



ANY REPLY OR SUBSEQUENT REFERENCE  
SHOULD BE ADDRESSED TO THE **FINANCIAL  
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Telephone No. 92-28600-16  
Website: <http://www.mof.gov.jm>  
Email: [info@mof.gov.jm](mailto:info@mof.gov.jm)

**MINISTRY OF FINANCE AND PLANNING**  
**30 NATIONAL HEROES CIRCLE**  
**P.O. BOX 512**  
**KINGSTON**  
**JAMAICA**

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**Circular No. 6**

**Division: Public Expenditure Policy Co-ordination**

**Permanent Secretaries**  
**Heads of Departments**  
**Chief Executive Officers**  
**National Contracts Commission**  
**Sector Committees**

**POLICY ON CONTRACT VARIATIONS**

Permanent Secretaries, Heads of Departments, and Chief Executive Officers are hereby advised that via **Cabinet Decision No. 23/05 dated 18.07.05** and **Cabinet Decision No. 3/06 dated 23.01.06**, a policy on **Contract Variations** has been approved. This policy aims to reduce the high incidence of contract variations and the associated costs.

Note should be made of the following which are set out in the policy:

- (a) New requirements for approval of variations
- (b) Responsibilities of the Accounting Officer/Head of Entity
- (c) Requirements for Contracting Entities to report and account for variations and cost overruns on all contracts

Special attention should be given to the following responsibilities of the Accounting Officer/Head of Entity.

- (a) To give initial written approval for all variation orders
- (b) To inform the Portfolio Ministers of all variation orders and cost overruns
- (c) To ensure reports on variations and cost overruns are made to the Contractor General and Cabinet as the case may be.

Sincerely

Colin Bullock  
Financial Secretary

## **POLICY ON CONTRACT VARIATIONS**

### **1.0 Definition: Variation**

A variation is a change to the deliverable(s) under a contract (e.g., an increase or decrease in the scope of works to be performed, amount/type of goods to be supplied, etc.), and must be specific to the relevant contract.

### **2.0 General**

Variations must relate to the subject of the specific deliverables contained in the original contract i.e. the said project site, road, etc. In exceptional cases new deliverables of a similar nature but not related to the subject of the existing contract may be treated as a variation subject to the approval requirements set out in **Paragraph 4**.

### **2.1 Variations resulting in an **increase** in contract sum may be allowed for the following reasons:**

#### **(a) Technical**

- i. Where there is need for additional goods, services or works to address unforeseen, unavoidable difficulties encountered during contract implementation that, in the judgment of the relevant Accounting Officer, could not conceivably have been foreseen during the planning and pre-contract phase(s).
- ii. Where the total conditions are not known, e.g., site or structure conditions in renovation and/or restoration works.

#### **(b) Functional**

- i. Where changes that, in the opinion of the Accounting Officer and/or relevant consultant (provided same is agreed by the Accounting Officer) would enhance the achievement of project/contract objectives and overall effectiveness.

#### **(c) New Works**

- i. Where, in the determination of the Accounting Officer, the incorporation of new, **but related**, work in the existing contract would enhance the achievement of over-arching value for money objectives.

### **3.0 Emergency Circumstances**

Where works/goods or services are to be procured in emergency circumstances the sole source method of procurement or the **Procedures for Emergency Contracting** approved by Cabinet should be employed.

### **4.0 Approval Requirements**

#### **General**

- (a) The Accounting Officer/Head of Entity must give initial **written** approval for the issuance of all contract variations. **No other public officer or project consultant shall approve a variation to a contract unless so authorized by the Accounting Officer. This authorization must be in writing.**

Notwithstanding any delegation of authority, accountability for variations remains with the Accounting Officer/Head of Entity.



- (b) The Accounting Officer/Head of Entity must at all times keep the Portfolio Ministers informed of **all changes in the value of the contract** due to changes in the scope of works or otherwise

#### **4.1 Related Works**

##### **Contracts Under J\$4 Million**

- (a) The Accounting Officer/ Head of Entity may approve variations for related works on contract under J\$4 Million.

