GHANA

COUNTRY PROCUREMENT ASSESSMENT REPORT - 2003

ANNEX 9

Vol. 5

LABOUR CLAUSES IN PUBLIC CONTRACTS IN GHANA

RECENT EXPERIENCE IN THE ROADS SECTOR

June 2003

Ghana Country Department
Africa Region
# CPAR

## ANNEX 9

### Labour Clauses in Public Contracts in Ghana

#### Recent Experience in the Roads sector

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<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>ABCCG</td>
<td>Association of Building and Civil Contractors of Ghana</td>
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<td>ASROC</td>
<td>Association of Road Contractors</td>
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<td>CBMWU</td>
<td>Construction and Building Materials Workers Union</td>
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<td>CPAR</td>
<td>Country Procurement Assessment Report</td>
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<td>DANIDA</td>
<td>Danish International Development Assistance</td>
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<td>DFID</td>
<td>Department for International Development</td>
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<td>DFR</td>
<td>Department of Feeder Roads</td>
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<td>EC</td>
<td>European Communities</td>
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<td>FIDIC</td>
<td>International Federation of Consulting Engineers</td>
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<td>GoG</td>
<td>Government of Ghana</td>
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<td>GPRS</td>
<td>Ghana Poverty Reduction Strategy</td>
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<td>IDA</td>
<td>International Development Association</td>
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<td>ILO</td>
<td>International Labour Organization</td>
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<td>ISODEC</td>
<td>Integrated Social Development Centre</td>
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<td>MPBS</td>
<td>Maintenance Performance Budgeting System</td>
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<td>RSDP</td>
<td>Road Sector Development Programme</td>
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<td>SAC</td>
<td>Social Aspects of Construction</td>
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<td>SSNIT</td>
<td>Social Security and National Insurance Trust</td>
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<td>TOR</td>
<td>Terms of Reference</td>
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<td>USAID</td>
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Labour clauses in public contracts in Ghana:

Recent experience in the roads sector

by

David Stiedl and David Tajgman

Executive summary

Procurement is more than a procedure for purchasing goods and services; it is also a tool for policy implementation. The Government of Ghana has placed poverty alleviation as its highest priority and has established policies accordingly. Employment creation and local enterprise promotion are important strategies for poverty alleviation. Employment itself, however, is not sufficient for alleviating poverty: fair wages, good conditions of work and equitable opportunity for waged employment are needed to ensure the strategic aim.

The Country Procurement Assessment Report (CPAR) addresses all aspects of procurement and this paper deals with the issue of employment creation and conditions of work as part of the procurement process.

In 1986 Ghana’s Department of Feeder Roads (DFR) embarked with World Bank support on a programme to develop labour-based construction contracting as a way of addressing a number of employment and livelihood constraints. DFR has recently undertaken a project – the Social Aspects of Construction (SAC) Project – emphasizing application of Ghanaian labour standards for all those involved in the works. This paper thus focuses on this unique pilot experience to inform the larger procurement process in Ghana.

Ghanaian procurement procedures have always stated that Ghanaian laws -- including labour laws -- are fully applicable in the roads sector. The SAC project showed however that health and safety measures were not being taken, correct benefits were not being given to locally recruited temporary workers and “casual workers” continue to attract benefits distinct from other workers. It proved possible through project initiatives to improve the situation with the inclusion of explicit labour clauses, specifications, and bill items. Similar labour clauses are gradually being included in other contracts, both labour- and equipment-based.

In addition a study of feeder road delivery in a wider context revealed that labour-based employment creating activities were not being used as much as should have been possible given the success of the early initiatives. This paper makes a number of proposals to rectify the situation.

Based on the study discussed more fully in the main text, it is recommended that:

1. Explicit clauses addressing appropriate labour standards be used in all construction related contracts.
2. A clear policy should be stated on the desirability of using labour-based employment creating methods in construction wherever technically feasible and cost effective, and implementing strategies should continue to be developed to support this policy.
3. Systems be introduced for sustainable and local monitoring of compliance, measuring the impact on target groups, and facilitating review and adoption of policies, strategies and law.

