

Dr. Ashish Kumar Goel, IAS



राष्ट्रीय ग्रामीण अवसंरचना विकास एजेंसी
(ग्रामीण विकास मंत्रालय, भारत सरकार)

Joint Secretary, MoRD
Director General, NRIDA

National Rural Infrastructure Development Agency
(Ministry of Rural Development, Govt. of India)

5th Floor, 15-NBCC Tower, Bhikaji Cama Place, New Delhi-110066

No. NRRDA-P014(14)/3/2016-P-III /1460

Dated: August 20, 2021

To

The Additional Chief Secretaries/ Principal Secretaries/ Secretaries of Nodal Department implementing PMGSY in the States/UTs.

Sub: Contract Management: Action to be taken for delay in execution.

Dear Sir/Madam,

As you are aware that all PMGSY works are to be contracted as per NRIDA SBD and there are provisions in SBD to take care of eventuality of non-performance by contractor and imposition of liquidated and other damages.

2. Contract management after award of work is an important activity and due care should be exercised by SRRDAs to ensure timely completion of projects to protect public interest. There are provisions in SBD wherein, immediately after the award of work, if due diligence is exercised, instances of contractor default can be avoided. In case of default, the damages can be recovered easily from the contractor. During discussion with states, it has come to notice that there is a concern amongst engineers that once full LD of 10% is levied for delay in completion of work, there is no other recourse left to force the contractor to complete of the work in time and therefore work gets further delayed.

3. This issue was further examined in NRIDA. This is to reiterate that even after levy of full LD of 10%, there are other pecuniary and non-pecuniary actions which can be taken against the defaulting contractor to ensure that the work is completed in reasonable time either by the same contractor or by another contractor after termination/re-award of work. Judicious and timely interventions help in curbing delays and imposition of penalties in a graded manner by strictly monitoring milestones to be achieved during execution.

4. NRIDA SBD provides for strict project time line management through monitoring of milestones to keep the overall project in control. As per NRIDA SBD, if milestones are not achieved, LD is to be levied on the contractor in a graded manner. The provisions are as below:

(a) **Clause 20 of Contract Data to General Conditions of Contract:** Milestones to be achieved during the contract period, in case of non-achievement, proportionate liquidated damages to be recovered from contractor.

Milestone 1: 1/8th of the value of entire contract work up to 1/4th of the period allowed for completion of construction.

Milestone 2: 3/8th of the value of entire contract work up to 1/2 of the period allowed for completion of construction.

Milestone 3: 3/4th of the value of entire contract work up to 3/4th of the period allowed for completion of construction.

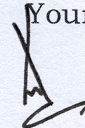
- (b) In case of overall delay in completion of work, liquidated damages limited to 10 % of contract value shall be imposed and recovered. Further contractor shall be directed to complete his contractual liabilities of completing the work in reasonable time. It is reiterated that payment / levy of entire 10% liquidated damages does not absolve contractor of his contractual obligations. Even after levy of complete LD, engineers still have control to ensure work completion. Time to time notices should be sent to the contractor. **Para 44.1 of SBD states: "The payment or deduction of such damages shall not relieve the contractor from his obligations to complete the works, or from any other of his duties, obligations or responsibilities under the contract."**
- (c) In case the contractor further fails to fulfil his contractual obligations even after imposition of full LD, the options available are to terminate the contract and/or blacklist the contractor.
- (d) After termination of contract, the work shall be retendered There is a possibility that the quantum of the left over work may be higher than the balance contract amount. To cover this extra amount, there is provision in SBD vide clause 53.1(i) to impose further damages in case contract is terminated due to non-performance of contractor after levying 10% LD.

Para 53.1(i) states: "If the contract is terminated because of a fundamental breach of contract by the contractor, the engineer shall issue a certificate for the value of work done, less liquidated damages, less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of work not completed, as indicated in the contract data. If any amount is still left un-recovered, it will be a debt payable to the Employer from state PMGSY works, any other state government works including State Public Sector works executed by the contractor."

5. As explained above, in addition to levy of complete LD, there are other administrative options like black listing and imposition of further damages which are available to engineers, if the contractor does not fulfil his obligations.

6. It is advised that SRRDAs issue guidelines/ educate PIUs on Contract Management and regularly reiterate SBD provisions to ensure completion of works with quality within stipulated period of contract completion date.

Yours sincerely,



(Dr. Ashish Kumar Goel)

Copy to:

All Chief Executive Officers/ Engineer-in-Chiefs/ Chief Engineer of SRRDA.