

CASE STUDY – Extensions of Time

1. BACKGROUND

DDC has entered into contract with a small contractor for the construction of a significant gabion retaining wall. The following aspects are relevant:

- Form of Contract: PPMO >6M Standard Works Contract (2014) – copy provided
- Contractual Start Date: **8th September 2016**
- Contractual Intended Completion Date: **25th December 2016**

In accordance with GCC Clause 26.1 the Contractor timely submitted a works programme to the PM. This was carefully considered and found reasonable in its expectations. PM had accordingly written to the Contractor accepting the Programme.

2. ACCEPTED PROGRAMME

The following key aspects are noted in the Accepted Programme:

- **Monsoon:** Although the available contract start date was 8th Sept 2016 the Contractor had reasonably noted that monsoon conditions were likely to extend up to 17th Sept. 2016 and had shown his mobilisation starting from that date (shaded 'green' on programme).
- **Dasain Festival:** Contractor has reasonably shown the works completely closed between 8th Oct. to 21st Oct. 2016 inclusive (shaded 'green' on programme)
- **Resources:** Contractor has provided brief information on his intended resourcing which is shown on the accepted programme (e.g. 1 JCB Backhoe for the excavation and a 10-man team for gabion works). Contractor owns only one excavator but has an abundance of available work-force.
- **Climatic Conditions:** In this region of Nepal following the monsoon and up to end of December it is usually dry however intermittent showers can occur typically on 2 days each month.
- **Site (Ground) Conditions:** No detailed site investigation reports have been provided but generally it is understood that ground conditions along the road are good with no known history of landslides

3. ACTUAL CONSTRUCTION SCENARIOS

Scenario 1 – Late Payment of Advance: After receiving all required documentation the DDC pays the contractor the 1st instalment of the Advance 2 weeks later than the date provision mentioned in the SCC. The Contractor writes stating that this delay has prevented him making down payment on the delivery of his gabions which are similarly delayed by 2 weeks. The Contractor writes requesting a 2 week EoT with costs for his idle work-force. As PM what is your likely recommendation / response?

Scenario 2 – Delayed Payment: The Contractor incurs significant early expenses and submits a prompt 1st IPC which the PM certifies on 16th October and delivers to DDC on the same day. Unfortunately DDC is facing cash-flow problems and is unable to pay the Contractor until 30th November (i.e. after 45 days). Contractor states that he had expected DDC to pay within 15 days as he has festival expenses to meet and accordingly writes seeking a 30 day EoT. As PM what is your likely recommendation / response?

Scenario 3 – Early Variation (Extra Gabions): Immediately after signing the contract and approving Contractor's programme DDC realise a mistake in their quantity calculation and sanction a 50% increase in the quantity of gabions. Contract accepts the VO but refers to his accepted programme which show 75 days between the start of excavation for gabions and completion of backfilling. On this basis he requests EoT amounting to 50% x 75 days i.e. 38 days. As PM what is your likely recommendation / response?

Scenario 4 – Fuel Shortage: Nepal faces an acute shortage in diesel fuel which prevents availability at the public pumps between end of Sept. 2016 and end of Oct. 2016 (1 month). However DDC have access to a special GoN

sanction which enables them to assign supplies in special approved cases. Contractor was late in mobilising and there has been little activity on site other than setting out until 7th Nov. 2016. On 10th Nov. Contractor writes his first official communication under the Project in which he mentions that unavailability of fuel has prevented him from mobilising his excavator for which he seeks and EoT of 30 days to coincide with the fuel crisis period. As PM what is your likely recommendation / response?

Scenario 5 – Weather & Ground Conditions: October is completely dry until 23rd October when rain showers start lasting for 5 days until 27th during which time the Contractor is unable to work. On 28th Oct. Contractor resumes excavation as per his accepted method statement but due to some unexpected and unusual sand lenses which have become waterlogged suffers a collapse of the excavation which subsequently takes a further 7 days to clear. The Contractor writes seeking an EoT of 12 days (5 days for rain and 7 days for the slippage) and also submits a financial claim for 7 days of excavator time and the costs of his idle workforce.