he shall be subject to pay or allow one percent on the total amount of the contract for every day not exceeding ten days that he shall exceed his time, as, and for, liquidated damages.

3. In every case in which the payment or allowance mentioned in clause 2 shall have incurred for ten consecutive days, the Divisional Officer shall have the power to annul the contract and to have the supply completed at the contractor's risk and expense without any further notice to him and the contractor shall have no claim to compensation for any loss that he may incur in any case.

4. If the contractor shall be hindered in the supply of the materials so as to necessitate an extension of the time allowed in the tender, he shall apply in writing to the Divisional Officer, who shall grant it in writing if reasonable ground be shown for it, and without such written authority of the Divisional Officer, the contractor shall not claim exemption from the fine leviable under clause 2.

5. The contractor shall give notice to the Divisional Officer (hereinafter called the Engineer-in-charge) of his intention of making delivery of materials, and, on the materials being approved, a receipt shall be granted to him by the Divisional Officer or his assistant, and no material will be considered as delivered until so approved.

6. On the completion of the delivery of materials, the contractor shall be furnished with a certificate to that effect by the Divisional Officer (hereinafter called the Engineer-in-charge) but the delivery will not be considered complete until the contractor shall have removed all rejected materials, and shall have the approved materials stacked or placed in such position as may be pointed out to him.

The security deposit of the contractor shall not be refunded after the ending of the three months after the time of certificate final or otherwise of completion or supply or till the final bill has been prepared and passed whichever is later.

6--A. If at any time after the commencement of the supplies the President of India shall, for any reason whatsoever not require the whole thereof as specified in the tender to be supplied, the Divisional Officer shall, in addition to his power to annul the contract in case of default on the part of the contractor, have power to terminate all liability of the President thereunder at any time after giving due notice in writing to the contractor of his desire to do so. In the event of such a notice being given :-



(a) the Divisional Officer shall be entitled to direct the contractor to complete the supply of the materials which are ready for delivery upto the date of the expiry of the notice and thereafter to cease their supply; all the articles or supplies received and accepted upto that date shall be paid for at the tender; and

(b) the contractor shall have no claim to any payment or compensation whatsoever on account of any profit or advantage which he might have derived in consequence of the full execution of the contract, but which he did not obtain owing to its premature termination, or for any loss which he might have sustained on this account.

7. No payment shall be made for supplies estimated to cost less than rupees one thousand, till after the whole of the supplies shall have been completed and a certificate of completion given. But in the case of supplies estimated to cost more than rupees one thousand the contractor shall on submitting the bill-therefore be entitled to receive a monthly payment proportionate to the part thereof then approved and passed by the Engineer-in-charge whose certificate of such approval and passing of the sum so payable shall be final and conclusive against the contractor. But all such intermediate payments shall be regarded as payment by way of advance against the final payment only. The final bill shall be submitted by the contractor within one month of the date fixed for the completion of the delivery of materials, otherwise the Engineer-in-charge's certificate of the measurement and of the total amount payable for the supplies accordingly shall be final and binding on all parties.

Payments due to the contractor may, if so desired by him, be made to his bank instead of direct to him, provided that the contractor furnishes to the Engineer-in-charge (1) an authorization in the form of a legally valid document such as a power-of-attorney conferring authority on the bank to receive payment, and (2) his own acceptance of the correctness of the account made out as being due to him by Government or his signature on the bill or other claim preferred against Government before settlement by the Engineer-in-charge of the account or claim by payment to the bank. While the receipt given by such bank shall constitute a full and sufficient discharge for the payment, the contractor, should, wherever possible, present his bills duly receipted and discharged through his bankers.

Nothing herein contained shall operate to create in favour of the bank any rights or equities vis-a-vis the President of India.

8. The materials shall be of the best description and in strict accordance with the specification, and the contractor shall receive payment for such materials only as are approved and passed by the Engineer-in-charge.

9. In the event of the material being considered by the Engineer-in-charge to be inferior to that described in the specification, the contractor shall, on demand in writing, forthwith remove the same at his own charge and cost, and in the event of his neglecting to do so within such period as may be named by the Engineer-in-charge, that Officer may have such rejected material removed at the contractor's risk and expense, the expense incurred being liable to be deducted from any sums due, or which may become due, to the contractor.

10. If the contractor or his work people or servants shall break, deface, injure or destroy any building, road, road curbs, fence, enclosure, water pipes, cables, drains, electric or telephone posts or wires, trees, grass or grass land or cultivated ground contiguous to place where the materials or being supplied, he shall make good the same at this own expense, and in the event of his refusing or failing to do so, the damage shall be repaired at his expense by the Engineer-in-charge, who shall deduct the cost from any sums due, or which may become due, to the contractor.

