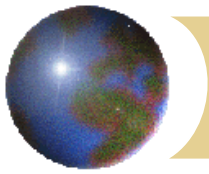


FIDIC,1987 Vs MOWUD,1994

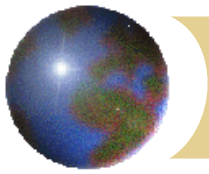
- ✚ Engineer & Engineer's representative (2)
 - ✚ 2.4 - Appointment of assistant to assist the Engineer or Engineer's representative (F)
 - ✚ 2.5 – Instructions to be in writing (F)
 - MOWUD does not treat this in a separate subclause
 - ✚ 2.6 – Engineer to act impartially (F)
 - Shall exercise his discretions impartially within the terms of the contract



FIDIC, 1987 Vs MOWUD, 1994

✚ Assignment & subcontracting

- 5.2 - Priority of document listed clearly (F)
- 6.5 - failure by contractor to submit drawings (F)
 - If the failure of the engineer to issue drawings is caused by failure of the contractor to submit drawings, the engineer shall take into account when making decisions pursuant to 6.4
- 7.2 – Permanent works designed by contractor (F)
 - The contractor shall submit the design and
 - operation & maintenance manual for approval



FIDIC, 1987 Vs MOWUD, 1994

❏ 7.2 permanent works designed....(cont.)

- Approval shall not relieve contractor of his responsibility

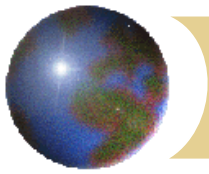
❏ General obligations

❏ 10 - Performance Security

- Valid up to end of defects liability period (F)
- Reduced to 5% at the completion of the works(M)

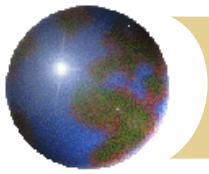
❏ 12- Not foreseeable physical obstructions

- Time extension + Additional Cost (F)
- Additional cost (M)



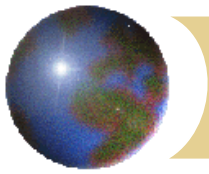
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- ❑ 19 - Safety, security & environment
 - Only watching & lighting (M)
- ❑ 21.1- Insurance of the works
 - An additional sum of 15% of the the replacement cost to insured (F)
- ❑ 21.2 – Scope coverage
 - Not required to insure contractors equipment in the joint names of contractor & employer(F)



FIDIC,1987 Vs MOWUD,1994

- ❏ 21.3-Responsibility for amount not covered
 - Amount not insured or not recovered from insurance shall be born by the employer or contractor in accordance with their responsibility under clause 20 (F)
- ❏ 21.4 – Exclusions
 - No obligations for insurance to include losses or damages due to employer's risks (F)
- ❏ 25.2- Adequacy of insurances
 - The contractor shall notify the insurers change in nature, extent or program of the works & ensure the adequacy of the insurance(F)



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❏ 25.4 Compliance with policy conditions

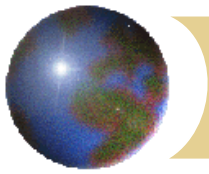
- In case either party fails to comply with conditions imposed by insurance policies each shall indemnify the other against all losses or claims arising from such failure (F)

❏ 26 Compliance with statutes

- Contractor responsible for the cost (F)
- Employer shall reimburse the cost (M)

❏ 27 Fossils

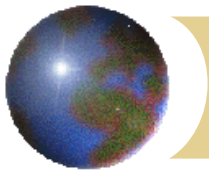
- If contractor suffers delays is entitled to time extension (F)



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■ 30.3 Transport of material or plant (settlement of extra traffic claim)

- The employer shall indemnify the contractor against claims or damages to bridges or roads due to transport of materials & plants of the works (F)
- The employer is not liable where under any law the haulier is required to indemnify the roads authority (F)
- The employer shall negotiate the settlement of and pay all sums due for such damages (M)



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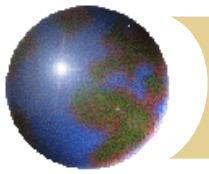
■ 30.3 Transport of material or plant (con.)

