

Guidance Note on Variation Orders, Contract Addendums and Expiration



June 2020



Guidance Note on Variation Orders, Contract Addendums and Expiration (1/3)

Contract Amendment (Includes Contract amendments, modifications or extensions)

The Beneficiary shall request IsDB No-Objection in relation to any proposed extension, modification or change order to a contract.

The Beneficiary provides the reasons for the request. A proposed extension, modification or change order may relate to, for example:

- A. material extension of the stipulated time for performance of a contract.
- B. agreeing to any modification or waiver of the conditions of contract; or
- C. issuing a change order (except in cases of extreme urgency) which would, in aggregate, increase the original amount of the contract by more than fifteen (15) per cent of the original price.



The Need for Change

Used to make changes or 'variations' from the original scope of work : In the form of an addition, substitution or complete omission. A variation is an alteration to the scope of works laid out in a construction of work contract.

Such variations are often caused by: Design changes initiated by the continual development, Technological advancement, Statutory changes, Change in conditions, Non-availability of supplies and materials to some extent, the need to change or vary a contract depends on the nature and complexity of the Goods, Works, Non-consulting or Consulting Services being procured.

A one-off straightforward purchase of Goods, for example, is unlikely to require changes to the contract (unless there has been an error) compared to a complex infrastructure contract which may require a number of changes as works progress.

Despite best efforts of contracting parties, changes in a contract may be necessary for a range of reasons such as errors, unforeseen conditions, emerging risks and changes in the Beneficiary's needs.

Variation order process

Variations are initiated by the Engineer at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal.

The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Engineer stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, or (ii) such Variation triggers a substantial change in the sequence or progress of the Works.

Upon receiving this notice, the Engineer shall cancel, confirm or vary the instruction.

The actual variations which stem from these factors include:

1. Variation from the original design
2. Variations of quantities of materials and work
3. Variations from the original scope of work
4. Variations to proposed and actual working conditions
5. Variations to quality



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Provisions on the IsDB Guidelines for Procurement of Goods, Works and related services: Change orders

During the execution of a contract, changes may occur in the quantity of work done which require amendments to the contract agreement between the Beneficiary and the Contractor. Such amendments are executed by a change or variation order, provisions for which are made in the conditions of contract and are justified in the progress reports of the project.

The Beneficiary shall seek IsDB No-Objection prior to any proposed amendment.

Price increases resulting from change orders should not exceed twenty (20) per cent of the original contract price. If price increases exceed twenty (20) per cent, the Beneficiary shall provide IsDB with an explanation and justification for the increase and seek IsDB No-Objection.



Change Management Procedures

The key to managing change is to establish robust change management procedures and to ensure that these procedures are followed. Some tips on good practice for change management include:

1. As early as possible during the contract execution phase, establish a formal and documented change management process consistent with the scope of the contract and contractual change management procedures;
2. Have appropriate forms and clear procedures for requesting a change proposal (or change order), estimating the change (e.g. scope, costs, implications and risks), and approving the change proposal;
3. Clarify who is responsible for what during change management, and ensure that individuals have clear delegated authority to act, or to escalate change requests where there are issues;
4. Familiarize those involved in contract change management (e.g. contract managers, consultants, contractors) with the procedures, documents, decision making process and record keeping requirements;
5. Identify areas susceptible to change, evaluate risk, and proactively manage those areas;
6. Ensure timely communication of change information to the relevant people;
7. Make sure all relevant factors are considered when assessing change proposal (e.g. in terms of technical, quality, impact and risks (including on Environmental, Social, Health and Safety (ESHS), if applicable), time and cost);
8. Monitor the change management process to ensure that proper procedures are being followed;
9. Ensure that changes are captured as Addenda to the contract, and approved at the appropriate level specified in the contract;
10. Unless contractually justified and/or due to emergency situation, do not order or execute changes to a contract without the appropriate change documentation;
11. Comply with the Bank's requirements for prior review to changes to a contract;
12. Adhere to the Bank's requirements where the changes relate to a contract with a firm that has been sanctioned by the Bank;
13. Keep records of all change orders, including the reasons;
14. At contract close-out, evaluate the changes and their impacts on the contract cost, schedule and performance for future use as lessons learned.

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Expiration of Contracts

Definition: The term “Expiration of Contract” occurs in only ONE of the SPDs, namely: the Standard Request for Proposals (Selection of Consultants), unless terminated earlier pursuant to Clause **General Conditions of Contract (GCC)-19** of the Contract shall expire at the end of such time period after the Effective Date as specified in the **Special Conditions of Contract (SCC)**.

The Special Conditions of Contract (SCC) allow for the time period for the expiration of the contract to be stipulated by the Executing Agency. The period is calculated from the Effective Date of the Contract (which is the date that the contract has come into force). It is clear that the intention of this clause is that the contract would be automatically terminated once this period has lapsed.

Upon termination or expiration of the contract, **all rights and obligations of the Parties will cease**, except as mentioned in Sub-Clause 19.1.4. A new agreement will be required between the Parties if they require to complete any work not done under the expired contract.

Difference between “Expiration of Contract” and “Completion Date of the Contract”

The terms “Time for Completion” and “Completion Date” have the same meaning as they indicate the deadline by which the Contractor has to complete and handover the Works. Delay beyond this date will subject the Contractor to liability for liquidated damages for delay. The Contractor will have the right to claim extension of time if he considers that delay was for reasons beyond his control.

The Expiration of Contract involves automatic termination of the contract and cessation of all obligations and liabilities. The Completion date of the contract is simply the date by which the Works have to be completed and does not involve termination of the contract or cessation of obligations or liabilities.

Completion Date of the Contract in the IsDB Operations Management System (OMS)

IsDB’s OMS normally has full information on each contract awarded for a particular project. The data that is input into the OMS will include the Original Contract Amount and the planned Completion Date. If completion is delayed beyond this date, disbursements can still be processed in OMS if the Performance Guarantee (and- if necessary- Advance Payment and Retention Money Guarantees) are still valid.





For any additional information, Please see

www.isdb.org/procurement

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