

KING FAHD UNIVERSITY OF PETROLEUM &
MINERALS

Thesis title:

Evaluation of Contract Administration for
Public Projects in Saudi Arabia

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Abstract:

The aims of the study were to evaluate the Saudi Government procurement laws and regulations (GPLR) articles that constitute construction contracts, and to adopt measures that assist in effectively managing construction contracts of public projects.

INTRODUCTION

Public tenders in the kingdom are subjected to the government procurement laws and regulations (GPLR) that is securing, regulating and controlling all purchases and procurement of Government services, supplies and implementing its projects and works. It contains articles that govern the procurement process and forms the framework of construction contract conditions and administration. These articles had been published in 1977 during the construction boom period, when developing the basic infrastructure was needed urgently and the cost of construction had not been given top priority. Thenceforth, revision was made rarely and when a problem arose, the ministry of finance and national economy circular (in letter form) clarified the vagueness, in accordance to the corresponding rule article, and sent a copy of the clarification to all concerned government agencies. The preliminary investigations revealed the following:

1. There seems to be no major revision in the GPLR made since its issuance in 1977.
2. There is no systematical procedure for updating the GPLR.
3. There is no enforcement of the GPLR articles during contract administration.
4. GPLR articles have not been subjected to substantial evaluation.

OBJECTIVES OF THE STUDY

The objectives of this research are to:

- a) Study and evaluate the Saudi government procurement laws and regulations GPLR articles that constitute construction contracts.
- b) Introduce and adopt measures that assist in effectively managing construction contracts of public projects.

SCOPE AND LIMITATIONS

This study is limited to some of the GPLR articles that are related to construction contracts. The treatment is limited to the Owner's point of view. It

is also restricted to fixed-price (lump sum) and unit price contracts. It deals with the administrative phases and aspects of the contract.

LITERATURE REVIEW

Public Spending on Construction

During the last two decades, the construction industry has been a major force in the development of the economy in Saudi Arabia. The development plans were aimed on developing the basic infrastructure with gradual shift towards the use of local contractors; encouraging and strengthen the saudization of the construction industry by some specific measures to back the "Saudi contractor" by the government. Some of these measures are

- The thirty percent rule (30%) that requires the foreign contractor to assign not less than 30% of the works to a Saudi contractor.
- Supplies and services are to be procured form Saudi Arabia
- Open tendering
- Division of large contracts into smaller parcels

- Revision and extension of the contractor classification program
- Improving the quality of construction and maintenance
- Increasing the productivity and capabilities of contractors.
- And, reducing the cost of construction and related maintenance.

GPLR includes 14 articles establishing the basic rules for Government tendering that was in 1977. Explaining in detail the basic rules and setting procedures for Government purchasing as well as all subsequent directives and explanatory circulars issued or to be issues by the concerned authorities. All such regulations, rules for implementing, directives and circulars are considered as an integral part of the contract and have precedence over the tender and project documents.

Open competitive tendering is a widely used method of contractor selection and contract formation for public construction projects throughout Saudi Arabia. Limited

(Selective tendering) invitation are used only when urgent cases and limited time projects occurred.

A fixed-price (lump sum) contract is the most basic and widely used type of formally advertised public contract in Saudi Arabia. With a bill of quantity at unit prices inserted for the various items. Prices are required solely for facilitating the comparisons of the various tenders received and the payment to be made according to the actual quantities carried out to the contractor whose tender is accepted and is not the actual sum, which is to be paid to the contractor for execution of the work.

SURVEY METHODOLOGY

This section is devoted to the research design in such the questionnaire content is presented along with the pilot study. The population is then defined, followed by data collection.

Research Design

A questionnaire was developed to measure the opinion of the respondents toward proposed practice statements that spell out some of the GPLR articles

and measures that assist in effectively managing a construction contract. The questionnaire was distributed to the concerned government agencies, which form the population of the study, in order to collect the required data for analysis.

The questionnaire was designed to cover the current and proposed practice of the following in a multiple-choice question, including a choice where specific information can be written in a given space:

a) Tendering phase:

- i. Bid bond
- ii. Bidders' qualification
- iii. Pre-bid conference
- iv. Contract award

b) Construction phase:

- i. Pre-construction conference
- ii. Performance bond
- iii. Labor and material bond
- iv. Advance payment
- v. Differing site conditions
- vi. Change orders

vii. Payments

viii. Penalty of delay

ix. Insurance

c) Contract administration

Statements were developed to measure the respondents' opinions toward the current and proposed practices activities. These opinions are registered on a 4-point likert scale ranging from "Strongly Agree" to "strongly disagree"

Population

The population of this study is defined to be all Government Departments that have the authority to tender and/or supervise the execution of public construction contracts. The total population is up to 100 authorities. Out of this 100 only 80 responses were analyzed in this report.

Research Results and Findings

Summary

Public tenders in the Kingdom are subjected to the Government Procurement Laws and Regulations (GPLR), that contains articles that govern the procurement process and form the framework of construction contract conditions and administration. these articles had been published in 1997 during the boom period when developing the basic infrastructure was needed urgently and the cost of construction had not been given top priority. Thenceforth, revising was made rarely and when problem arose, the ministry of Finance and National Economy circular in letter form, clarified the vagueness, in accordance to the corresponding rule article, and sent a copy of the clarification to all concerned Government agencies.

