

機關辦理驗收作業實務案例研析

Analysis of Operations & An Example of Government Agency Conducting Inspection and Acceptance.

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壹、前言

機關辦理驗收，依據政府採購法第71條之規定，工程、財物採購，應限期辦理，並得辦理部分驗收。驗收時應由機關首長或其授權人員指派適當人員主驗，通知接管單位或使用單位會驗。承辦採購單位之人員不得為所辦採購之主驗人或樣品及材料之檢驗人。以上規範於勞務採購準用之。

另據同法第72條之規定，驗收時應製作紀錄，由參加人員會同簽認。驗收結果與契約、圖說、貨樣規定不符者，機關應通知廠商限期改善、拆除、重作、退貨或換貨。其驗收結果不符部分非屬重要，而其他部分能先行使用，並經機關檢討認為確有先行使用之必要者，得經機關首長或其授權人員核准，就其他部分辦理驗收並支付部分價金。另驗收結果與規定不符，而不妨礙安全及使用需求，亦無減少通常效用或契約預定效用，經機關檢討不必拆換或拆換確有困難者，得於必要時減價收受。

據上述規定，驗收、部分驗收、減價收受等程序均有不同法定要件，適用情形自屬不同，惟部分採購機關似有驗收、部分驗收、減價收受及契約變更等程序混為一談之情形。另主驗人之指派，依法係屬機關首長或其授權人員之法定職權，惟部分受指派人員亦有另行指派之情形。

Part I. Forward:

In compliance with the Article 71 of Government Procurement Act, government agencies shall set a time-limit and conduct partial acceptance about procurement for construction work or property when conducting inspection and acceptance pursuant. Inspection and acceptance shall be conducted by the head of the government agency or an appropriate chief inspector appointed by the authorized personnel. The unit taking or using the work or property shall be notified to accompany the chief inspector for inspection and acceptance. Personnel of the procurement unit shall not act as a chief inspector or an inspector for samples or materials of the procurement conducted by the unit. The above provisions shall apply to the procurement of services.

Also, according to the Article 72 of Government Procurement Act, any inspection and acceptance conducted for a procurement shall be recorded and signed jointly by the participating personnel. For any item found not in conformity with the requirements specified in the contract, drawings and/or samples after inspection and acceptance, the supplier shall be required, by a notice, to make improvement, to remove the rejected item or to re-do the work, or to recall or to replace the rejected item within a time-limit. Where the result of the inspection and acceptance indicates that the non-conforming item is not important and the remaining items are nonetheless usable, and the head of government agency or his / her authorized personnel deems that it is necessary to use such remaining items before the said non-conformity is corrected, a partial acceptance may be conducted for the remaining items and the contract value may be paid partially for the accepted portion, subject to the approval by the head of the government agency or his/her authorized personnel.

貳、案由

某機關辦理廳舍修繕之驗收，經機關首長指派第一線外勤單位主管擔任驗收主持人員（以下稱主驗人）。首次驗收，主驗人因故無法到場，臨時自行指派其單位人員代為驗收，發現「窗戶因現場空間不足致無法安裝」，現場決定以減價收受程序為處理。第二次驗收，會驗人員受主驗人指示先行辦理驗收，確認「門板」型式不符契約規定，俟主驗人到場以「未減損原有功能」為由同意按廠商現場之施作結果驗收之。

Where the result of inspection indicates any non-conformity with the contractual requirements, but the non-conformity neither hinders the safety or use required nor decreases the general function or the function designated by the contract, an acceptance with price-reduction may be conducted under conditions that the government agency has determined that there is no need or it is difficult to make replacement.

According to the regulations of preceding paragraphs, there are different legal requirements for inspection and acceptance, partial inspection and acceptance and acceptance with price-reduction and each is applied to different circumstances. However, it is suspected that some government agencies have mixed up the procedures of inspection and acceptance, partial inspection and acceptance, acceptance with price-reduction and contract change. In addition, the appointing of chief inspector, according to the law, is the official duty of the head of the government agency or his / her authorized personnel; however, in some cases, such personnel are appointed by other personnel.

