

POLICY : TO BE HANDED OVER ON RELIEF

287

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Dte of Contract Management  
Engineer-in-Chief's Branch  
Integrated HQ of MOD (Army)  
Kashmir House, Rajaji Marg  
New Delhi-110 011

66546/Manual/287/E8

14 Mar 2014

List 'A' & 'B'

ADG (OF & DRDO)  
Secunderabad  
PIN 900453  
C/O 56 APO

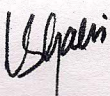
SUBLETTING OF WORKS/EXECUTION OF WORK BY PROXY

1. A contract is an agreement between UOI and a specified contractor, and carrying out work by any other person or contractor on his behalf, is a breach of contract and defies the faith and trust on which, the contract comes into force. When the contractor has to qualify parameters of PQ Criteria as basis of eligibility, assigning work to any other agency by the contractor mid-stream, flouts eligibility criteria. It is also a fact that no subletted work has been completed in time and in spirit of the contract. Such actions by contractors cannot be accepted, being detrimental to interest of the Department/Govt.
2. The contractors adopt practice of entering into back to back contract, with another person or contractor, with fixed percentages to be received by the main contractor. No approval of Accepting officer as per condition 18 of IAFW 2249 General Conditions of Contract is obtained. This can be detected by the ground executives (GE & AGE) by general information on persons dealing with them and examination of authority under which they are acting on behalf of the main contractor. Uncontractual action of contractor needs to be addressed at the commencement stage itself and no leniency shall be allowed by the Accepting Officers. Immediately after notice thereof, action as per remedy available with Govt to terminate the contract under condition 53 (c) of GCC IAFW 2249 shall be taken. It shall be noted that executives in their interaction with contractor on a day to day basis/during their visits, will have sufficient base to establish whether the contractor himself is executing the work or not, and inaction in the matter shall invite action against the defaulting executives. The prime responsibility in his regard will rest with the Accepting Officers.
3. In some other cases, some contractors issue 'Power of Attorney' to a third party or another contractor, to carry out works on their behalf. This cannot remain undetected by the ground executives viz GE & AGE. Further, the nature and contents of POA itself are sufficient to arrive at conclusion that the work has been sublet. Once again, responsibility of such cases rests with Accepting Officers.

*[Handwritten Signature]*

Contd.....

4. The contents of condition 18 of GCC are very clear and so far, no case has come to light, where a contractor ever applied for subcontracting and after weighing all aspects of contract conditions, the Accepting Officer granted any approval. All such activities adopted by the contractor are therefore off the record and being accepted by the executives without any objection. This stance of the concerned executives, for which the Accepting Officer becomes responsible, is a matter of concern and viewed seriously by the E-in-C. In this connection attention is invited to DGW DO letter No 35482/SK/Per dt 01 Jan 2014 (copy enclosed) for strict compliance.
5. Even though provision exist in the Manual on Contracts & condition 18 of GCC, allowing the Accepting Officer to permit subletting/allotment of work by a contractor, these will with immediate not be exercised by the Accepting Officers. Thus, under no circumstances, subletting in any form, will be allowed. Even the Power of attorney shall not be accepted and allowed. This requirement will be clearly mentioned in the NIT also. In case of subletting as mentioned above or otherwise, following actions shall be taken on priority:-
- (a) Commence action to terminate the contract, under condition 53 (c) of GCC IAFW 2249, after issue of SCN and examination of reply thereto.
  - (b) Disciplinary case against the enlisted contractor shall be initiated by issue of SCN by the Accepting Officer, with a copy to Registering Authority and the E-in-C's Br. In case of an un-enlisted firm, a copy of SCN shall be endorsed to all higher formations upto the E-in-C's Branch.
  - (c) The performance of contractor in WLR shall be endorsed with appropriate remarks of "No, Discp Action initiated for subletting".
  - (d) The contractor who is executing work under subletting or POA, shall also be endorsed with adverse remark and disciplinary action initiated against him. If unenlisted, all formations be accordingly informed up to E-in-C's Branch.
6. "Subletting" referred above includes all forms mentioned in condition 53 (c) of IAFW 2249.
7. The above procedure shall be followed with immediate effect.
8. This has the approval of E-in-C.

  
(ND Bhagatkar)  
Jt DG (Contracts)  
for Engineer-in-Chief

Copy to:-

QMG's Branch

Internal

ADGW (Army)

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BK/