In the present development plan (1990-95), one of the major issues to be addressed, as mentioned by the Ministry of Planning (1990), is establishing standards for the construction Industry. One main policy that will contribute towards the achievement

of the development objectives for the Saudi construction Industry are streamlining administrative procedures and developing laws and regulations concerning construction works and activities.

Thus, there were needs to study and evaluate these articles that constitute construction contracts and to introduce and adopt measures that assist in effectively managing construction contract or public projects.

The results of this study are generated from eighty (80) responses to the questionnaire mailed to one hundred (100) government Departments and Organizations that represent the population of the study for and overall response of (80%)

Findings

The survey analysis indicates and reveals the following findings:

A. Bidding Phase

- a. A strong support to use the current practice of one percent (1%) of bid price as a bid bond.

- b. Pre-bid qualification and Double Envelope system received high support respectively
- c. A high support to mandate holding a pre bid conference
- d. Using a project estimate as a base for contract award was highly recommended by the respondents.

B. Construction Phase

- a. A strong support toward a mandatory pre-construction conference.
- b. Five percent (5%) of contract price performance bond dominated over the others proposed practices
- c. Strong support of requiring labor and material payment bond
- d. The current practice of allowing the owner to pay the contractor (10%) of contract price as an advance payment bond received the highest support. Whereas when it is best to pay sub payment, showed very close results among three proposed practices of paying after signing the contract immediately (current practice), paying

after mobilization, and paying at any time during constructing and upon contractor request.

e. The inclusion of changed site conditions clause to the public works contract where the cost and/or time can be adjusted accordingly received enough support.

f. The current practice of retaining the last payment of the contractor but not less than (10% of the contract value received dominant support.

g. In change orders, the practice of increasing /decreasing the same amount of the works by a proportion not exceeding (20%) of the value of the contract respectively received a strong support, whereas whether or not an extension in the time for completion is warranted has almost equal support.

h. The current method of calculation the delay penalty received enough support and the collective results showed a strong desire by the respondents to increase the penalty.

- i. The current practices of project, workmen, and structure insurances have been selected over the other proposed practices.

C. Contract Administration

- a. Statements (Measures) that have received the highest ranks respectively, and fall within the "strongly Agree" range are as follows:

- i. after plan submission by Contractor
- ii. Development of Contracts Administration Manual
- iii. GPLR Manual updating and distribution
- iv. QA/QC Program submission by contractor.
- v. Saudization (10% of contractor's staff)
- vi. Initiation of Contract Administration Program
- vii. Establishment of "Coordination Department"
- viii. Establishment of "Safety Department"
- ix. Use of value engineering on large projects.

- b. Statements (Measures) that have fallen in the high "Agree" range respectively are as follows:

- i. Reimbursement of Contractor for Delay
 - ii. Development of Contract Documents
 - iii. GPLR Organization and Arrangement
 - iv. Use of local products by contractor
 - v. GPLR evaluation and revision
 - vi. Holding up amounts of payments
 - vii. The absence of a tool to implement the law
of (local products)
- c. Statements (Measures) that have fallen in the
low "Agree" range, after testing, respectively
are as follows:
- i. SPWC clearance and completion
 - ii. 30% law disobedience by foreign contractor
 - iii. GPLR clearance and completion
 - iv. procedures of processing the payments are
ay
 - v. contractors monthly payments paid on time
 - vi. SPWC administration problems

Recommendations

- GPLR articles, including circulars, should be revised, reorganized and updated periodically, and be distributed to all competent Government Authorities. The issuance of GPLR for construction is recommended
- A pre-qualification technique for contractors' procurement should be developed promptly to replace the current practice.
- A project estimate should be used as a base for budget allocations and contract awards.
- Labor and material payment bonds should be mandated promptly
- Standard public works contract should be revised, reorganized, clarified, indexed and translated to English properly.
- Contractors' acquired rights of payment should be protected and facilitate its process.

- Value engineering incentive clauses should be developed by using the other countries experience. The ministry of Defense and Aviation (MODA) is urged to take the initiative of developing such clauses.
- A systematic procedural methods should be developed and used for strict enforcement and implementation of laws (including Royal and Ministerial Directives). Penalty and punishment should be considered in case of disobedience. Government authorities and the chamber of commerce (COC) are urged to initiate and develop such methods. For instance, COC receives a copy of materials and equipment submittals for their clearance of no similar local products before the contractor proceeds procuring foreign products.
- GPLR should encourage a Saudization program in the private sector by requiring the contractors dealing with Government to employ a minimum (10%) of their administrative and technical staff by Saudis.

- Inclusion of QA/QC program and safety plan clauses to the SPWC promptly.
- "safety Department" and "Coordination Department" should be established and authorized promptly.
- Government Authorities are urged to initiate a contract administration program where consultants and contractors are invited to participate as well as competent government personnel to discuss GPLR articles and SPWC; and to share and exchange experiences and knowledge in a harmony environment. A Standard construction contract Administration manual (SCAM) should be developed and used in public projects. Competent government authorities such as the ministry of housing and public works, Ministry of Communications and Ministry of Municipal and Rural Affairs re urged to take the initiative of developing such a manual

Conclusion

- This study is limited to the Owner's point of view. Research could be conducted to study other related parties' point of view, such as: contractors, consultants, legal counsels or purchasing Department Directors.
- Evaluation of standard public works contract clauses.
- Developing a complete standard construction contract administration manual
- Developing a construction law manual that constrains all laws and regulations related to construction in the kingdom including GPLR, SPWC, Ministerial circulars, Royal Directives, and others.

Appendix I

Arabic and English Versions of the Questionnaire