Part II. The Case

A government agency was conducting inspection and acceptance of building renovation. The head of the government agency had appointed the chief of the first-line field unit as the chief inspector (hereinafter referred to as the "chief inspector"). For the first inspection and acceptance, the chief inspector was absent due to other errands and a person of other unit was assigned by the chief inspector to conduct inspection and acceptance. The temporary inspector found "Windows weren't installed due to insufficient space at the scene", and an acceptance with price-reduction was conducted. For the second inspection and acceptance, a co-inspector, by instructions of the chief inspector, conducted inspection and acceptance in the absence of the chief inspector and found the door planks didn't conform to the requirements of the contract. The chief inspector who arrived at the scene later agreed to inspect and accept the outcome of contract performance based on the reason that the results "didn't decrease the general function".

參、問題研究

- 一、主驗人之指派權人為何？
- 二、得受指派為主驗人之適當人員為何？
- 三、主驗人之作業權限為何？
- 四、驗收程序關於不合格後改正、部分驗收、減價收受、契約變更等關係及適用情形為何？

肆、案例簡析

本案參考法條：政府採購法（以下稱採購法）
第71條、第72條、施行細則第91條及第97條。

一、主驗人指派權人：

- （一）機關辦理驗收，依法應由機關首長或其授權人員指派適當人員主驗¹。機關首長就「主驗人指派權」，除自行行使外，依法得以個案方式或通案方式授權特定人為之。例如凡是未達新臺幣1,000萬元之採購案件「主驗人指派權」授予機關副首長為之。主驗人指派係機關首長或獲其授予「主驗人指派權」者之法定職權。

Part III. Questions analysis

1. Who is the person appointing the chief inspector?
2. What are the qualifications of a chief inspector?
3. What are the official duties of a chief inspector?
4. If any non-conformity is found after inspection and acceptance, what are the procedures of corrections, partial acceptance, acceptance with price-reduction and contract change and what cases may be applied to the procedures respectively?

Part IV. Case Analysis

This case makes reference to Articles 71 and 72 of Government Procurement Act (hereinafter referred to as the “the law”) and articles 91 and 97 of Enforcement Rules of the Government Procurement Act

I. The person that appoints the chief inspector：

(I.) Where government agency conducts inspection and acceptance, according to the law, the head of the agency or his / her authorized personnel should appoint appropriate personnel to chair the inspection¹. “The right to appoint the chief inspector” of the head of the government agency can be executed either by himself / herself, or according to the law, he / she may appoint a specific person to chair the inspection case by case or by general case. For example, where a procurement does not reach the threshold of NTD 10 million, “the right to appoint the chief inspector” is assigned to deputy head of the government agency. The appointment of chief inspector is the official duty of head of the government agency or his / her authorized personnel.

(II.) Anyone that is not the head of the government agency or isn't authorized to the “right to appoint the chief inspector” shall not appoint the chief inspector. Besides, it is an obligation specified in the Government Procurement Act for the chief inspector to chair inspection and acceptance and it indicates the reaction of such government agency to outcome of contract performance in a civil contract. Therefore, such obligation prevails other internal affairs. If a conflict

(二) 凡非機關首長或未獲其授予「主驗人指派權」者，依法不得為之。另主驗人主持驗收係為採購法上義務，且代表機關基於對外民事契約就廠商之履約結果為意思表示，其義務應高於其他內部行政事務。若有事務衝突，應以主持驗收為優先。若確有負擔其他高於主持驗收之其他法律上或對外事務之義務，而無法主持者，應自行或由承辦驗收單位於知悉後儘速報陳原指派人另行指派適當人員，而非擅權或越權自行指派他人主持或覓人代理。

