NEED OF CONTRACT ADMINISTRATION IN CONSTRUCTION PROJECTS

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ABSTRACT: *The luck of all projects is closely relates to the right prepared contract. Contracting is an integral part of construction projects. Managing the contracts therefore is equally important for the success of any business process due to rapid increase in multiple contracts. Contract and partnerships are an essential part of today's high speed, multilateral business culture both in the public and private sector. Contract administration is becoming an integral part of project management, and business in general. Many commercial and project managers are more and more facing contract administrative issues. Contract administration is the active management of the relationship between the client and the contractor over the term of the contract for the provision of goods and services to the agreed standards. Contract administration should be proportionate to the value, risk and complexity of the contract. In this study information about contract administration is given. The guidance in this report provide us with the know-how to manage the contract "start up", manage the process relating to unresolved issues; administer the contract effectively; undertake performance management; and manage contract disputes.*

For the analysing the cause of delay, dispute and an appraisal on construction project's time performance was conducted. This study involves the identification of factors of delay and their effects on the success and completion of the project. The most common factor of delay and dispute are financial and payment problems, improper planning poor site management, insufficient experience, shortage of materials, shortage of labour and equipment etc. The study of contract administration is going to help us to develop a contract system by which the construction projects can be complete without dispute and delay.

Successful contract administrative organisations can increase control, increase effectiveness and reduce cost and also provide strategic and competitive advantages. Good preparation, the right contract, single business focus and service delivery management and contract administration factors essential factors for good contract management. There are several reasons why organisations fail to manage contract successfully, the chief reason for project delays is poor contract administration, therefore need of proper contract administration is essential

1. INTRODUCTION:

Construction projects in India are worth crores of rupees per year. It is the most competitive and risky business. The money involved in this sector is from public fund, so it becomes very important to see that such projects get successful to avoid any type of blockage of funds. In addition it is equally important to complete the project in time to avoid obsolescence loss of the product. In almost all construction projects, there is a contract between owner and contractor for desired product after successful completion of the construction project. Each construction contract is unique and need unique understanding and interpretation as per the contractual requirements. Each contract carries a set of obligations to be performed by the parties involved in the contract, so there is a need of contract administration.

In current time, the projects are becoming giant in size and more complex due to technological development, joint ventures and foreign collaboration, specified needs, time constraints, special infrastructural requirements and parallel involvement of various agencies in project. Today construction industry is operating under high level of competition and profitability became the prime concern for all the contracting organizations. The real strength of successful contracting parties lies in cooperation of the owner and contractor as partners of the same team with common goal laying more

stress on their mutual trust and understanding, their positions are rarely equal and contracts are left open to multiple interpretations. Hence, study of **Contract Administration** is necessary tool for completion of project.It is said that efficient & effective contract administration will reduce the cost of project by 10%. This study involves emphasizing the need of contract administrator for Smooth execution of contract.

2. CONTRACT ADMINISTRATION :

2.1.DEFINE[4] :

Contract: An agreement enforceable by law is contract

Administration: The act of managing duties, responsibilities, or rules is administration .

"Contract Administration" is a process of carrying out construction work in a planned manner on behalf of the appointee. Construction work include detailed planning, feasibility study etc. from the every stage of project. The objective of Contract Administration is developing better relationship between owner and contractor by reducing conflicts/arbitration.

2.2. CONTRACT – ESSENCE OF PROJECT SUCCESS[1]

As shown below there are three main contracts in a given project. One is between client and the consultant and the other is client and contractor. Both of these contracts are equally important for the success of a project

Contract-1: consists of responsibilities of consultant and authority to work on behalf of the client in form of agreement.

Contract -2: consists of two parts (a) Main contract documents and (b) Supplement to main contract

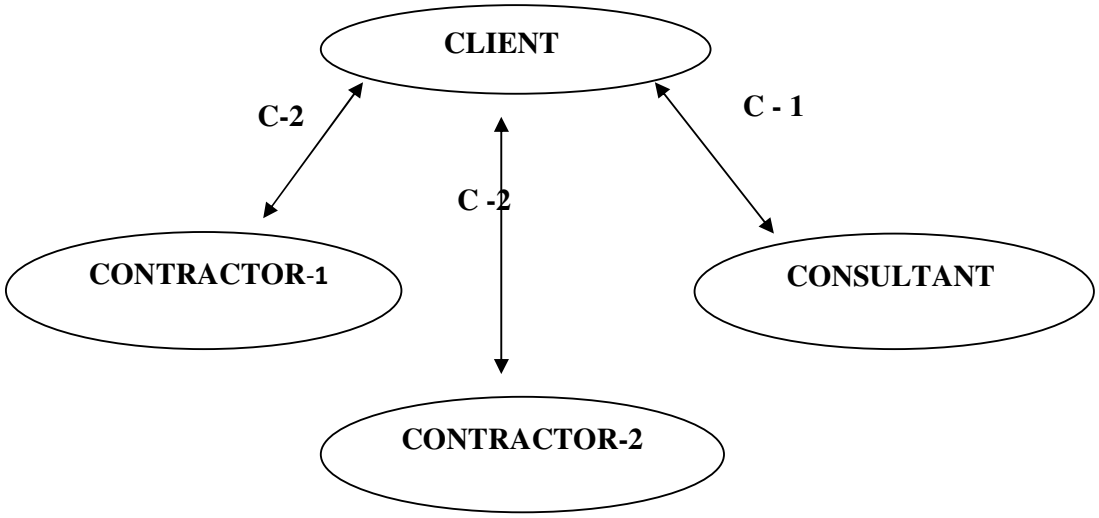

Fig No. 1 : CONTRACTUAL INTER-RELATIONSHIP

3. MAIN CONSEQUENCES OF FAILURE TO PERFORM CONTRACTS:

3.1 DELAY[3]:

TYPES OF DELAYS:

