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Environment, Transport and Works Bureau
Technical Circular (Works) No. 5/2004

Final Payment Certificates
Under General Conditions of Contract for Building Works
1999 Edition

Scope

This circular makes provisions in all construction contracts using the General Conditions of Contract for Building Works 1999 Edition to allow the Surveyor to issue a final payment certificate after the Surveyor has verified all the Contractor's representations on the priced Bills of Variations prepared by the Surveyor.

Effective Date

2. The Special Condition of Contract contained in **Appendix A** shall be included in all tenders for construction contracts using the General Conditions of Contract for Building Works 1999 Edition invited on or after 1st April 2004.

Effect on Existing Circular

3. This circular is to be read in conjunction with WBTC No. 36/93.

Background

Under Clause 59(7) of the General Conditions of Contract for Building Works 1999 Edition, the Surveyor shall serve the Contractor the priced Bill of Variations on or before the expiry of the Period of Final Measurement. The Contractor shall then submit his written representations in respect of the priced Bill of Variations and the Surveyor shall issue a certificate stating the Final Contract Sum which in his opinion is finally due under the Contract. This is not in line with the practice of civil engineering works.

Implementation

With the introduction of the Special Condition of Contract at Appendix A, the Surveyor is empowered to issue a final payment certificate under Clause 79 after verification by the Surveyor of written representations submitted by the Contractor in respect of the priced Bill of Variations irrespective of whether the Contractor agrees with the Surveyor's assessment. The introduction of the Special Condition of Contract at Appendix A would bring the practice of the building works in line with the practice of the civil engineering works.

(C S Wai)

**Deputy Secretary for the Environment,
Transport and Works (Works) 2**

SCC## - Final payment certificate

- (1) General Conditions of Contract Clause 59(8) is deleted and replaced by the following:

“Within 90 days from the date of service of the priced Bills of Variations, the Contractor shall submit to the Surveyor any written representations he may wish to make in respect of the priced Bills of Variations and all information reasonably required for verification by the Surveyor of any such representations. Within 90 days after receipt of such representations and of all information required for verification, the Surveyor shall issue a final payment certificate in accordance with Clause 79.”

- (2) General Conditions of Contract Clause 79(5) is amended as Clause 79(6) and the following is added as Clause 79(5):

“Within the time period as described in Clause 59(8), the Surveyor shall issue a final payment certificate stating the sum which in his opinion is due under the Contract up to the date of such certificate, and after giving credit to the Employer for all sums previously paid by the Employer and for all sums to which the Employer is entitled under the Contract the Surveyor shall state the balance (if any) due from the Employer to the Contractor or from the Contractor to the Employer as the case may be. Such balance shall be paid to or by the Contractor as the case may require within 28 days of the date of the certificate.”