二、適於擔任主驗人之人員：


(一) 依法「承辦採購單位之人員」不得擔任所辦採購之主驗人或樣品及材料之檢驗人²。據行政院公共工程委員會函釋，「承辦採購單位人員」係指辦理該採購案件之最基層承辦人員。凡非上揭人員，主驗人指派權人自得本於職權指派為主驗人³。另該等人員因負有法律責任，宜為依機關人事法規進用之人員⁴，而不宜為臨時人員⁵。故凡機關依人事法規進用且非辦理該採購案件之最基層承辦人之人員，形式上均得擔任主驗人。

occurs, to chair inspection and acceptance always prevails. If, however, there are indeed other legal or external affairs that prevail inspection and acceptance and prevent the chief inspector from conducting inspection and acceptance, the chief inspector or agency in charge of inspection and acceptance shall report to the person appointing such task to re-appoint an appropriate person instead of acting without authorization or overstepping his / her authority to appoint other personnel to act as the chief inspector or look for a replacement.

II. Personnel suitable to be the chief inspector:

(I.) According to the law, “ personnel from the procurement unit of the agency “ shall not act as the chief inspector or an inspector for samples or materials of the procurement conducted by the unit². According to the letter of explanation issued by Public Construction Commission, Executive Yuan “Personnel from procurement unit of the agency “means personnel of the lowest level of the procurement unit of the agency. The Person in charge of appointing the chief inspector may execute his / her right to appoint the chief inspector³ from those that don't fall into such category. Also, since the chief inspector bears certain legal responsibilities, it is best that he/she is hired according to the personnel regulations⁴ instead of being hired as temporary personnel⁵. Therefore, personnel of the lowest level of the procurement unit of the agency that is hired according to the personnel regulations could be pro forma candidates for the chief inspector.

(II.) Inspection and acceptance is the legal procedure stipulated in Government Procurement Act to determine whether the outcome of contract performance conforms to contractual requirements. However, where such procedure is conducted, what kind of sampling method, procedure and steps shall be taken? What are the standards for judging the results? All involves the abstract goals of procurement goal and use



(二) 惟「驗收」為採購法上判斷廠商履約結果是否符合契約規定之法定程序。但踐行該程序時就廠商之履約結果，究應使用何種抽查驗核方法、手段及步驟，採用何種判斷標準及結果，均涉及契約上採購目的或使用需求等抽象目標內涵及採購標之具體規格規範，實為事實認定問題。則機關依人事法規進用各類人員之職能、專長及工作經驗各異，是否均為「適當」之主驗人，實務上非無疑問。

(三) 參酌行政院公共工程委員會「採購標之規格宜由規劃、設計、需求或使用單位訂定」之函釋⁶，以及「以不具專業採購能力或經驗之人員辦理採購」為「政府採購錯誤行為態樣」規定上之「不法不當行為」等意旨，訂定採購標之規格之規劃、設計、需求或使用單位之人員，或熟諳採購標之功能效益或其使用效果之人員，於驗收時就如何「抽查驗核」、是否符合「契約規範之使用需求與採購標之應有之安全標準」、有無合於「通常效用或契約預定之效用」等事實情狀，較有採取「合理查驗、合宜判斷及適當處置」之可能，顯然較能妥適衡酌廠商整體履約情狀有無符合契約本旨並達到機關原有之採購目的。

required in the contract and concrete specification of the subject of the procurement and therefore it is actually judgment based on facts. Although government agencies hire personnel, according to personnel regulations, based on their professional skills, expertise and work experience, whether or not they are "suitable" for acting as the chief inspector is still not entirely unquestionable in practice.

(III.) In Reference to the letter of explanation⁶ issued by Public Construction Commission, Executive Yuan "the specification of the subject of the procurement shall be set by unit plans, designs, demands or uses the work" and "appointing personnel possessing non-professional procurement abilities or experiences to conduct the procurement" is "an illegal and inappropriate conduct" regulated by the regulation of "the wrong conduct of government procurement". Personnel from units that sets rules for planning, designing, demanding or using the specification of the subject of the procurement or personnel that is familiar with the functional benefits of the subject of procurement or its effects are more likely to conduct "fair inspection, reasonable judgment and appropriate management control" when it comes to how to "sample inspection", whether it is in conformity with "the use efficiency specified in the contract and the safety standards of the subject of procurement" and whether it is in conformity with "the general function or the function designated by the contract". They obviously are better at making appropriate judgment on whether the outcome of contract performance is in conformity with the requirements specified in the contract and therefore can achieve the purpose of procurement by the government agency.