##### **Contracts Above J\$4 Million and Below J\$15 Million**

- (a) The Accounting Officer/Head of Entity may approve variations for related works of up to a cumulative value of 25%. Variations in excess of the 25% threshold will require the approval of the Portfolio Minister and the endorsement of the NCC.

##### **Contracts Above J\$15 Million and Below J\$150 Million**

- (a) The Accounting Officer/Head of Entity may approve variations for related works of up to a cumulative value of 10%. Variations in excess of the 10% threshold will require the approval of the NCC and the Cabinet. Variations on Contracts valued above **J\$150 Million** will require the approval of the NCC and the Cabinet

#### **4.2 Unrelated Works**

Where unrelated works are to be treated as contract variations, the approval requirements will be as indicated below:

- On contracts below **J\$4 Million** – the Minister shall approve
- On contracts **J\$4 Million** – under **J\$15 Million** the Minister and NCC
- **J\$15 Million** and above – the NCC and the Cabinet

#### **5.0 Debt Implications**

- (a) Any variation of a contract which will have implications for the national debt - (e.g., extension of a Deferred Financing Facility) – irrespective of value will require in addition to the approval requirements stated above, prior approval from the Ministry of Finance & Planning and the Cabinet.
- (b) In such cases a submission should be made to Cabinet and routed through the Ministry of Finance for comments.

#### **5.1 Budgetary Implications**

- (a) In the case of treasury funded entities, where a variation will require financing in excess of amounts identified in the approved budget, the prior approval of the Ministry of Finance & Planning is required.
- (b) The Accounting Officer/Head of Entity must make request in writing to the Public Expenditure Division (PEX) of the Ministry.

#### **6.0 Reporting Requirements For Procuring Entities**

- (a) Increases/decreases to contract sums resulting from variations shall be reported to the Contractor General pursuant to Section 4(2) of the Contractor General's Act 1983.

- (b) Cost overruns (increases to contract sums resulting from fluctuations in the price of labour and materials or other factors) must be duly substantiated, documented and reported to the Contractor General and the NCC, where the NCC was involved in the initial approval of the contract.
- (c) Cost overruns in excess of **25%** on contracts of a value **J\$15 million and above** must also be reported to the Cabinet.
- (d) The Accounting Officer/Head of Entity shall implement systems to ensure that the above reports are made and shall advise the Portfolio Minister(s) within seven (7) days of any change in contract values whether resulting from variations, price fluctuations or other factors.
- (e) Reported increases to contract sums as a result of variations, price changes or other factors will be documented in the Contractor General's annual report to Parliament, which will be examined by a committee of the House of Representatives.
- (f) All reports made to the Cabinet, NCC and Contractor General as per items (a) – (c) above must include as relevant:
  - i) Description of and justification for the variation including the root cause(s)
  - ii) Details of price adjustments necessitating increase in contract sum
  - iii) Description of any other factors responsible for cost overruns.
- (g) Reports to the Cabinet, Contractor General and NCC shall be made on a quarterly basis and within fourteen (14) working days of the end of the quarter.

#### 7.0 Amendment to Contract Forms

- (a) In keeping with Section 4.0, whenever the standard Joint Consultative Committee for the Building and Construction Industry (JCC) construction contract is used, it should be modified (as shown below) to reflect the authority of the Accounting Officer/Head of Entity. Where other forms of construction contracts are used, the appropriate clause in those contracts should be amended in a similar manner.
- (b) The following paragraph is to be substituted for paragraph 1 under clause 11 of the JCC contract.

<b>Clause 11 Variations, Provisional And Prime Cost Sums</b>	Notwithstanding anything contained in this clause or elsewhere in these conditions of contract the Engineer or Architect shall have no authority to issue any variation (s) to the contract without first obtaining the approval of the Employer in writing.
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- (c) All civil, mechanical and electrical engineering services contracts should include provisions reflecting the authority of the Accounting Officer/Head of Entity as indicated in (a) above.

*Permanent Secretaries, Heads of Departments and Chief Executive Officers must ensure that this policy is brought to the attention of all officers concerned with procurement.*