- Critical or Non-Critical
- Excusable or Non-Excusable
- Compensable or Non-Compensable
- Concurrent or Non-Concurrent

EFFECTS OF DELAY:

Seven main effects of delays are:

- Cost overrun
- Overtime
- Disputes
- Negotiations
- Lawsuits
- Litigations
- Abandonment

Some of the other effects include:

- Acceleration
- Schedule Change – Inefficiency
- Delayed project completion
- Missed intermediate completion dates
- Liquidated Damages
- Frustration – Claims
- Increased Costs

3.2 DISPUTES AND CLAIMS IN CONSTRUCTION PROJECTS[6]:

In general the construction sector involves disputes from the sources like changes which includes variation, alteration, addition, deletion, delays and suspensions, differing site conditions, unjust enrichment by owners. It was also observed that there

are five potential areas which can give rise to disputes:

- Document errors
- Estimation errors
- Change in conditions
- Implied promises
- Agencies involved

Claim is define as "It is a demand, a request or application for something to which a contractor considers, believes or contends he is entitled but in respect of which agreement has not yet been reached".

➢ Claims however fall under two major categories based on their occurrence i.e. during

- Execution of contract
- Administration of contract.

Execution of contract includes claims due to change in design and drawing, delays in handing over site/issuance of drawings/getting clearance certificate from appropriate authorities, claims due to original scope of work change, claims due to differing site conditions and claims due to variation in methodology.

Administration of contract claims may be due to delay in payment of running account bills and claims due to foreclosure/termination of contract. Similarly delays in schedules of construction projects are one of the most common types of disputes in the construction industry. The client and contractor works for a common objective i.e. to complete the project within scheduled time as well as cost.

4. TOOLS AND TECHNIQUES USED FOR CONTRACT ADMINISTRATION[9]:

- **Project Management Discipline**

All work to be performed should be appropriately led, planned, scheduled, coordinated, communicated, tracked, evaluated, reported, and corrected, as necessary, using the basic guidelines of the Project Management Institute (PMI) Project Management Body of Knowledge (PMBOK).

- **Contract Analysis and Planning**

Before contract award, each party should develop a contract administration plan and assign the responsibility of administering the contract to a contract manager. To whom should the job be assigned? A project manager could do double duty as contract manager. However, in most large companies, contract administration is a specialized function, usually performed by someone in the contracting department, because doing the job requires special knowledge and training. Contract administration is an element of both contract management and project management.

- **Kick-off Meeting or Pre-performance Conference**

Before performance begins, the government and industry should meet (via teleconference, videoconference, Web meeting, or face-to-face meeting) to discuss their joint administration of the contract. The meeting should be formal—an agenda should be distributed in advance, and minutes should be taken and distributed. Each party should appoint a person who will be its organization's official voice during contract performance. At the meeting, the parties should review the contract terms and conditions and discuss each other's roles. The parties also should establish protocols for written and oral communication and progress measurement and reporting, and discuss procedures for managing changes and resolving differences. Government and contractor managers with performance responsibilities should attend the pre-performance conference or at least send a representative. Important subcontractors should also be represented.

- **Performance Measuring and Reporting**

During contract performance, the project manager, contract manager, and responsible business managers all must observe performance, collect information, and measure actual contract progress. These activities are essential to effective control. The resources devoted to these tasks and the techniques used to perform them will depend on the nature of the contract work, the size and complexity of the contract, and the resources available.

- **Payment Process**

Every contract must establish a clear invoicing and payment process. The government and contractor must agree to whom invoices should be sent and what information is required. Contractors must submit proper invoices in a timely manner, and the government is then required to pay all invoices promptly.

- **Contract Change Management Process**

As a rule, any party that can make a contract can agree to change it. Changes are usually inevitable in contracts for complex undertakings, such as system design and integration. No one has perfect foresight—requirements and circumstances change in unexpected ways, and contract terms and conditions must often be changed as a result.

- **Dispute Resolution Process**

No one should be surprised when, from time to time, contracting parties find themselves in disagreement about the correct interpretation of contract terms and conditions. Such disagreements typically are minor and are resolved without too much difficulty. Occasionally, however, the parties find themselves entangled in a seemingly intractable controversy. Try as they might, they cannot resolve their difference. If the dispute goes unresolved for too long, one or both the parties may threaten, or even initiate, litigation. Litigation is time consuming, costly, and risky. You can never be entirely sure of its result. Rarely is the outcome a truly satisfactory resolution of a dispute, and it sours the business relationships. For these reasons, litigation should be avoided. One goal of business managers and contract managers should be to resolve disputes without litigation whenever

possible. For effective dispute resolution, one must recognize that contract documents are not perfect, Keep larger objectives in mind, Focus on the facts, depersonalize the issues, and be willing to make reasonable compromises. When disputes become intractable, seeking the opinion of an impartial third party can sometimes help. When this approach is formal, and the decision is binding on the parties, it is called arbitration. Many government agencies now include a clause in their contracts that makes arbitration the mandatory means of resolving disputes.

- **Contract Closeout Process**

Contract closeout refers to verification that all administrative matters are concluded on a contract that is otherwise physically complete. In other words, the contractor has delivered the required supplies or performed the required services, and the government has inspected and accepted the supplies or services.

5. CONCLUSION:

This work has introduced the term "Contract Administration" and its importance in construction projects. The work is merely discusses the main consequences of failure of contract and types and effects of delays. And observe the main potential area to rise disputes. The tools and techniques used for contract administration are also explained. An ideal situation for contract administration is fully satisfied customer and moderately profitable contractor.

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