III. The official duties of the chief inspector:

(I.) According to the law, the chief inspector shall conduct sampling inspection on the outcome of contract performance with the co-inspector and decide what actions shall be taken if any non-conformity is found⁷. If the results of the

三、主驗人之職責：

- (一) 機關辦理驗收，依法由主驗人會同會驗人員，抽查驗核廠商履約結果，並決定不符時之處置⁷。驗收不合格時依法應通知並限期廠商為改善、拆除、重作、退貨或換貨等措施⁸ (簡稱改正)，故主驗人之職權為「抽查驗核廠商履約結果有無與契約規定不符」及「驗收不符時之處置」。
- (二) 主驗人依法基於契約就驗收過程及結果為判斷，並本於契約採取適當之決定及處置，且負法律責任，即應全程在場。且驗收作業涉及外部廠商或其他第三人，主驗人未到、晚到或中途離開驗收現場，或逕行交由非獲指派主驗之人員代勞，易衍生驗收程序有瑕疵之後遺。

inspection indicate any non-conformity, the supplier shall be required, by a notice, to make improvement, to remove the rejected item or to re-do the work, or to recall or to replace the rejected item within a time-limit⁸ (hereinafter referred to as correction). Therefore, the official duties of the chief inspector are to “conduct sampling inspection on the outcome of contract performance and see if there is any non-conformity with the contractual requirements”, and “what actions shall be taken if non-conformity is found after inspection and acceptance.”.

- (II.) The chief inspector shall, according to the law, make the judgment on the procedure of inspection and acceptance and the result based on the contractual requirements, make appropriate decision, and take proper actions based on the contractual requirements, then take full legal responsibilities for all his / her actions.

It means the chief inspector shall be present throughout the entire inspection and acceptance. If inspection and acceptance involves external suppliers or other 3rd person, the absence of the chief inspector, his / her being late or leaving the scene when inspection and acceptance is conducting halfway, or appointing an unauthorized person to conduct inspection and acceptance by the chief inspector will easily tint the procedure of inspection and acceptance.

IV. The administration of inspection and acceptance :

- (I.) The procedures of inspection after correction, acceptance with price-reduction and partial inspection and acceptance are different.

1. Where the government agency shall not be held responsible for failed inspection, the chief inspector shall, according to the law, conduct inspection and acceptance after the supplier has made the necessary corrections⁹. The review conducted by government agency according to the law and is approved by the person entitled to approve acceptance with price – reduction or partial inspection and acceptance shall conduct acceptance with price-reduction or partial inspection and acceptance. An

四、驗收作業之處置：

(一) 改正再驗、減價收受及部分驗收之程序不同

1、驗收不合格，非可歸責於機關，主驗人依法應於廠商完成改正後依法再行辦理驗收⁹。另機關經依法完成檢討且由有權准駁減價收受或部分驗收之人員核准¹⁰者，得辦理減價收受或部分驗收。減價收受係機關接受該不合格結果之措施，部分驗收係機關先行接收俾使用已合格部分之措施，惟全部或一部驗收不合格之狀態並未改變。

2、故主驗人會同會驗人員就廠商履約結果之抽查驗核結果，應先為「與契約規定是否符合」之具體決定，以作為後續處置之依據。若不合格，

(1) 通知並限期廠商採取改正措施¹¹，製作驗收紀錄¹²，完成當次驗收程序，俟廠商完成改正後再行驗收¹³。

(2) 若履約結果之全部或一部可能合於減價收受或部分驗收之情形者，承辦單位應先依法檢討具體事實並確認具有符合法令之情事及理由，並書面簽報機關首長或其授權人員依法核准後為之。

acceptance with price-reduction is a measure for government agency to accept the results that do not conform to contractual requirements; partial inspection and acceptance is a measure for government agency to accept and use the accepted items. However, the conditions for failed inspection and acceptance or failed partial inspection and acceptance still remain unchanged.

