

PRACTICE NOTES FOR QUANTITY SURVEYORS

Final Accounts

Preface

A Working Committee with representatives of the Hong Kong Institute of Surveyors, the Association of Consultant Quantity Surveyors and the Hong Kong Construction Association was set up in October 2010 to establish a set of Practice Notes for the benefit of Quantity Surveying professionals in Hong Kong.

The Practice Notes are not intended to promulgate a standard of practice, but rather to produce some basic guidelines for the following core practices :

1. Tendering
2. Cost Control and Financial Statements
3. Valuation for Interim Payment Certificates
4. Valuation of Variations
5. Handling of Contractual Claims
6. Settlement of Final Account

As different client organisations will have their own procedures and requirements, the Practice Notes, which are prepared mainly for private sector projects using the HKIA/HKIS Standard Forms of Building Contract, should be adapted as appropriate.

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The Working Committee expresses its gratitude to the following HKIS members in the Architectural Services Department and the Housing Authority for sharing their experience in and knowledge of Quantity Surveying practice in the public sector for the improvement of the document.

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Final Accounts

1. General

The Final Account is a summary of the financial effect of all activities carried out under the Contract. Clause 32.6 of the HKIS Standard Form of Building Contract (2005 Edition) requires the Quantity Surveyor to prepare the final account within the period stated in the Appendix (normally 12 months from substantial completion of the whole of the Works).

To provide effective post contract cost control and to expedite the settlement of final accounts, Quantity Surveyors shall aim at having periodic cost review meetings with the Contractors to settle the valuation of instructed variations.

2. Variations

(A) General

The Quantity Surveyor should conduct early evaluations of issued variations for the following reasons:

- (a) To enable close monitoring of the final contract sum;
- (b) To identify early any potential claims related to the variations;
- (c) To provide the Contractor as early as possible with the Quantity Surveyor's assessed amount of the variation to allow him to carry out cost control of his own domestic sub-contracts; and

- (d) To expedite final account settlement.

If the Quantity Surveyor does not issue an evaluation for the issued variation, the Contractor should submit his own assessment/claim to the Quantity Surveyor for his notice and early processing.

(B) Methodology

(a) Quantifying the changes

- (i) the changes should be quantified by measuring the "omissions" and the "additions" from the drawings.
- (ii) where changes are very substantial, a total remeasurement of the works affected may be appropriate. In such cases, the Quantity Surveyor and the Contractor should agree on the set of drawings to be used.

(b) Assessing the rates

- (i) the contract rates shall be used where the works are of the same nature and are carried out under the same circumstances;
- (ii) If the works are similar but not the same, the contract rate should be used as the basis for forming a pro-rata rate;
- (iii) If the works are of a different nature, a fair valuation should be made for the variation works using "star" rates.

(C) Verbal Instructions

Unless the Contract states otherwise, the Quantity Surveyor should note that Confirmation of Verbal Instructions are also variations and should be treated in the same manner as Architect's Instructions.

If all variations are to be covered only via written Architect's Instruction, the Quantity Surveyor should remind the Contractor that those changes cannot be included in the final account measurement and that he has to separately seek an appropriate Architect's Instruction.

(D) Taking Site Measurements

When visiting site to take measurements, the Quantity Surveyor should :-

- (a) record the Quantity Surveyor's name, company, time of arrival and departure in the site visitor's book (if any).
- (b) ensure that all measurements taken are properly recorded. Each page entry must have the date of the measurement recorded against it.
- (c) if measurements are jointly taken with the Contractor, request the Contractor to initial against the measurements.

(E) Cost Review Meetings

The Quantity Surveyor should arrange regular Cost Review Meetings with the Contractor throughout the construction and final account periods to discuss and finalise the financial effect of the variations and other claims by the Contractor. The Architect, Engineer or the Project Manager should be invited to attend the Cost Review Meetings when necessary to resolve ambiguities as to the scope of variations or disagreements on its actual effect on the Works.

3. Remeasurements

The Quantity Surveyor should remeasure all provisional quantities in the Bills of Quantities as soon as the "For Construction" drawings are issued to the Contractor for implementation.

A copy of the remeasurement, duly priced should be issued to the Contractor for his information as soon as it is available.

It is bad practice to wait for works to be completed before doing the remeasurement. Early remeasurement once construction drawings are available will give a chance to the Client to revise the design if the remeasurement shows a budget over-run.

4. Contractual Claims

(A) General

The validity of contractual claims depends a lot on the wording of the contract conditions and specification clauses. Reference should be made to the specific clauses of the contract being used in order to approach a claim correctly.