1 This paper summarises the findings of a study by ILO consultants David Stiedl (civil engineer, rural infrastructure and labour-based technology specialist) and David Tajgman (lawyer and labour standards specialist) carried out in Ghana from 21 February to 2 March 2003. Terms of reference of the study are found in Annex I:

The study focused primarily on the experience within the Feeder Roads Department of the Ministry of Transport, but the opportunity was taken to place this experience in the wider context of the Road Sector Development Programme, which involves the Department of Urban Roads and the Ghana Highway Authority.

Interviews were conducted with government officials from the Ministry of Transport and Ministry of Labour, consultants, contractors, union officials and some key donors. A list of people met is contained in Annex II found on page 19 and documents studied Annex III found on page 21.
Background: Procurement and poverty reduction policies

Ghana is now in the second year of implementation of its comprehensive poverty reduction strategy (GPRS 2002-2004), developed by the Poverty Reduction Unit in consultation with Government, Civil Society and Development Partners. The strategy emphasises the provision of infrastructure, modernised agriculture based on rural development, enhanced social services, good governance and private sector development.

The procurement of goods and services for the Road Sector Development and Strategic Plan alone is expected to involve an annual expenditure in the order of US$500 million, and an efficient, transparent and effective procurement service is central to the success of the strategy. However the procurement process has wider ramifications than minimum cost and maximum speed. The opportunity for Ghanaians, and poor Ghanaians in particular, to participate in the provision of infrastructure as workers or as owners of small enterprises, should significantly enhance the poverty reduction impact of the interventions.

The main objective of the CPAR is to address the efficiency and transparency aspects of the procurement process, covering themes off:

1. Legal framework;
2. Contract management;
3. Public Sector Management;
4. Procurement proficiency, capacity building and training;
5. Private sector participation;
6. Anti-corruption initiatives and programs;
7. Customs and ports clearance procedures; and
8. Other Emerging Areas: electronic procurement and green procurement.

This paper will address social aspects of the process, with particular emphasis on employment opportunities that could be enhanced by encouraging the participation of small enterprises, the opportunity for labour-based technologies, and the possibilities for providing “decent work” – employment with fair wages and working conditions for workers.

The GPRS brings together the idea that procurement policy can be used as a strategy for poverty reduction in Ghana, saying explicitly that in the construction and maintenance of civil infrastructure “labour-based methods will be the priority methodology wherever it is feasible” and that “proper occupational risk identification and management measures must be undertaken through effective monitoring of work place health and safety”. We take this as our point of departure.

“The most productive way to assist the working poor appears to be through creating opportunities for them to earn a living wage. Infrastructure programmes can contribute to poverty alleviation in several ways, but the most direct route, in addition to the provision of useful economic infrastructure, is through transferring income. Indirect effects include income multipliers generated by the spending of wages, impacts on local labour markets, and enhanced employability of workers after the programme finishes.


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2 Road Sector Development Programme, 2002 Annual Review Report, Ministry of Transport
Labour-based construction in Ghana

There has been a long history of encouraging the development of labour-based techniques in road construction in Ghana. Since 1986, the Department of Feeder Roads, initially with World Bank and subsequently with ILO, USAID, DANIDA and DFID support, has equipped and trained labour-based contractors to carry out all aspects of construction and maintenance on gravel and earth roads.

There are now some 93 contractors in country classified as “C” contractors, which allows them to bid for the construction, rehabilitation and maintenance of gravel and earth feeder roads with a potential combined output of some 1,000 to 2,000 km construction a year. This should be compared with DFR planned annual programme of 2,200 km of full road improvement and 3,800 km of spot improvement.

In addition 195 small-scale contractors (A4 and C) have been trained to carry out maintenance operations under the DFR Maintenance Performance Budgeting System (MPBS).