2. Therefore, the chief inspector and co-inspector will make decision, based on the results of sampling inspection and acceptance of outcome of contract performance, on whether or not the results are "in conformity with contractual requirements" so that they can be the basis for follow-up procedures. If any non-conformity is found:

(1) The chief inspector shall notify the supplier to make corrections within the time-limit¹¹, record inspection and acceptance, and complete the procedure of inspection and acceptance¹². He / she shall conduct another inspection and acceptance after the supplier made necessary corrections¹³.

(2) If all or partial outcome of contract performance might fit the category of an acceptance with price-reduction or partial inspection and acceptance, procurement unit of the government agency shall, first, review the concrete facts according to the law and confirm any conditions or reasons that are in accordance with the law, then, report to the head of the government agency or his / her authorized person in writing for approval. Acceptance with price-reduction or partial inspection and acceptance may be conducted after the request has been approved.

(3) If the chief inspector must decide whether or not to conduct partial inspection and acceptance or acceptance with price-reduction out of urgency or time-sensitive reasons, he / she shall first report to the head of the government agency for authorization to

(3) 主驗人若因案況具急迫性或時效性等因素須及時為部分驗收或減價收受等決定者，應先報由機關首長授與減價收受之准駁權，並檢討案內具體事實並確認具有符合法令之情事及理由後依法為之。上述檢討情形及結果應書面為之。

(二) 減價收受及契約變更之內涵不同

1、減價收受¹⁴係廠商履約結果不符契約規定，但尚不妨礙採購標的之安全及使用需求，且足敷其通常效用或契約預定之效用，由機關與廠商合意以減價作為接受該結果之措施。惟契約原定之採購標的及權利義務關係並無改變。

2、契約則係機關與廠商透過招標、投標、審標及決標等法定程序合意採購標的及價金等內容而成立生效，為雙方權利義務關係之根本。契約若須新增、刪減或修改者，雙方應依契約所定變更方式，就標的、價金、履約期限、付款期程或其他契約內容等事項辦理議價及議約手續，俾循法定方式確定雙方合意完成契約變更，改變契約上雙方之權利義務關係。

3、若驗收不合格係因機關契約規範不當所致，機關就該採購標的能否履行，須衡酌事實上有無影響安全及使用需求，

(1) 若有影響，但有得為修改或其他達成相當履約結果之方式可為時，機關宜採以契約變更方式修改契約，俾供廠商履約，滿足機關之安全及使用需求。

(2) 若不履行，事實上並不影響機關使用需求，或無達相同履約結果之相當方法可用時，而機關決定剔除該採購標的者，機關應依契約變更程序刪減之，俾免除廠商履約義務及機關給付對價之義務。

approve an acceptance with price-reduction, and review on concrete facts of the case, then, confirm any conditions or reasons that are in accordance with the law and act according to the law afterwards. The preceding review and results shall be done in writing.

(II.) The meaning of acceptance with price-reduction and contract change is different.

1. Acceptance with price-reduction¹⁴ is the regulation applied when the outcome performance is found to have non-conformity with contractual requirements but it neither hinders the safety or use required nor decreases the general function or the function designated by the contract. Under such circumstance, an acceptance with price-reduction is the measure taken by the government agency and the supplier where both parties agree to a price reduction in exchange for accepting such result. However, the subject of the procurement and the relations of right and obligation specified in the contract remain unchanged.