11. The contractor shall supply at his own expense all tools, plant and implements required for the due fulfilment of his contract, and the material shall remain at his risk till the date for final delivery, unless it shall have been in the meantime removed for use by the Engineer-in-charge.

12. No materials shall be brought to site or delivered on Sundays without the permission of the Engineer-in-charge.



13. This contract shall not be sublet without the written permission of the Divisional Officer. In the event of the contractor subletting his contract without such permission, he shall be considered to have thereby committed a breach of contract, and shall forfeit his security deposit, and shall have no claim for any compensation for any loss that may accrue from the materials he may have collected or engagements entered into.

13—A. The Engineer-in-charge shall have power to make any alterations in, omissions from, additions to, or substitutions for, the original specifications, drawings, designs and instructions, that may appear to him to be necessary or advisable during the course of supply of the materials and the contractor shall be bound to supply the materials in accordance with any instructions which may be given to him in writing signed by the Engineer-in-charge, and such alterations, omissions, additions or substitutions shall not invalidate the contract; and any altered, additional or substituted materials which the contractor may be directed to supply in the manner above specified as part of the work shall be supplied by the contractor on the same conditions in all respect on which he agreed to do the main work, and at the same rates as are specified in the tender for the main work. The time for the completion of the supply shall be extended in the proportion that the altered, additional or substituted quantity of materials bears to the original quantity and the certificate of the Engineer-in-charge shall be conclusive as to such proportion. And if the altered, additional or substituted materials include any class of materials, for which no rate is specified in this contract, then such class of materials, shall be supplied at the rates entered in the schedule of rates of the ..... district on which the estimated cost shown on page 2 of the tender is based; and if such class of materials are not entered in the said schedule of rates, then the contractor shall within seven days of the date of his receipt of the order to supply the materials inform the Engineer-in-charge of the rate which it is his intention to charge for such class of materials, and if the Engineer-in-charge does not agree to this rate he shall, by notice in writing, be at liberty to cancel his order to supply such class of materials and arrange the supply thereof in such manner as he may consider advisable, provided always that if the contractor shall commence supply or incur any expenditure in regard thereto before the rates shall have been determined as lastly hereinbefore mentioned, then and in such case he shall only be entitled to be paid in respect of the supply made or expenditure incurred by him prior to the date of the determination of the rate as aforesaid according to such rate or rates as shall be fixed by the Engineer-in-charge. In the event of a dispute the decision of the Superintending Engineer of the circle shall be final.

13—B. In every case in which by virtue of the provisions of Section 12, sub-section (1) of the Workmen's Compensation Act, 1923, Government is obliged to pay compensation to a workman employed by the contractor, in execution of the works, Government will recover from the contractor the amount of the compensation so paid; and without prejudice to the rights of Government under Section 12, sub-section (2) of the said Act, Government shall be at liberty to recover such amount or any part thereof by deducting it from the security deposit or from any sum due by Government to the contractor whether under this contract or otherwise.

Government shall not be bound to contract any claim made against it under Section 12, sub-section (1) of the said Act, except on the written request of the contractor and upon his giving Government full security for all costs for which Government might become liable in consequence of contesting such claim.

13—C (a) The contractor shall pay not less than fair wage to labourers engaged by him on the work.

**Explanation:** "Fair Wage" means wage whether for time or piece work notified at the time of inviting tenders for the work and where such wages have not been so notified the wages prescribed by the CPWD for the district in which the work is done.

(b) The contractor shall, notwithstanding the provision of any contract to the contrary, cause to be paid a fair wage to labourers indirectly engaged on the work, including any labour engaged by his sub-contractors in connection with the said work, as if the labourers had been immediately employed by him.



(c) In respect of all labour directly or indirectly employed in the works for the performance of the contractor's part of this Agreement the contractor shall comply with or cause to be complied with the C.P.W.D. Contractor's Labour Regulations made by Government from time to time in regard to payment of wages, wage period, deduction from wages, recovery of wages not paid and deductions unauthorisedly made maintenance of wage register, wage cards, publication of scale of wages and other terms of employment, inspection and submission of periodical return and all other matters of a like nature.

(d) The Executive Engineer or Sub-Divisional Officer concerned shall have the right to deduct, from the moneys due to the contractor any sums required or estimated to be required for making good the loss suffered by a worker or workers by reason of non-fulfilment of the conditions of the contract for benefit of the workers, non-payment of wages or of deductions made from his or their wages which are not justified by the terms of the contract or non-observance of the Regulations.