The classification system adopted by the Ministry of Transport is summarised in Annex IV: System for classification of contractors, but broadly speaking sets the maximum values of contract that can be bid for and defines the financial status, experience and resources required. The lower end of the equipment-based (A4) and the labour-based contractors (C) are similar, apart from the equipment holding requirements.

Studies have demonstrated that work carried out by labour-based contractors are on average around 30% less expensive in financial terms than the equipment-based equivalent, and generate at least 6 times the employment for each dollar spent. The work has also been judged to be of the same or higher technical quality.

However, even with these advantages, labour-based approaches are still far less common than equipment based, and not particularly popular with either government or the majority of contractors.

Various reasons have been identified for this situation.

1. Policy

Although employment generation is a key policy for the government, this does not appear to reflect in the implementation policy of the RSDP or the operational guidelines of the responsible agencies (DFR, GHA DUR).

There are a number of clauses in the Public Procurement Act 2002, which indicate that the lowest price is not the only consideration, and that issues such as the economic development potential of domestic investment, and the encouragement of employment can be taken into account. There is also provision for a margin of preference for work by domestic contractors. These clauses are set out in full in Annex V: Excerpts from existing guidelines for labour-based and other employment creating procedures. However no guidelines are given as to how such issues should be assessed and weighted.

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3 Found at page 24.
To assist with achieving the aims of the GPRS it would be useful for RSDP, and the individual road agencies to have a general policy statement saying that “labour-based technology approaches will be adopted wherever these are technically feasible and cost effective”. Without such a provision it must be expected that technical ministries and their professional advisers will make procurement decisions based on the most expedient financial and technical approach with little attention to wider socio economic considerations.

2. Labour Management

Senior staff in DFR and conventional contractors expressed the opinion that labour-based works were difficult to manage because of the large workforce involved. Interestingly, contractors who were trained in the approach did not share this opinion. In their experience, for small and widely dispersed sites typical of rural road rehabilitation and maintenance, labour was less of a problem than keeping the necessary machinery operational.

3. Late payment

It was reported that lengthy delays in payment of contract certificates were commonplace, with an average of 8 months, although this has recently reduced to 4 months.

The reasons are mainly bureaucratic; the main mission will deal with these aspects. It was however reported that a typical road sector related interim payment certificate (IPC) required 17 signatures for payment.

Delays of this order are obviously difficult for any contract, but whereas an equipment contractor may be able to negotiate deferred payments with his or her suppliers, workers require to be paid promptly. Overdrafts are available but expensive (35% interest rate), and labour payments can make up at least 30% of the monthly bill (as opposed to 4% for equipment based).

This was viewed as a major disincentive for a contractor to employ labour-based approaches.

4. Speed of Implementation

DFR staff are concerned that C class contractors may not be able to produce sufficient quantity of work to meet the current annual needs of the department. This is a realistic concern as maximum outputs from a C class contractor are in the order of 1 to 2 km of rehabilitated road per month, whereas typical equipment-based contractor should be able to produce 10 to 20 km.

However this should be seen in the light of mobilisation and completion times currently being experienced in the DFR. With typical packages of 10 to 20 km of road it is reported that delays in both mobilisation and completion in the order of 6 months are commonplace with equipment-based contractors, giving an effective output of 2 to 7 km a month. From this perspective, the speed of output advantage seems less significant.

5. Specialised Training

Although labour-based technologies are relatively straightforward, they require certain skills of labour organisation and engineering techniques that may not been known to technicians only accustomed to heavy earthmoving machines.

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4 Source: ODICTP - Organisational Development and In country Training Programme implemented by Crown Agents for the Ministry of Roads and Transport. The full process is reported to consist of 57 steps, incorporating 11 separate checks and 17 signatures.
This has led to the development of a DFR supported training programme taking several months before a contractor is considered ready to pre-qualify for a labour-based contract.