A fundamental principle of any claim for a loss/expense claim by a Contractor is that the onus lies with the Contractor to establish the following facts in his submission to the Architect and Quantity Surveyor :

- (a) That an instruction amounting to a variation has been validly issued and acted upon;
- (b) The date of issue and receipt of the variation instruction;
- (c) The nature of the variation;
- (d) The time required to carry out the work pursuant to the instruction;
- (e) That the carrying out of the variation instruction affected regular progress of the works which would not otherwise have been affected;
- (f) The extent to which the work was affected as a direct result of the carrying out of the variation;
- (g) Sufficient particulars of the direct loss and/or expense suffered or incurred directly resulting from the variation;
- (h) That the Contractor made a proper and timely application to the Architect in respect of direct loss and/or expense.

The above list is not exhaustive and claims can always be made under other contractual grounds. (See also Good Practice Notes on Handling Contractual Claims for more details.)

(B) Extension of Time

Claims for extensions to the contract time are considered and decided by the Architect. However, it is not uncommon for the Architect to request the Quantity Surveyor to advise on the contractual validity of the claims.

The following principles should be observed :

- (a) The Contractor should "upon it becoming apparent that the progress of the Works is delayed" give written notice of the cause of delay to the Architect.
- (b) The event delayed must be "critical" (i.e. the activity in question must lie on the project's critical path).
- (c) Whether an event caused a delay or not should be decided by reference to the actual progress on Site, not to the original programme prepared at commencement of work.

Whether or not a Contractor is entitled to an extension of time is to be decided by the Architect. The Quantity Surveyor should only make suggestions for consideration if requested by the Architect to do so.

(C) Prolongation Claims

When assessing prolongation claims, the Quantity Surveyor should differentiate the extension of time granted under certain events (commonly known as neutral events) for which the Contractor may be entitled to an extension of time, but not prolongation costs, such as the following:

- force majeure;
- inclement weather;
- fire;
- civil commotion, etc.;

As a general rule the Employer will only be liable for loss and expense incurred by the Contractor when it is caused by acts for which the Employer or his agents are responsible.

5. Nominated Sub-Contracts/Supply Contracts

If it is within his scope of services, the Quantity Surveyor should prepare the final account statements for the Nominated Sub-contracts and Nominated Supply Contracts for incorporation within the Contractor's final account for the whole of the works.

The Quantity Surveyor should follow the same guidelines given for preparing the Contractor's final account when handling the final accounts for the Nominated Sub-contracts and Nominated Supply Contracts.

6. Agreement of the Final Account

During the cost review meetings, the Quantity Surveyor and the Contractor will exchange comments on each other's assessment and try to reach agreement on the appropriate financial figure for each item of change.

Assessments done by the Quantity Surveyor should be issued to the Contractor in advance of the meeting with a request that they mark in red their comments and return to the Quantity Surveyor before the meetings are held. Vice versa, the Quantity Surveyor should check quotations submitted by the Contractor and mark in red their comments and return to them before the meetings for their advance information.

It should be noted that the Quantity Surveyor's duty regarding the Final Account is primarily to make fair and proper assessments of all changes made in accordance with the contract provisions. Whether the assessments are agreeable to the Contractor should not be a factor influencing the Quantity Surveyor's assessment.

Most Standard Forms of Contract have a provision that the Contractor should submit all his claims and substantiations within a certain period. The Quantity Surveyor should check this period and formally write to the Contractor advising him to comply with it as the Quantity Surveyor may refuse to accept any further submissions after this date.

When all claims and substantiations made have been taken into consideration by the Quantity Surveyor and negotiations held with the Contractor prove to be of no avail, the Quantity Surveyor may seek the Client's consent and support before proceeding to unilaterally close out the final account.

A report on the non-agreed items should be prepared listing the items, the Contractor's figures versus the Quantity Surveyor's assessed figures, the arguments given by the Contractor and the Quantity Surveyor's judgments on why their arguments were not accepted.

Note that it is not normally a contractual requirement that the Final Account needs to be agreed by the Contractor. This is only good practice. In situations where agreement cannot be reached, the Quantity Surveyor should prepare a Recommended Final Account incorporating a report on non-agreed items and issue it to the Client with a recommendation to either intervene to reach a settlement with the Contractor or unilaterally close out the Final Account by issuing the Final Certificate.

7. Final Account Format

The Final Account should clearly list all items that have a financial effect on the original contract sum.

Extra care should be taken in writing the item descriptions to give a brief indication of what changes were actually involved. Do not just copy the headings of the Architect's Instructions as these tend to be very general.

The common headings to be found in a Final Account will include :

1. Architect's Instructions
2. Confirmation of Verbal Instructions
3. Prime Cost Rates Adjustment
4. Prime Cost Sums Adjustment
5. Provisional Sums Adjustment
6. Provisional Quantities Adjustment
7. Fluctuations Adjustment
8. Contractual Claims
9. Others

8. The Agreement and Issuance of the Final Account

Under normal circumstances, the Final Account should either be agreed between the Contractor and the Quantity Surveyor or the Quantity Surveyor should issue their Final Account Recommendation within 12 months of substantial completion of the whole of the Works.



Nov. 2012