

DELHI DEVELOPMENT AUTHORITY
(WORKS ADVISORY BOARD)

Dated: 25-08-2023

No. WAB1 (76)/Vol.42/Secy./III/2023/ 414

Subject: Minutes of the 3rd WAB (2023) Meeting- Reg.

The Minutes of 3rd WAB (2023) Meeting held on 30.06.2023 at 11:30 AM in the Conference Hall, VC Secretariat, DDA, 1st Floor, B- Block, Vikas Sadan, INA, New Delhi are enclosed here with for favor of information & necessary action.

Encl: As above

25/8/23
(Narender Kumar)
Secretary (WAB)
o/c

In Circulation to:

Chief Engineer (Rohini Zone), DDA.

Copy to: -

1. OSD to VC, DDA for kind information of the latter.
2. DD to EM, DDA for kind information of the latter.
3. PS to FM, DDA for kind information of the latter.
4. PS to CLA, DDA for kind information of the latter.
5. Chief Engineer (HQ & QAC), DDA.
6. Chief Account Officer, DDA for kind information.
7. Director (Works), DDA
8. AO-Works-III, DDA.
9. Director (System), DDA for uploading on DDA website (through e-mail).
10. Deputy Director (Hindi Section) for translation in Hindi & uploading on DDA website through Dy. Director(System).

25/8/23
Secretary (WAB)
o/c

**DELHI DEVELOPMENT AUTHORITY
(WORK ADVISORY BOARD)**

Subject: Minutes of the 3rd WAB (2023) Meeting held on 30.06.2023 at 11:30 AM in Conference Hall, 1 Floor, B- Block, Vikas Sadan, INA, New Delhi.

The list of officers who attended the meeting is as under:

Present(S/Shri)

1.	Subhasish Panda	Vice-Chairman	Chairman
2.	D.C. Goel	EM	Member
3.	Vijay Singh	FM	Member
4.	Lalit Wadhwa	CAO	Member
5.	Sanjay Kumar Khare	CE(HQ& QAC)	Member
6.	Narender Kumar	EO-III to EM	Secretary

Others (S/Shri)

1.	S.S.Meena	CE(Rohini)	
2.	Manisha Gupta	Additional Commissioner	
3.	Alok Mahkul	DD(Plg.) Zone-H	
4.	Kanav Mahajan	EE/RPD-2/RZ	

The following agenda items were discussed:

I. WAB AGENDA of CE (Rohini):

Name of Work: Construction of 1675 multi-storeyed dwelling units for insitu rehabilitation of slum dwellers at Jailerwala Bagh, Ashok Vihar, New Delhi

Subject: Request to make applicable the Amendments issued by CPWD in Clause 5, Clause 10 CA and Clause 10CC of the Agreement.

CE(Rohini) presented the agenda before WAB to make applicable the Amendments issued by CPWD in Clause 5, Clause 10 CA and Clause 10CC of the above work Agreement as

per circular issued by CPWD vide OM No. DG/CON/267 dated 14.05.2013 and OM No. DG/MAN/285 dated 21.08.2013 respectively.

The above agenda was earlier discussed in 6th WAB (2022) meeting held on dated 19.12.2022 and subsequently in 2nd WAB (2023) meeting held on 21.03.2023 where in following decisions had been taken.

In 6th WAB (2022), WAB member agreed to defer the agenda with the direction that legal opinion must be obtained for this proposal. The comments of CLA is summarized as under:

QUOTE

I agree with opinion of department that since DDA has issued circular no EM1(10)2011/DDA/ manual/5066 dated 19/11/2011 according to which CPWD manual is to be adopted Mutatis Mutandis; in all works of DDA. Further stated that any discrepancy made at the time of signing the agreement by not taking into consideration the provision under sub-clause (ii) of clause 9 including the amended clause no.5, 10CA and 10CC as issued by CPWD vide circular no DG/CON/267 dated 14.05.2013 and DG/CON/272 dated 21.08.2013 may be rectified / incorporated at any stage. However, since the accepting Authority is WAB.

UNQUOTE

After receiving the above opinion of CLA, the CE(RZ) presented the case in 2nd WAB (2023) meeting held on dated 21.03.2023 and during the course of discussion, the CLA desired to study the agreement further in detail, WAB also directed CE(RZ) to submit the financial implications due to the shifting of proposed date of start as per clause 2 and clause 5 and the WAB members agreed to defer the agenda accordingly with the request to present again with the above detailed.