A conventional contractor only needs to demonstrate that suitably qualified staff are on his or her books, the specified equipment is available and the firm has a record of experience in similar work. A training programme as such is not required.

6. Equipment Loans

It has become standard practice to provide labour-based contractors with an equipment loan (in the order of 150,000US$) as part of their training package, to acquire a set of light equipment (based around tractor/trailers and pedestrian operated rollers). While a set of this equipment is considerably cheaper than a set of conventional equipment (grader, dozer, loader, trucks), they have not been readily available on the second hand market in Ghana and contractors have acquired them through donor-supported projects.

In order to pay off this loan it has also become standard practice to provide continuous work on a negotiated rate basis to ensure that equipment is paid off.

This has led to the situation where many of the labour-based contractors have been in continuous employment for several years under specific programmes. The works have often been of a very small scale (routine maintenance), however a degree of dependence has been created, and a general expectation that labour-based contractors will be assured work outside the market for normal competitive biding.

7. Contract Documentation

Until recently, it has been necessary to have purpose designed contracts to be prepared for labour-based works. DFR Standard contracts have been considered unsuitable for a labour-based contractor to bid, and C class have thus been excluded. This is despite the fact that the nature of the work is virtually identical to that let to C class under the purpose made contracts.

The mission inspected a number of recent contracts. These include regravelling and rehabilitation work to gravel and earth roads under funding from GoG, DANIDA, IDA and DFID. The following observations concern the technology choice issue.

− The only contracts advertised in the national press for class C contractors under competitive procedures in 2002 were for DFID funded work. All IDA and GoG funded contracts specify A1-A4 class only.

− DANIDA contracts are restricted to Class C contractors and do not follow NCB regulations. Bids are reported to be competitive, but preference is given to contractors needing to repay equipment loans. It was common practice for many years to let contracts on a fixed rate basis, negotiated with the contractors association.

− The choice of technology type in IDA contracts is left at the discretion of the consultants preparing the documentation. The guidelines given to the consultants are set out in Annex V: Excerpts from existing guidelines for labour-based and other employment creating procedures. 5

− The only difference in the technical specifications between labour and equipment contracts appears to involve the shape of the side drains and the bill items for clearing.

5 Found on page 25.
and grubbing. These do not seem to be substantive reasons to exclude any particular technology approach.

The result is that technology choice and the use of more employment intensive approaches is not an option for contractors in a significant part of the works. The approaches are largely prescribed by the client (in this case DFR) and labour-based technology is very much linked to specific donor funding.

Recently the DFID funded Feeder Roads programme has started to issue contracts designed to be technologically neutral, in that certain bill items only apply to particular approaches. Thus both C class and A4 class contractors are eligible to bid. The contracts include a 10% price preference for labour-based. Even in these circumstances, very few labour-based contractors applied, thus out of 9 current contracts only 2 are labour-based. It is reported that where labour-based contractors have bid, they have been competitive, even without the 10% preference.

Evidence from a recent assessment of bids for periodic maintenance of 7 roads under DFID funding in the Brong Ahafo Region showed that only 12 bids out of 67 were from contractors with a C rating (and 10 of these also had A4/B3 rating). None of these are among the lowest even allowing for the 10% preference. This could demonstrate lack of experience in competitive bidding, but it does not bear out the analysis of comparative costs carried out in 1998.

In general it would seem appropriate to adopt a uniform set of contract documents for RSDP procurement, and particularly for DFR work, which is simple and straightforward and most likely to be the entry point for new construction enterprises.

It was stated to the mission that the IDA procurement of works for smaller contracts had been adopted as a simpler document than the FIDIC 4th edition. However neither document is particularly simple, short or tailored to typical DFR work (the IDA document is for work up to 10 million dollars).

The mission would suggest that consideration is given to the new FIDIC Short Form of Contract that has been specifically developed for simple or repetitive work or work of short duration without the need for specialist sub-contractors. The contract only contains 15 clauses (as opposed to 63 in the IDA document), and is designed to allow additional conditions of particular application from the full FIDIC document as required.

