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A Review of Types of Construction Contract

Abhinav Krishna Singh

Environmental Engineering, Bundelkhand Institute of Engineering and Technology, Uttar Pradesh, India

ABSTRACT

A large number of conflicts arise due to difference of opinion, since in the final analysis, each party has to protect its interest and financial gain. Development of dispute leads to the creation of claims and then to seeking of settlements either by direct discussion or arbitration or court action. Due to this construction project get delayed. A details study is conduct on different type of construction contract so that a formula is developed to avoid these affect in advance.
Keywords: Contract, Lump-sum Contract, Cost Plus Fixed Fee Contract

I. INTRODUCTION

A contract is a agreement, which will be valid in law or enforceable by law, between or among two or more parties, for provision of supplies and/or services against a consideration of monetary value either in cash or in kind. An offer to provide some service without any consideration for its exchange, will not constitute a contract, Contracts are essentially communications which are legally binding. As with any form of communication, the principle should be clarity of expression so that the message is properly/accurately conveyed from one party to the other. The legal documents, drawings, specification and so on which form "the contract" are therefore vehicles for transmitting and receiving messages.

II. TYPES OF CONTRACT

Various methods on alternatives that are used in the construction industry either in part or in whole consists of different approaches to contracting for services or production or different set- ups created. This is due to different relationships existing between the owner, ultimate user, or occupant and contractor. Depending upon the size and complex nature of the job, these methods may be modified to suit the requirements. Each type has its advantages and disadvantages with respect to the owner and the contractor.

Lump-sum Contract

In a "lump sum" or "fixed price" contract, a single lump sum price for all work is agreed to by the owner and buyer before construction begins. Lump sum contracts can include incentives for early completion of a project and liquidated damages or penalties for late completion. With these sorts of contracts, it's important for the builder to accurately estimate the project costs and overhead before entering into the agreement.

There are both benefits and risks with lump sum contracts. If the builder can keep costs low, they can keep the difference, resulting in a higher profit margin. This also comes with risks; if the builder underestimates costs, the profit margin shrinks or even disappears.

Lump sum contracts are ideal when a clear scope and defined schedule for construction are agreed to at the design phase, because there will be limited flexibility in modifying a design once construction begins. There are some drawbacks for owners, such as less transparency regarding a breakdown of costs and the builder's profit margin.

Cost Plus Fixed Fee Contract

"Cost plus a fee" construction contracts are usually known simply as "cost-plus" contracts. Under this type of contract, owners agree to pay the costs, purchases,

and other expenses incurred by the builder, plus a builder's fee to allow for profit.

For this sort of construction contract to be effective, there must be clear definition of what qualifies as a "cost," for example, fees for the outside rental of a crane or hoist. The contract should also set forth the specific structure of the fee, whether it is a percentage of the cost of the work or a fixed fee independent of cost.

One benefit is that a cost-plus contract offers more transparency than a lump sum contract. However, cost-plus contracts will involve more accounting and reporting than a lump sum contract, and will often require an audit to confirm that the amount of the fee is accurate.

Cost plus Bid fee Contract

In this method also, the costs of construction are to be reimbursed as incurred within predetermined yardsticks. In this method, however, in lieu of negotiating the fee of profit with one contractor, an owner will issue a request for proposals to a selected number of contractors, all of whom he believes are in an equal or at least similar position to build the required facility; or possibly he may include the fee to be charged among several factors including capability, past experience and performance in the evaluation of the contractors from whom the successful is selected. The bid fee then is established prior to contractor selection and is incorporated in the contract between the parties. Naturally, in order to quote a fee, it is calculated on the basis of what is established as the project scope whether from a complete set of bidding documents, as with lump sum, or from a general description of project magnitude and scope if design parameters remain to be fixed.

Guaranteed Maximum Contract

A guaranteed maximum price (GMP) contract is a cost-type contract, in which the construction contractor is compensated for actual costs incurred, plus a fixed fee subject to a ceiling price. The contractor is responsible for cost overruns, unless the GMP has been increased via formal change order as a result of additional scope from the client. Savings resulting from cost underruns are returned to the client.

Negotiated Contract (Competitive and Non-competitive)

There are many elements common to cost plus method and this traditional method of contracting, but the negotiated contract is often classified separately. The end result of the negotiated contract can be any form of contracting previously described, lump-sum or cost plus. It is however, dependent upon the plan development status or specific owner or project requirements.

Unit-price Contract

A “unit price” contract is based on estimated quantities of items included in the project. The total construction price will depend on the quantity of units needed to complete the project. A good example of a unit price contract is an agreement for building a road. The owner will pay a set unit price for each mile of the road built. In unit price contracts, it’s important that the parties have an accurate count of the number of units of work necessary before agreeing to a unit price.

Due to their nature, unit price contracts are most commonly used with public infrastructure projects, like roads and runways. They are seen less frequently with private building projects, unless used for a select category of costs like door handles, faucets, or other fixtures.

Design Build

As the term implies, this approach establishes a single administrative, management and professional responsibility for the two separate functions of design and construction. The owner enters into one agreement for both. The method of contracting can be any of the traditional methods or modifications previously described. An example of design build contract is the purchase of new residence.

Turn-Key contracts

As with the design-build method, turnkey construction utilises a single contract for all functions. There is one administrative, management and professional responsibility for design and construction. There is a single party under contract to an owner to fulfil these functions in addition to other functions that may be

necessary to implement a project. These may include site selection, land acquisition and financing all tasks that may be necessary to make a turnkey complete.

III. CONCLUSION

The objectives of both the owner and contractor are conflicting and complementary. However the dispute can be avoid by following ethical practices and by performing business in an un-emotional and above board manner. Interpretation of contract clauses, difference of opinion regarding their application, effects of unforeseen subsoil and climatic conditions, riots and strikes etc. can be create contractual problems. These need to be solved equitably and expeditiously.

IV. REFERENCES

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