- If such claims are due any failure on the part of the contractor to observe his obligations under sub-clause (1) & (2) the contractor shall pay (M

⊕ Materials, Plant & Workmanship

■ 36.5 Engineer's Determination where Tests not Provided for

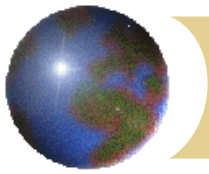
- Contractor entitled to time extension (F)



FIDIC, 1987 Vs MOWUD, 1994

■ 37.3 Date for inspection & testing

- Contractor shall agree with the engineer on the time & place for inspection (F)
- The engineer shall give the contractor not less than 24 hours (F)
- If the engineer or his representative does not attend on the date agreed, the contractor may proceed unless otherwise instructed by the engineer (F)
- If the Engineer has not attended the tests, he shall accept the said readings as accurate (F)



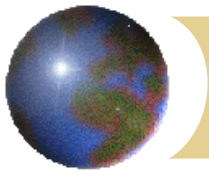
FIDIC, 1987 Vs MOWUD, 1994

❏ 37.4 Rejection (F)

- The engineer entitled to reject materials or plant that are defective or not in accordance with the contract

❏ 37.5 Independent Inspection (F)

- The engineer may delegate inspection & testing to independent inspector
- Such inspector shall be considered as an assistant of the engineer

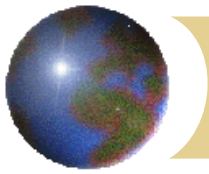


FIDIC,1987 Vs MOWUD,1994

✚ Commencement & delays

▣ 44 Extension of time for completion

- Notice to the engineer within 28 days after the event has first arisen(F)
- Detailed particulars to be submitted within 28 days or such reasonable time as may be agreed by the engineer (F)
- Detailed particulars to be submitted to the engineer within 28 days after such circumstances have arisen or as soon as is practicable (M)



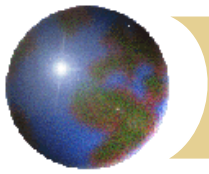
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❏ 44.3 Interim determination of extension

- When an event has continuing effect
- Not practicable to submit detailed particulars with 28 days
- The contractor shall be entitled to interim time extension provided he can submit interim particulars (F)

❏ 46 Rate of progress

- As a result of notice under this clause if the contractor works on holidays or at night the additional cost of supervision shall be recovered from the contractor (F)



FIDIC,1987 Vs MOWUD,1994

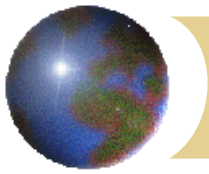
✚ Alterations, additions & omissions

▣ 52.1 Variations

- The engineer has the authority to instruct the contractor to change any specified sequence or timing of construction of any part of the work(F

▣ 52.2 Power of engineer to fix rates

- The engineer shall give his comments on the varied rates & forward the document for approval to the MOWUD (M)



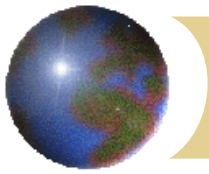
FIDIC, 1987 Vs MOWUD, 1994

❏ 52.3 Variations exceeding 15%

- 15% under FIDIC, 1987
- 10 % under MOWUD, 1994

❏ 53 Procedures of claims

- Procedures of claim are detailed under separate clause (F)
- Treated under variations & Has no detailed procedures

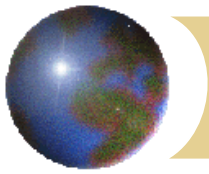


FIDIC, 1987 Vs MOWUD, 1994

✚ Measurement

▣ Method of measurement

- The contractor shall submit to the engineer a breakdown of each lump sum item in the tender, within 28 days of the letter of acceptance (F)

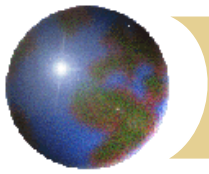


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✚ Nominated subcontractors

▣ 59.2 Nominated subcontractor; objection

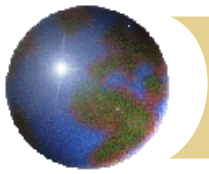
- Additional paragraphs are included in the MOWUD,1994 conditions of contract (refer (c) to (i) under this subclause
- No time extension without the approval of the engineer
- Contractor entitled to the cost of any loss or damage incurred due to failure the NSC. Within period specified in the contract



FIDIC, 1987 Vs MOWUD, 1994

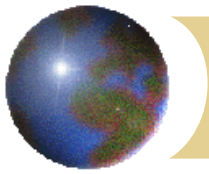
■ 59.2 Nominated subcontractor (cont.)