Now CE(RZ) presented the agenda in 3rd WAB (2023) with the opinion of CLA DDA which are as under: -

QUOTE

The Ld. CLA stated that the undersigned lacks the expertise to comment on the same. The submission of the department that many of these amendments have been consciously and deliberately not adopted in the agreement and only the condition / clauses which had the impact on the agreement between DDA and M/s Brij Gopal Construction Co. Pvt. Ltd. either financially or administratively had been considered to be incorporated. If the said submission of department is correct, then the Circular EM(10)/2011/Manual /5066 dated 29.11.2011 will apply to the agreement between DDA and M/s Brij Gopal Construction Company Pvt. Ltd. and the whole opinion of undersigned as opined in Note # 25 (i.e. same opinion earlier given in the 2nd WAB (2023) Meeting) agreement of DDA with Brij Gopal Construction Company Pvt. Ltd. will hold good and the opinion of undersigned in Note # 31 based on the wrong understanding/interpretation of non-adoption of provisions of General Conditions of Contract of CPWD in the agreement of DDA with M/s Brij Gopal Construction Pvt. Ltd. be ignored.

UNQUOTE

Clause 5 of the contract read with letter of acceptance and letter of commencement envisages that date of start of work is to be reckoned from 10th day after the date of issue of the letter to commence the work. In the instant matter letter to commence was issued on 25.08.2014. Therefore 10th day thereafter is 04.09.2014. Clause 5 also states that the execution of the works shall commence from such time period as mentioned in letter of acceptance or from the date of handing over of the site whichever is later.

In the instant matter site was handed over to the contractor as here under: -

(i) On 04.09.2014 vide agency letter dated 04.09.2014 as also entry no.1 dated 04.09.2014 of site order book. The site was partially encroached as per hindrance no.1 recorded in hindrance register. The hindrance was removed on 30.07.2016.

(ii) On 13.03.2015 encumbrance free site was handed over vide EE letter dated 27.03.2015. This encumbrance site was proposed on 18.12.2014. The agency revised the drawings developed on the basis of S.No. (i) above as per the site finalized on 18.12.2014 and submitted it for approval on 30.12.2014. The encumbrance site attained finality on 29.04.2015 when the minutes of 329th Screening Committee was finalized.

Therefore, the stipulated date of start it to be reckoned w.e.f. 29.04.2015. This date being in observance of contract needs no further change in so far as stipulated date of start is concerned. Accordingly, the cardinal dates for the work shall be as here under: -

(a) stipulated date of start: 29.04.2015

(b) stipulated date of completion: 03.05.2018.

It is also an intent to modify the stipulate date of start to 23/08/2017 being the final date to incorporate the decision of the DDA in respect to halted work to incorporate changes an account of UBBL 2016 and provision of BIS Code: 139020 IS: 1893 vide 344th Screening Committee Meeting held on 23/11/2016 and 5th WAB 2017 held on 22/08/2017 respectively. Decision on this intent shall however be the sole responsibility of the authority which this agenda proposes to place on Superintending Engineer in compliance to CPWD OM dated 14.05.2013.

As per WAB agenda, the proposal is to :

(a) Making applicable modified Clause 5 as notified by CPWD vide on dated 14.05.2013.

(b) Making applicable the modified Clause 10CA and Clause 10CC as notified by CPWD vide on 21.08.2013.

During discussion, VC/DDA inquired about the financial impact on the project due to this proposal. CE(RZ) also informed as here under:

The aforesaid changes have not been incorporated in any of the contracts in the past. However, incorporation of solicited changes would be involved in all such contracts which have been drawn past 14.05.2013 & 21.08.2013 respectively but without the provisions contained in these memorandum.

OM dated 14.05.2013 has no financial implication as it merely defines the authority to approve the existing provisions.

OM dated 21.08.2013 has financial implication but it is impliedly implemented as DDA follows CPWD Works Manual vide VC/ DDA approved Circular No. EM(10)2011/DDA/Manual/5066 dated 29.11.2011. On the contrary there is no decision of any Authority not to follow the impugned OMs. The OMs of DDA get implemented in DDA Mutatis-mutandis without further notification by DDA.

It was recommended to incorporate these OMs in the contract as they are already a part of DDA's working condition vis-à-vis VC/DDA circular dated 29.11.2011. It is brought before WAB being tender accepting authority. Signing of the contract by both parties is merely procedural and does not limit the right of both the parties of contract to modify/correct it by incorporating relevant documents which might have been missed inadvertently. The fact that initial operation of the contract had been as if the said OMs were part of the contract, is testimony to the intent of the then NIT approving authority (Chief Engineer) to give credence to the proposed OMs.

The proposed action is to give a legitimate cover to the intent, which is already implemented for which Rs.56 Crore approx has already been paid to the agency so far. This shall also put the objections of accounts, finance & audit to rest.

WAB considered the above submission and accorded expost facto approval to the proposal-

(A) (a) making applicable modified Clause 5 as notified by CPWD vide on dated 14.05.2013.

(b) Making applicable the modified Clause 10CA and Clause 10CC as notified by CPWD vide on 21.08.2013.

Sd/-
CAO/DDA

Sd/-
(Sanjay Kumar Khare)
CE(HQ& QAC)

Sd/-
(D.C. Goel)
EM/DDA

Sd/-
(Vijay Singh)
FM/DDA

Sd/-
(Subhasish Panda)
VC/DDA