**Small and medium enterprise promotion**

Discussions were held with the national executive of the Association of Road Contractors as to barriers to entry for labour-based contractors and small contractors in general.

It was generally acknowledged that there was a general shortage of construction equipment whether for equipment or labour-based work, and an intervention would be desirable to support leasing arrangements that would enable domestic contractors to meet the demand.

It was also noted that the turnover requirements in some IDA bids were making domestic contractors ineligible to bid. Re-packaging into smaller contracts was suggested. This applied to both equipment- and labour-based contractors.

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6 The Labour-based Contractors Association recently joined up with ASROC in order to widen their market.
Lastly there was considerable debate on the practice of accepting the lowest bid, even when this bid was obviously unfeasible. The disquiet apparently stems from a previous practice of only accepting bids within a defined range of the engineers estimate. Again this applied to both equipment- and labour-base, and there was evidence of collusion with many bids coming in at exactly the margin.

In current NCB practice where the lowest bid is always accepted, there is apparently some evidence of winning contracts failing to complete or experiencing severe delays because of unfeasibly low bids. Low bids are common practice in some industries, where the hope is that the difference can be made up in claims. Apparently this is not the case with feeder roads and it was interesting to note that there have been no recent cases of DFR being taken to arbitration or the courts by a member of ASROC.7

Labour clauses in public contracts: DFR’s Social Aspects of Construction Project

Against this backdrop of a well-developed (if limited) labour-based contracting industry in Ghana, in about March 2000, DFR undertook the Social Aspects of Construction (SAC) pilot project of promoting the implementation of labour standards in a group of DFID financed feeder roads bridges in the Western region of Ghana.8 Nine labour standards areas were identified and elaborated:9

- Freedom of association and collective bargaining
- Equality of treatment
- Wages to be paid promptly, and to comply with legal minima
- Working hours to be regulated
- Health and safety to be assured
- No deliberate, or repeated, casualization and equality of treatment for casual workers
- Social security regimes to be applied
- Employment of children to be restricted
- No forced labour

A tenth element promoting awareness of HIV/AIDS issues was also developed and applied in the SAC project.

7 ASROC is funded by a percentage of payments made by the client to the member, deducted at source.
8 The activity had been agreed with the government of Ghana in 1998 as part of DFID support for upgrading skills and competencies within the private sector in the implementation of construction contracts awarded by DFR. The activity came under a larger DFID financed project called the Social Aspects of Construction (SAC) Project, which was undertaking related pilot activities in Lusaka, Zambia and Kerela, India.
9 See Annex VI: Concerning labour standards selected in the SAC project found at page 27 for details.
The SAC project’s implementation programme included a number of activities designed essentially to spotlight the standards tagged for implementation. The programme thus:

- Elaborated the standards and the concrete actions that contractors needed to take to implement them;
- Identified FIDIC sub-clauses addressing labour standards issues for inclusion in DFID-financed DFR contracts (Conditions of Contract Part II, Conditions of Particular Application);
- Developed special specifications for inclusion in DFID-financed DFR contracts;
- Developed and executed methods for raising contractors’ awareness of contract requirements concerning labour standards, including pre-bid meetings and workshops for contractors;
- Developed bills of quantities for labour standards related cost items;
- Liaised with the Ghana Trade Union Congress’ Construction and Building Materials Workers Union with a view to involve it in representation of affected workers;

Several useful and unique lessons have been learnt and documented from the SAC project experience.

1. **Little enforcement of labour laws**

Although it seemed only to be assumed at the outset, the SAC project confirmed that there is little evidence of labour law enforcement in the rural areas of Ghana where roads and bridge works is occurring. Information from the Department of Labour confirms that labour inspection is widely absent in urban centres and likely to be non-existent in rural areas. Transport is not available. The industry trade union, the Construction and Building Materials Workers’ Union similarly have neither transport nor – and this may be worse – the interest of rural workers who are largely occupied with agricultural employment and only fill gaps with short term roads work. Thus, these mechanisms cannot be relied on to enforce legislated labour protections.

