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SIGNIFICANT ROLE OF FIDIC IN CONSTRUCTION CONTRACT MANAGEMENT

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Abstract: In the process of contract the client carries out a preliminary estimate based on diverse factors such as past experience and the likely quantities and rates of different items involved, etc. now, based on the method of contracting to be followed, the contracts submit a 'bid', which is evaluated by the client before the job is awarded to a contractor. At the time of contract contractor may have to deal with the client's engineer and despite the fact that they must act as fair arbiters of the intent of the contract. A civil engineering construction contract is in fact almost an anomaly in real terms because it is usually written by the client without really negotiating with contractor. A contract is basically commitment between two consenting parties, which, if breached, remedial protection can be sought under the law by the affected party, since the law recognizes its performance as the rightful duty. The repeated use of a 'construction contact format' has lent it a certain amount of standardization with respect to its write-up and content, with regard to its various terms, conditions and clauses. The various contract forms are used for the construction contract and FIDIC is a global representative for the consulting engineering industry.

Keywords: FIDIC Contract, Activities, Need of FIDIC

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INTRODUCTION

The FIDIC stands for Fédération Internationale Des Ingénieurs – Conseils (from French, the International Federation of Consulting Engineers) Founded in 1913 by three countries, each wholly or partly francophone, specifically Belgium, France and Switzerland. There are now 78 Member Associations from all over the world. Currently located at the World Trade Centre in Geneva, Switzerland. FIDIC is a global representative for the consulting engineering industry, promoting the business interests of firms supplying technology-based intellectual services for built and natural environments alike. FIDIC is well known for its work drafting standard form Conditions of Contract for the worldwide construction industry, particularly in the context of higher value international construction projects, and is endorsed by many multilateral development banks (“MDBs”). Companies and organizations belong to FIDIC national member associations which now represent other professionals, such as architects. FIDIC also has affiliate members interested in its work, such as lawyers and insurers. FIDIC organizes conferences, seminars and training courses and, until 2002, FIDIC ran FIDIC direct, the International Directory of Consulting Engineers, which is now run by ICON direct.

CONSTRUCTION CONTRACT MANAGEMENT

There are different types of works in construction industry and to execute these works contracts were made between two parties. But to fulfill all the terms and conditions in the contract, management of contract needed. The first aim of contract management is to obtain the product as agreed in the contract and achieve value for money. It may also involve aiming for continuous improvement in performance over the life of the contract. Good contract management goes much further than ensuring that the agreed terms of the contract are being met. There will always be some friction between the different perspectives and approach of employer and contractor. Contract management is about resolving or reducing such friction and achieving the completion of the project as envisaged. The following factors are essential for good contract management:

Good preparation of bid document: A detailed estimate, project report of the work helps create a clear output-based specification. Proper eligibility criterion effective evaluation procedures and selection will ensure that the contract is awarded to the right person.

The right contract form: The contract is the foundation for the project implementation. It should include aspects such as obligations of the parties, the quality assurance of items required, and defect liability period, as well as procedures for variations and dispute resolution. E.g. Lump sum contract, Item rate contract etc. To obtained the right contract forms FIDIC provided different

contract forms which become a good contract management tool in construction industry. The reason FIDIC sought to maintain its aim of drafting contracts that form a basis for good project management with a fair allocation of risk between the parties.

NEED OF FIDIC CONTRACT

The conventional contract forms being used in various government departments in India are considered to be one-sided. Due to globalization of economy and many multinational companies contracting for various infrastructure and development projects in India, the conventional form of contract is not considered to be suitable and the global contract form such as that of FIDIC is in vogue. The FIDIC form of contract is considered to be well-balanced and equitable form that clearly defines the role and responsibility of all parties to a contract. It has a fair apportioning of risks, rights and obligations between the parties. It is in wide use of for international contracts and is supported and recommended by various development banks such as World Bank and Asian Development Bank. It contains a set of effective, clear and complete conditions. It contains a set of effective, clear and complete conditions.