(dd) Under the provision of the Minimum Wages Act, 1948 and the Minimum Wages (Central) Rules 1950, the contractor is bound to allow or cause to be allowed to the Labourers directly or indirectly employed in the works one day's rest of six days continuous work and pay wages at the same rates as for duty. In the event default, the Executive Engineer or Sub-Divisional Officer concerned shall have the right to deduct the sum or sums not paid on account of Wages for weekly holidays to any labourers, and pay the same to the persons entitled thereto, from any moneys due to the contractor.

(e) Vis-a-vis the Central Government the contractor shall be primarily liable for all payments to be made under, and for the observance of the Regulations aforesaid without prejudice to his right to claim indemnity from his sub-contractors.

(f) The Regulations aforesaid shall be deemed to be a part of the contract and any breach thereof shall be deemed to be a breach of his contract.

13—D. In respect of all labour directly or indirectly employed in the works for the performance of the contractor's part of this agreement, the contractor shall comply with or cause to be complied with all rules framed by Government from time to time for the protection of health and sanitary arrangements for workers employed by the Central Public Works Department and its contractors.

13—E. In the event of the contractor(s) committing a default or breach of any of the provisions of the Central Public Works Department Contractor's Labour Regulations and Model Rules for the protections of health and sanitary arrangements for the workers as amended from time to time or furnishing any information or submitting or filling any statement under the provisions of above the Regulations and Rules which is materially incorrect, he/they shall without prejudice to any other liability pay to the Government a sum not exceeding Rs.50/- for every default, breach of furnishing, making, submitting, filling such materially incorrect statements and in the event of contractor(s) defaulting continuously in this respect, the penalty may be enhanced to Rs.50/- per day for each day of default subject to a maximum of 5 per cent of the estimated cost of the work put to tender. The decision of the Engineer-in-charge shall be final and binding on the parties.

13—F. Hutting For Labour – The contractor(s) shall at his/their own cost provide his/their labour with a sufficient number of huts (thereafter referred to as the Camp) of the following specification on a suitable plot of land to be approved by the Engineer-in-charge.

- 1 (a) The minimum height of each hut at the eye level shall be 7' and the floor area to be provided will be at the rate of 30 sq.ft. for each member of the worker's family staying with the labour.
- (b) The contractor(s) shall in addition construct suitable cooking places having a minimum area of 6'x5' adjacent to the hut for each family.
- (c) The contractor(s) also construct temporary latrines and urinal for the use of the labourers each on the scale of not less than four per each one hundred of the total strength separate latrines and urinals being provided for women.



- (d) The contractor(s) shall construct sufficient number of bathing and washing places, one unit for every 25 persons residing in the camp. The bathing and washing places shall be suitably screened.
- 2 (a) All the huts shall have walls sun-dried or burnt bricks laid in mud mortar or other suitable local materials as may be approved by the Engineer-in-charge. In case of sun-dried bricks, the walls should be plastered with mud gobri on both sides. The floor may be katcha but plaster with mud gobri and shall be at least 6" above the surrounding ground. The roofs shall be laid with thatched or any other materials as may be approved by the Engineer-in-charge and the contractor shall ensure that throughout the period of their occupation the roofs remain water tight.
- (b) The contractor(s) shall provide each hut proper ventilation.
- (c) All doors, windows, and ventilators shall be provided with suitable leaves for security purposes.
- (d) There shall be kept an open space of at least 8 yards between the rows of huts which may be reduced to 20 ft. according to the availability of site with the approval of the Engineer-in-charge, back to back construction will be allowed.
3. **Water Supply :** The contractor(s) shall provide adequate supply of water for the use of labourers. The provisions shall not be less than 2 gallons of pure and whole-some water per head per day for drinking purposes and 3 gallons of clean water per head per day for bathing and washing purposes. Where piped water supply is available, supply shall be at stand posts and where the supply is from wells or river, tanks which may be of metal or masonry, shall be provided. The contractor(s) shall also at his/their own cost make arrangements for laying pipe lines for water supply to his/their labour camp from the existing mains wherever available and shall pay all fees and charges thereof.
4. The site selected for the camp shall be high ground, removed from jungle.
5. **Disposal of Excreta :** The contractor(s) shall make necessary arrangements for the disposal of excreta from the latrines by trenching or incineration which shall be according to the requirements laid down by the Local Health Authorities. If trenching or incineration is not allowed, the contractor(s) shall make arrangements for the removal of the excreta through the Municipal Committee / authority and inform it about the number of labourers employed so that arrangements may be made by such Committee / authority for the removal of the excreta. All charges on this account shall be borne by the contractor and paid direct by him to the Municipality / authority. The contractor shall provide one sweeper for every 8 seats in case of dry system.
6. **Drainage :** The contractor(s) shall be provide efficient arrangements for draining away sullage water so as to keep the camp neat and tidy.
7. The contractor(s) shall make necessary arrangements for keeping the camp area sufficiently lighted to avoid accidents to the workers.
8. **Sanitation :** The contractor(s) shall make arrangements for conservancy and sanitation in the labour camps according to the rules of the Local Public Health and Medical Authorities.

