

PROCUREMENT POLICY OFFICE

Directive No. 37

(Issued pursuant to Section 7(b) of the Public Procurement Act 2006)

Enforcement of Labour Clause in Works and Non-Consultancy Services Contracts

1. The General Conditions of Contract for works and Non-Consultancy Services, under the Public Procurement Act 2006 (PPA) requires suppliers to inter-alia, comply with the provisions regarding remuneration and other conditions of work for their employees. An extract of these provisions is reproduced below:-
 - (a) the rates of remuneration and other conditions of work of the employees of the supplier shall not be less favourable than those established for work of the same character in the trade concerned-
 - (i) by collective agreement applying to a substantial proportion of the workers and employers in the trade concerned;
 - (ii) by arbitration awards; or
 - (iii) by Remuneration Regulations made under the Employment Relation Act 2008.
 - (b) Where remuneration and conditions of work are not regulated in a manner referred to at (a) above, the rates of the remuneration and other conditions of work shall be not less favourable than the general level observed in the trade in which the supplier is engaged by employers whose general circumstances are similar.
 - (c) No supplier shall be entitled to any payment in respect of work performed in the execution of the contract unless he has, together with his claim for payment, filed a certificate:
 - (i) stating the rates of remuneration and hours of work of the various categories of employees employed in the execution of the contracts;
 - (ii) stating whether any remuneration payable in respect of work done is due;
 - (iii) containing such other information as the Chief Executive Officer of the Public Body administering the contract may require to satisfy himself that the provisions under this clause have been complied with.
 - (d) Where the Chief Executive Officer of the Public Body administering the contract is satisfied that remuneration is still due to an employee employed under this contract at the time the claim for payment is filed under subsection 1, he may, unless the remuneration is sooner paid by the supplier, arrange for the payment of the remuneration out of the money payable under this contract; and
 - (e) Every supplier shall display a copy of this clause of the contract at the place at which the work required by the contract is performed.

2. A similar provision is also provided under the FIDIC special condition of contracts.
3. The attention of Public Bodies is further drawn to the following:
 - (a) the National Minimum Wage Regulations 2017 made under the National Wage Consultative Council Act 2016, which provides for the payment of a national minimum wage of Rs 8,140 per month to all full time workers with effect from 01 January 2018.
 - (b) the Additional Remuneration and other Allowances (2018) Act 2017 which provides for the payment of an additional remuneration of Rs 360 per month as from 01 January 2018 to all full time workers employed in enterprises in the non-EPZ sector.
4. It has been observed that the above contractual provisions are not being fully respected both by Suppliers and Public Bodies.
5. Public Bodies are hereby directed to
 - (i) ensure strict compliance to the labour clauses in Works and Non-Consultancy Services Contracts,
 - (ii) copy all Letters of Acceptance to the Ministry of Labour, Industrial Relation, Employment and Training for ex-post compliance as appropriate and
 - (iii) disseminate the contents of this Directive to all those concerned within their organization.
6. This Directive takes effect immediately.

Procurement Policy Office
12 April 2018