

Contract Administration

Part I
EUREKA
Engineering Consult
Basics



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1. Definition of Terms



Contract

A Contract is an **agreement** whereby two or more **persons** as between themselves create, vary or extinguish obligations of proprietary nature. (Art. 1675)

Construction contract is an **agreement** between an Employer and a Contractor that the contractor will construct a specified structure for the owner, to a specified standard and within a specified time, in exchange for a specified sum of money which the owner will pay to the contractor. (fidic.org)

The major obligation of the contractor is to **complete** satisfactorily the work of the project by the date for practical completion. The corresponding responsibility of the employer is to **pay** the contractor the contract sum in exchange.

Definition of Terms



Administration

The performance of executive duties, act or process of administering something and/or the execution of public affairs. (Dictionary Definition)

The **arrangements** and **tasks** needed to control the operation of a plan.

Administration in construction could be defined as the **oversight** the **execution** of a construction activities during the **preconstruction** and **construction** phases of a project.

Definition of Terms

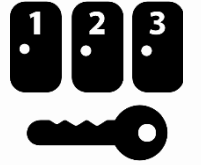


Contract Administration

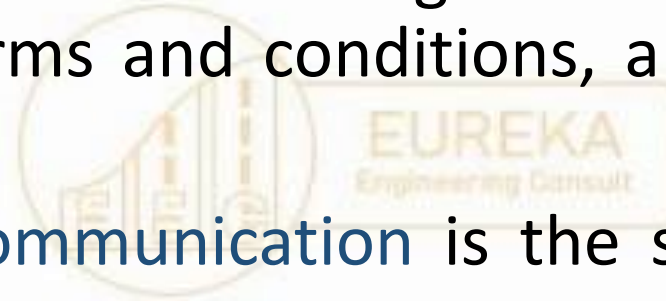
Contract administration refers to the **task or function** of ensuring that a construction **contract** between the Employer and the Contractor is **executed** in accordance with the **terms** of the contract.

Contract administration is comprised of planning, performance monitoring, quality assurance, and other key phases. All activities are goal oriented, aimed at ensuring enforcement of the contract terms and conditions, while giving attention to the achievement of the stated output and outcome of the contract.

2. Keys for Good CA



1. Proper **understanding** of the Contract to be administered is the first key to successful CA. Reading and understanding the Contract and identifying terms and conditions, and **critical clauses** within the contract.
2. Well-articulated **communication** is the second key whether it is written or verbal.
3. Evidence based timely **decisions** are the third key to unlocking the full scale



3. Knowledge



- Getting acquainted with a Contract starts from understanding the **contents** and their purposes.
- We mostly use a standardize Contract document with very slight variation. (content wise)
- After knowing the contents of the Contract document one should understand the **critical clauses** of the contract.
- Knowing the **Rights and Responsibilities** of contracting parties is one of the major knowledge areas required for successful CA.

Contents of Typical ERA Contract



Design-Bid-Build (DBB)

- Contract Agreement
- Letter of Acceptance and its Annexes;
- Addendums to the Bidding Documents,
- The Bid and the Appendix to Bid
- Conditions of Contract
 - Part II: Conditions of Particular Application
 - Part I: General Conditions
- Technical Specifications
 - Particular Technical Specifications
 - ERA Standard Technical Specifications
- Priced Bill of Quantities
- Other Documents

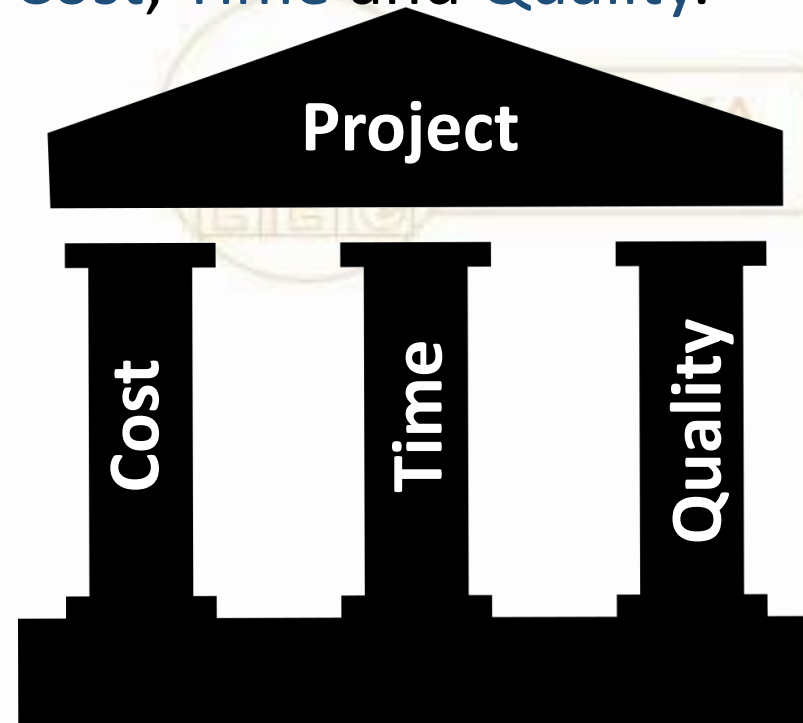
Design-Build (DB)