13---G. In respect of all labour directly or indirectly employed in the work for the performance of the contractor's part of this agreement, the contractor shall at his own expense arrange for the safety provision as per C.P.W.D. safety code framed from time to time and shall at his own expense provide for all facilities in connection therewith.



13--G. In respect of all labour directly or indirectly employed in the work for the performance of the contractor's part of this agreement, the contractor shall at his own expense arrange for the safety provision as per C.P.W.D. safety code framed from time to time and shall at his own expense provide for all facilities in connection therewith. In case the contractor fails to make arrangement and provide necessary facilities as aforesaid he shall be liable to pay a penalty of Rs.50/- for each default and in addition the Engineer-in-charge shall be at liberty to make arrangement and provide facilities as aforesaid and recover the cost incurred in that behalf from the contractor.

14. Except where otherwise provide in the contract all questions and disputes relating to the meaning of the specifications designs, drawings and instructions herein before mentioned and as to the quality of workmanship, or materials used on the work or as to any other question, claim, right, matter or thing whatsoever, in any way arising out of, or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions, or otherwise concerning the works, or the execution, or failure to execute the same, whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to the sole arbitration of the Engineer/Additional Chief Engineer, Central Public Works Department, and if the Chief Engineer / Additional Chief Engineer, is unable or unwilling to act, to the sole arbitration of some other person appointed by the Chief Engineer / Additional Chief Engineer willing to act as such arbitrator. It will be no objection to any such appointment that the arbitrator so appointed is a Government servant, that he had to deal with the matters to which this Agreement relates and that in the course of his Agreement relates and that in the course of his duties as such Government servant he had expressed views on all or any of the matters in dispute or difference. The award of the arbitrator so appointed shall be final, conclusive and binding on all parties to this contract.

15. On the breach of any term or condition of this contract by the contractor, the said President shall be entitled to forfeit the security deposit, or the balance thereof. that may at that time remaining, and to realise and retain the same as damages and compensation for the breach, but without prejudice to the right of the said President to recover any further sums as damage from any sums due ro which may become due to the contractor by Government or otherwise howsoever.

#### **Interpretation Clause :**

**The President means the President of India and his successors.**

**The Divisional Officer means the Divisional Officer for the time being of the Division concerned.**

**The Sub-Divisional Officer means the Sub-Divisional Officer for the time being of the Sub-Division concerned.**

**Words importing the singular number only include the plural number and vice versa.**

#### **Termination of contract on death :**

16. Without prejudice to any of the rights or remedies under this contract, if the contractor dies, the Divisional Officer on behalf of the President of India shall have the option of terminating the contract without compensation to the contractor.

17. (1) Whenever any claim; against the contractor for the payment of a sum or money arises out or under the contract, Government shall be entitled to recover such sum by appropriating, in part or whole, the security deposit of the contractor, and to sell any Government Promissory notes etc. forming the whole or such security. In the event of the security being insufficient or if no security has been taken from the contractor, then the balance or the total sum recoverable as the case may be, shall be deducted from any sum then due or which at any time thereafter may become due from the contractor under this or any other contract with Government. Should this sum be not sufficient to cover the full amount recoverable, the contractor shall pay to Government on demand the balance remaining due.

(2) Government shall have the right to cause an audit and technical examination of the works and the final bill of the contractor including all supporting voucher, abstracts etc. to be made after payment of the final bill and if as a result of such audit and technical examination any sum is found to have been overpaid in respect of any work done by the contractor under the contract or any work claimed by him to have been done by him under



work done by the contractor under the contract or any work claimed by him to have been done by him under the contract or any works claimed by him to have been done by him under the contract and found not to have been executed, the contractor shall be liable to refund the amount of the overpayment and it shall be lawful for Government to recover the same from him in the manner prescribed in sub-clause (1) of this clause or in any other manner legally permissible and if as a result of audit and technical examination it is found that the contractor was paid less than what was due to him under the contract in respect of any work executed by him under it, the amount of such under payment shall be duly paid by Government to the contractor.

**PROVIDED** that Government shall not be entitled to recover any sum overpaid, nor the contractor shall be entitled to payment of any sum paid short where such payment has been agreed upon between the Superintending Engineer or Executive Engineer on the one hand and the contractor on the other under any term of the contract permitting payment for work after assessment by the Superintending Engineer or the Executive Engineer.