



KHYBER PAKHTUNKHWA CITIES IMPROVEMENT PROJECT  
PROJECT MANAGEMENT AND CONSTRUCTION SUPERVISION CONSULTANTS  
**MINCONSULT SDN BHD**  
JOINT VENTURE  
**CREATIVE ENGINEERING CONSULTANTS**



Ref: KPCIP/PMCSC/RE-ATD/CW-02/Lot-2/131

Date: 10<sup>th</sup> January 2024

To,

**Engr. Alamgir Khan Afridi**  
Water Supply & Sanitation Specialist  
PMU-KPCIP, LGE&RDD

**Project:** ADB LOAN 4160-PAK & LOAN 8412-PAK (AIIB CO-FINANCING): KHYBER PAKHTUNKHWA CITIES IMPROVEMENT PROJECT (KPCIP); OCB-KPCIPCW-02 Procurement of Works for improvements/Construction of Water Supply System: LOT-2: Rehabilitation and upgradation of Water Supply to WTP with SCADA in Abbottabad Including New Water Treatment Plant, Abbottabad.

**Subject:** RE: Observation raised by the Finance Directorate, PMU-KPCIP

**Reference:** KPCIP/DT/WS-ATD/IPC#03/2023-24/3687-3693, Dated: 03<sup>rd</sup> Jan 2024 [A]  
KPCIP/PMCSC/RE-ATD/CW-02/Lot-2/103, Dated: 11<sup>th</sup> Dec 2023 [B]  
ZKB-TT Sh. Insaat (JV)/KPCIP/Lot-2-Abbott/.../126, Dated: 05<sup>th</sup> Dec 2023 [C]

Dear Sir,

The Engineer is in receipt of your letter [A] addressed to both "the Chief Engineer (CIU)" and "the Engineer (PMCSC)" of the Subject Project mentioned herein above wherein the Water Supply and Sanitation Expert (PMU) has raised concerns over the already Certified Payment by the Engineer vide letter [B] against the application submitted by the JV Contractor vide letter [C].

To eliminate any ambiguity and conclusively address this issue once and for all, the Engineer herein responds to the points of the PMU in seriatim:

1. The JV Contractor has **not** submitted any Claim with IPC #03, rather the JV Contractor did submit a Statement as a part of an application for a payment Certificate to the Engineer which is attached herewith as [B]. It is pertinent to mention that the word **Claim** has a distinctive/specific meaning under the instant Contract, and the Engineer assumes that there might be a typographical error in the terminology used. This point asserted by the PMU stands no grounds to withhold/suppress any Payment certified by the Engineer and endorsed by the Employer's Representative.
2. The Engineer herein would take the opportunity to address the relevant excerpts from Sub-Clause 14.5 [Plants and Materials intended for the Works] of PCC relating to the current matter of Secured Advance:

[Quote]

**"...the Contractor shall be entitled to receive from the Employer an amount for Materials as "Secured Advance" against an indemnity bond acceptable to the Employer (Form provided in Section 9) of such sum as the Engineer may consider proper in respect of the Materials (listed in the Schedules for payment and) delivered to the Site but not yet incorporated in the Permanent Works provided that:**

...

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(2) *Such Materials have been delivered to the Site and are properly stored and protected against loss or damage or deterioration to the satisfaction of the Engineer but at the risk and cost of the Contractor;*

...  
(3) *The Contractor's records of the requirements, orders, receipts and use of Materials are kept in a form approved by the Engineer, and such records shall be available for inspection by the Engineer;*

[Un-Quote]

The above makes it manifestly evident that the satisfaction of the Engineer is the only requirement necessary for the JV Contractor to be entitled to Secured Advance. This is to reassure that compliance has been made to the provisions stated under Sub-Clause 14.5 of GCC/PCC thereafter which the Engineer has Certified the amount of Secured Advance due to the JV Contractor.

3. The last contention of the letter [A], states that most of the items executed at the Site exceed the approved BOQ quantity which under mega Projects is deemed to happen, the current Contract is a re-measurable Contract, and quantities exceeding or decreasing is bound to happen under such Projects. If the PMU deems it necessary to halt the works at the Site until a Variation Order has been approved and agreed upon by the involved Parties, the PMU is urged to communicate this concern to the Employer's Representative (ER). However, it is crucial to recognize that instructing to stop the works on Site for items exceeding the BOQs may not be in the best interest of the Project. Such a decision would likely have adverse effects on the Project's progress and outcomes.

Notwithstanding the above, it is crucial to reiterate the explicit provision outlined in Sub-Clause 14.6 [Issue of Interim Payment Certificates] of the GCC. This provision grants the Engineer the authority to incorporate essential corrections or modifications into any prior Payment Certificate within a new Payment Certificate. It is important to emphasize that the issuance of a Payment Certificate does not imply the Engineer's acceptance, approval, consent, or satisfaction. The relevant excerpt from the stated Sub-Clause is referred to hereinunder:

[Quote]

*"...The Engineer may in any Payment Certificate make any correction or modification that should properly be made to any previous Payment Certificate. A Payment Certificate shall not be deemed to indicate the Engineer's acceptance, approval, consent or satisfaction."*

[Un-Quote]

Unequivocally and for the necessary understanding of all concerned, an IPC can only be withheld if and only if any items supplied or work performed by the JV Contractor deviate from the Specifications outlined in the Contract and/or if the Contractor has failed or is currently failing to execute any work or fulfill any obligation as stipulated in the Contract and has been duly notified of such non-compliance by the Engineer.

Lastly, the Engineer herein advises all relevant concerned through this letter to pay to the JV Contractor any amount due /certified within the stipulated timeframe enshrined under Sub-Clause 14.7 [Payment] of

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GCC. Failing to adhere to the above-stated Sub-Clause timeframe may entitle the JV Contractor to request certain remedies under or in connection with the prevailing Contract.

Yours Sincerely,

**Engr. Said Afsar**  
The Engineer/Resident Engineer  
Water Supply System (Abbottabad)  
PMCSC-KPCIP

**Encl.:** All References

**Cc:**

1. Senior Project Officer, PRM-Asian Development Bank, Islamabad.
2. Chief Executive Officer, (WSSC), Abbottabad.
3. **Chief Engineer, (CIU-KPCIP), Abbottabad.**
4. Project Director, (PMU-KPCIP), Peshawar.
5. Director Technical, (PMU-KPCIP), Peshawar.
6. Director Finance & Administration, (PMU-KPCIP), Peshawar.
7. Contract Expert, PMCSC, Peshawar.
8. Chief Quantity Surveyor, PMCSC, Peshawar.
9. Contract and Claim Engineer, PMCSC, Peshawar.