- Payment to NSC will be made within 7 days of receipt by the contractor
- Contractor shall retain from the sum the same % as specified in the main contract
- Engineer has the right to access to place of the nominated subcontractor
- Subcontractor shall indemnify the contractor against any claim due to latent defects
- Employment of NSC shall be determined immediately upon determination of contractor's employment



FIDIC,1987 Vs MOWUD,1994

- 59.5 certification of payment to NSC
 - The engineer is entitled to demand from the contractor reasonable proof that the subcontractor has been paid(F)
 - The employer is entitled to pay directly to the NSC if the contractor fails to pay(F)
- 59(7) employer not liable to NSC(M)

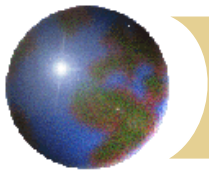


FIDIC,1987 Vs MOWUD,1994

✚ Certificate & payment

▣ 60.2 Monthly payment

- Engineer not entitled to certify if the net amount is less than min. amount of interim certificate specified in the Appendix (F)
- No amount will be certified by the engineer until the performance security has provided by the contractor & approved by the employer



FIDIC,1987 Vs MOWUD,1994

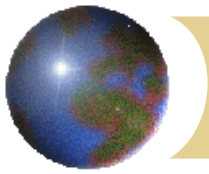
✚ Remedies

✚ 63.1 Default of the employer

- Employer is entitled to terminate if the the contractor has failed to proceed with the works within 28 days after receiving notice pursuant to sub-clause 46.1(F)

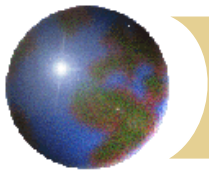
✚ 65.8 payment if contract is terminated

- The cost of materials,plant or goods reasonably ordered for the works which have been delivered to the contractor or contractor is legally liable to accept delivery(F)



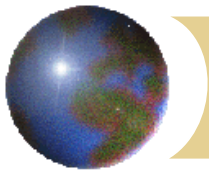
FIDIC, 1987 Vs MOWUD, 1994

- 65.8 Payment if contract is terminated (con
 - Such proportion of Cost of removal of contractor's equipment as may be reasonable(F)
 - If reasonable cost of repatriation of all contractor's staff & personnel(F)
- 65.9 Wage Books, time sheets etc.
 - Contractor shall keep records for the purpose of sub-clause 65.8, wage books, time sheet & books of account as necessary (M)



FIDIC, 1987 Vs MOWUD, 1994

- ✚ Settlement of Disputes (67)
 - ▣ First referred to the engineer (F & M)
 - ▣ Amicable settlement (F)
 - ▣ Arbitration (F)
 - ▣ Instead of arbitration the dispute shall be settled by the MOWUD(M)



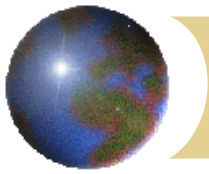
FIDIC,1987 Vs MOWUD,1994

❑ 67.3 Arbitration (F)

- The decision of the engineer is not final & binding
- Amicable settlement has not been reached
- The dispute shall be finally settled by arbitration
- Under the rules of ICC

❑ 67.4 Failure to comply with engineer's decision

- Either party may if the other party fails to comply with the engineer's decision, which has become final, refer the failure to arbitration (F)

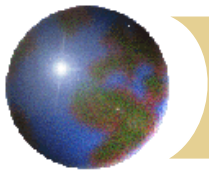


FIDIC,1987 Vs MOWUD,1994

✚ Notices (68)

- ✚ FIDIC : By post, cable,telex,facsimile or left at the respective address
- ✚ MoWUD: by post or delivering to the respective address

✚ Default of the employer (69)



FIDIC,1987 Vs MOWUD,1994

✚ Default of the employer (69)

✚ 69.1 Default of the employer

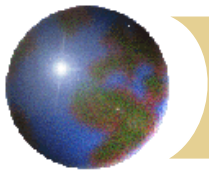
- Contractor entitled terminate his employment by giving 14 days notice (F)
- Requires 30 days (M)

✚ 69.4 Contractor's entitlement to suspend

- Contractor entitled to suspend or reduce the rate of work if the employer fails to pay (F)

✚ 69.5 Resumption of work

- If the employer pays the contractor shall resume working



FIDIC,1987 Vs MOWUD,1994

✚ General

- ✚ The engineer determines any time extension or additional cost to the contract in consultation with the employer & the contractor
- ✚ This is stipulated in several clauses related to extension of time and additional cost