2. **Provisional sums critical**

It is traditionally assumed that contractors’ bids include the cost of legality. Where labour is a major means of production this cost is for the payment of lawful wages, the provision of safety and health equipment required by law, the cost of site management comprising the supervision of labour, etc. Under the SAC project, provisional sums were set out for the provision of these requirements, as specified under the contract.¹⁰

Contractors did not object to implementing labour standards when they were covered by provisional sums. In their absence, it is assumed that either competitive pressures or the desire for greater profits would undermine respect for the rule of law. Alternatively, workers’ insistence up their rights would reinforce good industry practices developed with the help of the special clauses and provisional sums.

3. **Resistance to social security**

¹⁰ Some contractual requirements give specifics that may go beyond the requirements of the law.
The Ghanaian Social Security Law, 1991 covers all workers, irrespective of their employment terms. The Scheme insures the Ghanaian worker against (a) old age, (b) invalidity, and (c) death. Under the scheme, the worker contributes 5% of his salary and the employer adds 12.5%, paid to the Social Security and National Insurance Trust (SSNIT).

The experience under the SAC project showed that workers resisted having 5% of their already small earnings deducted. Some workers where not registered at all with the SSNIT. It proved difficult to get SSNIT representatives to sites in good time to register workers. Rural workers did not have sufficient confidence in the Scheme or their likelihood to ever see benefits under it.

Contractors seem to have joined in with the rural workers in voicing opposition. For them, of course, full respect for the law would have cost 12.5% of the wage bill for all workers – and this was not an item covered as a provisional sum. Further discussion of this matter is found below under the heading “The question of “casualisation”” beginning on page 13.

4. Arrangements for health and safety

The SAC project required a number of specific health and safety provisions. Some of the provisions seem to many to be more than is necessary. For example, all workers are required to have at work steel toe-capped safety boots, overalls, gloves, and raincoats for any works in rainy seasons. Multiplied by hundreds of workers for a roads project – the pilot was done on bridge works with much fewer workers – the requirements would certainly require continued use of provisional sums. The requirement of specified latrines is of the same nature.

The concern here is not the level of the standard, so much as its sustainability. A broad solution to this problem would be the more fundamental involvement of affected industry representatives, including workers, in deciding which standards ought most be implemented, and thus selected for inclusion as special labour clauses.

5. Contract monitoring can be effective, but limited in the long-term

A critical aspect of the SAC project was that each project’s consulting engineer enforced labour clauses as part of contract monitoring. Since they have transport and are obliged to visit ongoing construction activities, the consulting engineers were able to require the production of employment records, see that latrines and drinking water was available, or interview workers to see if they had been paid appropriately.

Consulting engineers are not, however, trained as labour inspectors; nor can it be expected that their primary interest be in the enforcement of labour clauses without ongoing coaching and supervision.

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11 To qualify for a full pension the member worker must be at least 60 years old and have made a minimum contribution of 240 months (20 years) in aggregate; a reduced pension can be given to a member worker who is 55 years old, with 20 years contributions. To qualify for invalidity pension the member worker must have made a minimum contribution of 12 months within the last 36 and must have been declared permanently invalid and incapable of any normal gainful employment. For the survivors’ lump sum benefit, a member worker dies before retirement having made the required 240 months contributions. there is little possibility of a rural worker meeting these conditions. Notwithstanding the length of service required, the average life expectancy in Ghana is currently 57 year.

12 The story was told of a SSNIT representative visiting a site, taking registration forms from a group of recently employed workers, and returning with registration cards two weeks latter. The SSNIT representative was invited to find the workers, as they were not longer working with the project.