2. The contract is only effective when the government agency and supplier agree on the subject of the procurement and price through the legal procedures of invitation to tenders, submitting tenders, the evaluation of tender and the award of contract. It is the foundation of right-duty relation of the government agency and the supplier. If any requirements need to be added, deleted or modified, both parties must proceed the price negotiation and contract negotiation for the subject of the procurement, price, deadline, payment schedule and other content in the contract according to the regulations specified in the contract. A consensus of both parties to contract amendment by following legal procedures shall be confirmed before changing the right-duty relation of the parties on the contract.

3. Where a non-conformity to contractual

- (3) 另契約變更程序通常包含契約條款及價金之增減或調整，須經訂定底價及議價等多項法定採購程序待辦，不宜於驗收現場或口頭方式為之。

伍、結論

案內機關辦理廳舍修繕驗收，機關首長指派第一線外勤單位主管擔任主驗人，形式上與法尚無不合。惟該外勤主管若未具驗收作業上之專業能力或經驗，除有符「政府採購錯誤行為態樣」之虞外，該員有無依據契約規範選擇並採取適當抽查驗核措施之能力，並具適當判斷廠商履約結果是否符合契約本旨及原採購目的之經驗，實質上尚非無疑，宜另指派「適當」人員為之。

另驗收係法定程序，主驗人因故無法主持，逕自指派他人代理或直接缺席怠令會驗人員辦理驗收，均與法不合。為避免主驗人臨時無法主持延宕驗收，承辦單位得提報適當之複數人選供機關首長或其授權人員指派並得定其序位，俾得因應實際狀況適時遞補，提高採購作業之行政效率及決策品質。

又查驗發現「窗戶因現場空間不足致無法安裝」，若係契約規範不符現場實況所致，機關就該採購標的是否履行，應須衡酌事實上有無影響安全及使用需求後為決定。若採購標的得為修改，例安

requirements is caused by inappropriate regulations by the government agency, the government agency shall evaluate if any safety and use required are affected based on facts to see if such procurement can be fulfilled.

(1) If safety and use required are affected, however, correction or other alternatives for achieving results equivalent to those of fulfilling the contract are available, the government agency may use contract amendment to modify the contract so that the supplier may fulfill the contract and satisfy the government agency's request for safety and use required.

(2) If the contract is not fulfilled, it doesn't actually affect government agency's use required, or there is no alternative for achieving results equivalent to those of fulfilling the contract. When the government agency decides to delete the subject of the procurement, it shall delete such procurement according to regulations of contract amendment so that the supplier may be free from the obligation of fulfilling the contract while the government agency being free from the obligation of payment of equivalent relation.

(3) The procedure of contract amendment usually includes provision or contract value added and deleted or adjusted to the contract. It shall be proceeded according to legal procedure such as setting a government estimate and price negotiation instead of being proceeded at scene of inspection and acceptance or orally.

Part V. Conclusion

About the case that the government agency conducted inspection and acceptance of building renovation, the head of the government agency appointed the chief of first-line field unit as the chief inspector which is legal both in form and legally. However, the chief of the field unit lacks professional abilities or experience of inspection

裝尺寸較小之窗戶而不影響通風效果；或有其他達成相同履約結果之方式，例改裝通氣風扇等，仍能滿足機關原有採購目的者，機關得採取契約變更方式修改契約規範，俾供廠商完成履約。若不安裝該窗戶，事實上並不影響安全及使用需求，或無相當方法可達成該履約結果時，而機關決定刪除者，即應依契約變更程序刪減之，俾免除廠商安裝窗戶之履約義務，以及機關給付價金之義務。機關就契約規範錯誤之採購標的採減價收受，尚有未洽。

另廠商未安裝契約規定型式之「門板」，主驗人以未減損原有功能為由同意按廠商現場之施作結果驗收。契約規範係廠商履約及機關驗收作業之準據，廠商履約結果既未符契約規定，即應為不合格認定，以定後續驗收程序及效力。若有符合減價收受或契約變更之情形者，亦應完成法定或契約所定程序。驗收現場明知廠商履約結果不符契約規定，不要求廠商改正或採適當處理程序，逕予同意驗收，與法有悖。🙄

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and acceptance. Thus, it constitutes the conduct of “wrong conduct by government procurement”, and, whether or not the chief inspector processes the abilities to follow contractual requirements and sample inspection and acceptance appropriately as well as whether or not he lacks the relevant experience to judge if the outcome of contract performance conforms to the regulation of this contract and the purpose of the procurement are still questionable. It is best to appoint other “appropriate personnel to act as the chief inspector.

