

## Department for Contracts

The General Conditions (works) outline how the taking of samples is regulated as follows:

### **ARTICLE 40: Inspection and testing**

- 40.1** The Contractor shall ensure that the components and materials are delivered to the site in time to allow the Supervisor to proceed with acceptance of the components and materials. The Contractor is deemed to have fully appreciated the difficulties which he might encounter in this respect, and he shall not be permitted to advance any grounds for delay in fulfilling the obligations.
- 40.2** The Supervisor shall be entitled, either by himself or through his agent, to inspect, examine, measure and test the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract, in order to establish whether the components, materials and workmanship are of the requisite quality and quantity. This shall take place at the place of manufacture, fabrication, preparation or on the site or at such other places as may be specified in the Special Conditions.
- 40.3** For the purposes of such tests and inspections, the Contractor shall:
- a) provide the Supervisor, temporarily and free of charge, with such assistance, samples, parts, machines, equipment, tools or materials and labour as are normally required for inspection and testing;
  - b) agree, with the Supervisor, the time and place for tests;
  - c) give the Supervisor access at all reasonable times to the place where the tests are to be carried out.
- 40.4** If the Supervisor is not present on the date agreed for tests, the Contractor may, unless otherwise instructed by the Supervisor, proceed with the tests, which shall be deemed to have been made in the Supervisor's presence. The Contractor shall immediately send duly certified copies of the test results to the Supervisor, who shall, if he has not attended the test, be bound by the test results.
- 40.5** When components and materials have passed the above-mentioned tests, the Supervisor shall notify the Contractor or endorse the Contractor's certificate to that effect.
- 40.6** If the Supervisor and the Contractor disagree on the test results, each shall state his views to the other within 15 days of such disagreement. The Supervisor or the Contractor may require such tests to be repeated on the same terms and conditions or, if either Party so requests, by an expert selected by common consent. All test

reports shall be submitted to the Supervisor, who shall communicate the results of these tests without delay to the Contractor. The results of the retesting shall be conclusive. The cost of the retesting shall be borne by the Party whose views are proved wrong by the retesting.

- 40.7** In the performance of their duties, the Supervisor and any person authorised by him shall not disclose to unauthorised persons information concerning the undertaking's construction and operating methods obtained through inspection and testing.

#### **ARTICLE 41: Rejection**

**41.1** Components and materials which are not of the specified quality shall be rejected. A special mark may be applied to the rejected components or materials. This shall not be such as to alter them or affect their commercial value. Rejected components and materials shall be removed by the Contractor from the site within a period which the Supervisor shall specify, failing which they shall be removed by the Supervisor as of right at the expense and risk of the Contractor. Any works incorporating rejected components or materials shall be rejected.

**41.2** The Supervisor shall, during the progress of the works and before their acceptance, have the power to order or decide:

- a) the removal from the site, by a deadline specified in the administrative order, of any components or materials which, in the opinion of the Supervisor, are not in accordance with the contract;
- b) the substitution of proper and suitable components or materials; or
- c) the demolition and proper re-execution, or satisfactory repair, notwithstanding any previous test thereof or interim payment therefore, of any works which, in respect of components, materials, workmanship or design for which the Contractor is responsible, is not, in the opinion of the Supervisor, in accordance with the contract.

**41.3** The Supervisor shall, as soon as reasonably practicable, notify the Contractor in writing of his decision, specifying particulars of the alleged defects.

**41.4** The Contractor shall, with all speed and at his own expense, make good the defects so specified. If the Contractor does not comply with such order, the Contracting Authority, after having obtained written approval from the Central Government Authority, shall be entitled to employ other persons to carry out the same works, and all expenses consequent thereon or incidental thereto may be deducted by the Contracting Authority from any monies due or which may become due to the Contractor.