- Contract Agreement
- Letter of Acceptance and its Annexes
- Addendums to the bidding document
- Appendix to Bid/Offer and Payment Schedules
- Conditions of Contract
 - Part II: Conditions of Particular Application
 - Part I: Conditions of Contract for Design-Build and Turnkey, First edition 1995 FIDIC
- Employer's Requirements
- Other Documents

Critical Clauses



For the purpose of this training session it is better to scrutinize Critical Clauses of FIDIC Red Book 1987 based on the three major Project Pillars i.e., **Cost**, **Time** and **Quality**.



i. Cost



“**Bill of Quantities**” means the priced and completed bill of quantities forming part of the Tender.

“**Contract Price**” means the sum stated in the Letter of Acceptance as payable to the Contractor for the execution and completion of the Works and the remedying of any defects therein in accordance with the provisions of the Contract.

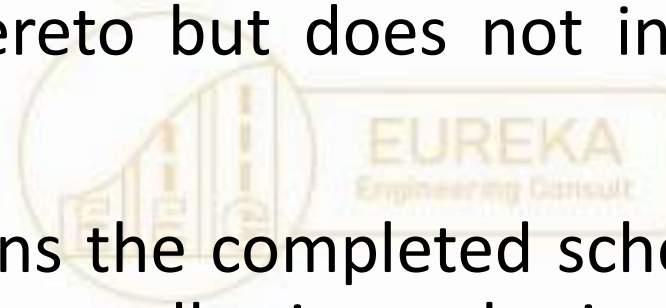
“**Interim Payment Certificate**” means any certificate of payment issued by the Engineer other than the Final Payment Certificate.

i. Cost



“**Cost**” means all expenditure properly incurred or to be incurred, whether on or off the Site, including overhead and other charges properly allocable thereto but does not include any allowance for profit.

“**Price Schedule**” means the completed schedule of prices, including the breakdown of the overall price, submitted by the Contractor with his Bid, modified as necessary and forming a part of the unit price contract;



Some Clauses Related to Cost



Sufficiency of Bid Prices

The Contractor shall be deemed to have inspected and examined the Site and its surroundings and to have **satisfied himself before submitting his Bid,**

- as to the nature of the ground, the form and nature of the Site, the extent and nature of the work and materials, risks, contingencies and all other circumstances influencing or affecting his tender.
- the correctness and sufficiency of the tender and of the rates and prices stated in the bill of quantities or price schedule
- he shall carry out without additional charge any work which is the subject of any item whatsoever in his tender for which he neither indicates a unit price nor a firm sum.

Some Clauses Related to Cost



Payment to the Contractor

- The Public Body should reimburse the requested '**certifiable**' payment within **90 days**.
- There are conditions that entitle the Public Body to **delay** or **suspend** the payment.
- Final Account – the Contractor should repay any amount that is paid to him excess of the correct amount.
- Advance Payment- shall be granted to the Contractor, at his request, for operations connected with the implementation of resource mobilization task.