Regarding the legal procedure of inspection and acceptance, if the chief inspector appointed other person to act as the inspector or asked the co-inspector to chair inspection on behave of him/her because he / she wasn't able to conduct such inspection and acceptance due to other errands, either of the conditions constitutes illegal conduct. To avoid inspection and acceptance being delayed because the chief inspector wasn't able to chair it without prior notice, the procurement unit shall provide several appropriate candidates to the head of the government agency or his her authorized personnel. The order of these candidates shall be decided by the head of the government or his / her authorized person. By doing so, the chief inspector may be replaced based on actual needs and the administrative efficiency and decision-making quality of procurement operations may be improved.

According to the result of inspection and acceptance, “windows were not installed due to insufficient space at the scene”. If it is caused by contractual requirements not being in accordance with the conditions at the scene, the government agency shall judge whether or not such contradiction has indeed affected safety and use required first before deciding if the subject of the procurement shall be fulfilled. If the subject of the procurement can be modified, such as installing windows of smaller sizes without affecting ventilation; or there are other alternatives that can achieve results equivalent to outcome performance, such as installing ventilating fans, that can still satisfy the procurement purpose of the unit, under such circumstance, the government agency may use contract amendment to modify contract requirements so that the supplier may fulfill the contract.

參考資料：

- 1.採購法第71條第2項規定。
- 2.採購法第71條第3項規定。
- 3.行政院公共工程委員會88年08月05日（88）工程企字第8811283號函參照。
- 4.行政院公共工程委員會88年10月04日（88）工程企字第8814131號函參照。
- 5.行政院公共工程委員會90年09月24日（90）工程企字第90021220號函參照。
- 6.行政院公共工程委員會88年06月30日（88）工程企字第8808867號函參照。
- 7.採購法第71、72條第1項前段及採購法施行細則第91條規定。
- 8.採購法第72條第1項中段規定。
- 9.採購法細則第97條規定。
- 10.採購法第72條第1項後段規定。
- 11.採購法第72條第1項中段規定。
- 12.採購法第72條第1項前段規定。
- 13.採購法細則第97條規定。
- 14.採購法第72條第2項規定。

If not installing the windows does not, actually, affect the safety and use required or there are no alternatives to achieve the results equivalent to outcome of contract performance, and the government agency decides to delete such procurement, they shall use the procedure of contract amendment to delete such procurement so that the supplier may be free from the obligation of installing windows as well as the government agency being free from paying the contract value. However, it is inappropriate for the government agency to accept an acceptance with price-reduction of the subject of the procurement caused by wrong contractual requirements.

Besides, for the fact that the supplier didn't install the door planks specified in the contract, the chief inspector agreed to conduct inspection and acceptance on the outcome of contract performance by the supplier because he / she deemed it didn't decrease its original function. The contractual provisions are basis for the supplier to fulfill the contract and the government agency to conduct inspection and acceptance. Since the outcome of contract performance doesn't conform to contractual requirements, it shall be deemed as non-conformity so that the follow-up inspection and acceptance procedure and its effect can be based on such decision. In the case an acceptance with price-reduction or contract amendment shall be applied, any legal or contractual procedures still shall be completed anyway. At the scene of inspection and acceptance, if the chief inspector knew that the outcome of contract performance by the supplier indicates any non-conform to contractual requirements but still agreed to conduct inspection and acceptance without asking the supplier to make corrections or taking appropriate procedure to take care of the non-conformity, such conduct by the chief inspector clearly constituted an illegal act.

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