ROLE OF FIDIC

The International Federation of Consulting Engineers, commonly known as FIDIC founded in 1913 by three countries and now spread all over the world. FIDIC is a global representative for the consulting engineering industry and well known for its work drafting standard form condition of contract for the worldwide construction industry. To understand the role of FIDIC in construction industry, it is required to know various aspects of FIDIC. In this report to elaborate the role of FIDIC, various aspects such as principals of FIDIC, activities under FIDIC, various FIDIC forms, structure of FIDIC Red book, risk allocation and dispute resolution under FIDIC are given.

PRINCIPALS OF FIDIC CONTRACT

The FIDIC form of contract is considered to be well-balanced and equitable form that clearly defines the role and responsibility of all parties to a contract. It has a fair apportioning of risks, rights and obligations between the parties. It contains a set of effective, clear and complete conditions. It contains a set of effective, clear and complete conditions.

The basic principles behind all FIDIC contracts are given below:

1. To achieve optimum results by not expecting contractors to quote for risks that could not be reasonably foreseen or evaluated.

2. For the employer to assume responsibility for costs arising from events that may never occur, which lie outside the contractor's control be which cannot be covered by insurance at a reasonable premium (i.e. employer's risks)
3. Close cooperation and framework between employer/contractor and engineer within the framework of the contract, with a mutual desire to produce a satisfactory end product.
4. To remove mistrust of lack of confidence, with all parties performing their duties under the contract responsibly and correctly.
5. The use of independent 'engineer', who is required to exercise his discretion with impartiality, even if he is an employee of the employer.

FIDIC RAINBOW SUITE

As we know FIDIC is well known for its work drafting standard form Conditions of Contract for the worldwide construction industry, particularly in the context of higher value international construction projects, in 1999 FIDIC Rainbow edition constitutes a detailed and carefully crafted set of inter-related clauses that define a series of interlocking events and periods of time. FIDIC published a completely new suite of contracts, the 'Rainbow Suite', various contracts having been updated. The first FIDIC contract was published in 1957 under the title of conditions of contract (international) for Works of Civil Engineering Construction.

- The Red Book: Conditions of Contract for Construction for Building and Engineering Works designed by the Employer (1st Ed 1999).
- The Pink Book: Harmonized Red Book (MDB Edition) Conditions of Contract for Construction for Building and Engineering Works designed by the Employer (Version 3 2010) – for use as part of the standard bidding documents by the Multilateral Development Banks only. The Islamic Development Bank and the World Bank worked with FIDIC in developing this contract.
- The Yellow Book: Conditions of Contract for Plant and Design-Build – for electrical and mechanical plant, and for building works, designed by the Contractor (1st Ed 1999).
- The Silver Book: Conditions of Contract for EPC/Turnkey Projects (1st Ed 1999).
- The Orange Book: Conditions of Contract for Design – Build and Turnkey (1st Ed 1995).
- The Gold Book: DBO Contract - Conditions of Contract for Design, Build and Operate Projects (1st Ed 2008).

- The Green Book: Short form of Contract (1st Ed 1999).
- Sub-consultancy Agreement: (1st Ed 1992).
- The White Book: Client/Consultant Model Services Agreement: (4th Ed 2006).
- The Blue – Green Book: Dredgers Contract (1st Ed 2006).
- Conditions of Subcontract for Construction: Used in conjunction with The Red Book and The Pink Book (Test Book 2009)

CONCLUSIONS

This paper is attempted to introduce FIDIC as a standard form of contract and its advantages and to elaborate the basic role of FIDIC in construction contract management. The importance of FIDIC found as follows.

- The FIDIC contract suite provides an internationally accepted platform for doing business internationally and domestically. The contracts incorporate many features that should make them attractive to including fair risk allocation, sensible provisions relating to the certification process and best practice dispute resolution mechanisms.
- FIDIC Contracts are flexible and it is in the understanding and manner in how the contract is formalized, taking into consideration the applicable law and its procurement policies, and the manner in which the contract is managed, taking into consideration the cultural sensitivities of the country.
- Standard forms of contract address complex legal contractual arrangements and provide the tools to make right and enhance industry practices and unsatisfactory legal rules.
- FIDIC provides tools for the risk and dispute resolution.
- The cost of tendering is reduced as Contractors familiar with the standard form know there is no risk that is hidden in the detail of term they are unfamiliar with.
- Contractors, Employers and Engineers who use a standard form contract become familiar with the rights and obligations that they have under that form of contracting. This improves communication and efficiency in contract administration.

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