Some Clauses Related to Cost



Advance Payment

Preconditions

- Signing of Contract
- Provision of Performance Security
- Advance Payment Security



Retention Money

- Sum which shall be retained from interim payments by way of guarantee to meet the Contractor's obligations during the Defects Liability Period

Concepts Related to Cost



- Price Adjustments
- Valuation of Works (Measurement)
- Interim Payment
- Final Statement of Account
- Delayed Payments
- Modifications
- Force Majeure
- Changes in Laws and Regulations
- Suspensions
- Termination
- Liquidated Damages



ii. Time



Completion - means the fulfillment of the Contract by the Contractor in accordance with the terms and conditions set forth in the in the GCC Clause 87;

Intended Completion Date - is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Special Conditions of Contract. The Intended Completion Date may be revised only by the Engineer by issuing an extension of time or an acceleration order;

Commencement of Works - Start Date for commencing execution of the Works (through administrative order or the Engineer)

ii. Time



Period of Execution of Works

The Contractor shall carry out the Works in accordance with the Program of implementation of tasks submitted by the Contractor, as updated with the approval of the Engineer, and complete them by the Intended Completion

Extension of Intended Completion Date

Acceleration

ii. Time

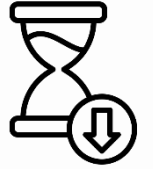


In relation to TIME, the prime target of any contract is to complete the intended project within the stipulated time.

Hence, one of the key characters of good CA is assuring the realization of timely completion of a project. However, it is customary to note most projects not meeting this objective.

- Who creates the delays?
- Why is it almost impossible to prevent delays?
- What could a competent Consultant do to avert delays?

Who creates the delays?



Employer

- [*Failure to Give Possession*]
- [*Employer's Risks*]

Contractor

- [*Rate of Progress*]

Engineer

- [*Delays and Cost of Delay of Drawings*]
- [*Variations*]
- [*Failure to Give Possession*]

Almost impossible to prevent delays?



Challenges with respect to Possession of Site:

- The Employer/Engineer face challenge in removal of RoW obstructions, due to various reasons.
- Failure of the Contractor to timely request for such possession.

Occurrence of Employer's Risk Events:

- Conflicts around project site.
- Adverse weather condition.
- Ambiguous or poor design.

Contractor's Failure

- Poor resource mobilization and utilization.

Controlling Time



41. Program of Implementation of Tasks

... a program of implementation of the tasks, broken down by activity and by month and include the following information:

- a) the order in which the Contractor proposes to carry out the works;
- b) the time limits within which submission and approval of the drawings are required;
- c) an organization chart containing the names, qualifications and curricula vitae of the staff responsible for the Site,
- d) a general description of the method including the sequence, by month and by nature which the Contractor proposes to carry out the works;
- e) a plan for the setting out and organization of the Site, and
- f) such further details and information as the Engineer may reasonably require.

Controlling Time



An update of the program shall be a program showing the **actual progress** achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any **changes** to the sequence of the activities.

Delays in Implementation of Tasks

If the Contractor fails to complete the works within the time period(s) specified in the Contract, the Public Body shall be entitled to liquidated damages for every day or part thereof which shall elapse between the end of the period specified for implementation of tasks or extended Intended Completion Date and the actual date of completion, at the rate and up to the maximum specified amount.



iii. Quality

... a distinctive attribute or characteristic possessed by someone or something ... the standard of something as measured against other things of a similar kind; the degree of excellence of something.

General Obligation

The Contractor shall, with due care and diligence, and in accordance with the provisions of the Contract, design the works to the extent stated in the Contract, and execute, complete and remedy any **defects** in the works.





iii. Quality

Origin and Quality of Works and Materials

The works, components and materials shall conform to the specifications, drawings, surveys, models, samples, patterns and other requirements in the SCC which shall be held at the disposal of the Public Body or the Engineer for the purposes of identification throughout the period of performance.



iii. Quality

Defects

The Contractor shall be responsible for making good any defect in, or damage to, any part of the works which may appear or occur during the Defects Liability Period and which arises either from:

- a) the use of defective plant or materials or faulty workmanship or design of the Contractor; and/or
- b) any act or omission of the Contractor during the Defects Liability Period.

The Contractor shall at his own cost make good the defect or damage as soon as practicable. The Defects Liability Period for all items replaced or renewed shall recommence from the date when the replacement or renewal was made to the satisfaction of the Engineer.



Confirming to Quality

Inspection and Testing

The Engineer shall be entitled to **inspect, examine, measure and test** the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract in order to establish whether the components, materials and workmanship are of the requisite quality and quantity.

Defect - is any part of the Works not completed in accordance with the Contract

Rejection



Concepts Related to Quality

Tests on Completion

Defects Liability

Final Acceptance Certificate

Retention Monies





Thank You!