13 These can be seen starting on page 28.

14 The monitoring consultants for the SAC project had the following observations concerning the consulting engineers:

“Issues that need to be discussed and straightened out:

1. They are not yet comfortable interacting with workers on CLS issues and checking on the monitoring indicators.
6. Important role of trade union is limited in practice

As noted above, the SAC project involved the CBMWU in its work. While the Special Specifications resulting from the projects notes that

The current collective agreement between the Association of Building and Civil Contractors of Ghana (ABCCG) and the Construction and Building Materials Workers Union of TUC (CBMWU) for the period from 1\textsuperscript{st} January 2000 to 31\textsuperscript{st} December 2001 provides for many of the [specifications] Labour Standards, it does not acknowledge that there is a collective agreement between the Association of Road Contractors of Ghana on behalf of each of its members, who are bound by the terms of the agreement.\textsuperscript{15} The agreement does not appear to be made with labour-based construction operations in mind; some provisions are noteworthy.\textsuperscript{16} Of importance is the coherence between the collective agreement and clauses in the public contract on the one hand, and enforcement and monitoring of the collective agreement on the other. Greater importance needs to be laid on the industry collective agreement if the idea that collective bargaining is, indeed, something that is to be promoted.

7. Important role of the community in monitoring

The monitoring of the DFR SAC initiative focused largely on developments at the workplace; there were was limited follow-up on the impact of improved labour standards on the communities from which workers came. Future use of labour clauses and related similar efforts at improving labour standards in through procurement would benefit substantially from such monitoring to inform, for example, the GPRSP in respect of the actual benefits derived from such efforts.

ADOPTION BY DFR OF SAC EXPERIENCE AND CONTRACT CLAUSES

DFR’s practice of including specific labour clause in contracts has clearly begun, even though there is no policy on the matter. A number of observations can be made concerning this developing practice.

1. Uniformity would be desirable

There is a lack of uniformity in both the clauses being included in DFR contracts and the occasions on which they are included at all. This has created a situation where, for example,

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\textsuperscript{2} Their sustained commitment is crucial for further implementation and monitoring.

\textsuperscript{3} After a series of discussions to the contrary, they still see ISODEC as the sole agent responsible for CLS and only hope to take up the responsibility after the withdrawal of ISODEC.

\textsuperscript{4} They see CLS monitoring not part of their TOR and for which, if they have to monitor, the client has to pay for additional work.

Experience has shown that ER’s, like contractors, need an orientation on CLS and its significance to enable effective implementation and monitoring.”

\textsuperscript{15} This may be because the SAC Project focus was on bridges, not roads, \textit{per se}.

\textsuperscript{16} The contract covers all workers employed by the bound employer. No explicit distinction is made between those with on going employment agreements and others who are employed intermittently or on a short-term basis. “A permanent or regular employee may be granted special leave of absence with pay”, but there is no definition of these terms. Union dues are to be deducted, plus a 2\% levy imposed; it is not clear whether the levy is meant to be a deduction from wages or an amount based on total wages, paid by the employer. Safety and health requirements are less specific than the SAC project’s Special Specifications; there is no requirement for latrines, safety equipment is required on an “as needed” basis, latrines are not mentioned. A number of benefits have requirements for a period of previous employment, i.e. maternity leave (12 months continuous service), sick leave (1 year service), annual leave (12 calendar months service). No provision seems to be of a type that would hinder labour-based operation, but neither are their provisions that take particular account of labour-based employment patterns.
the workers on one bit of a road enjoy exemplary conditions of work, while those on an adjoining bit work under “business as usual” terms. Annex IX: Comparison of contract clauses\textsuperscript{17} details the differences in clauses found in current contract documentation. Even where particular points have been taken up, for example, on the provision on-site of first aid equipment, specifics of what is needed to meet the requirement – the contents of the first aid kit in this example, provisions for monitoring and arrangements for financing are not consistent. This lack of uniformity is explained by the following observation.

One particularly important area of inconsistency concerns insurance cover for workers’ accidents. There is no requirement in Ghanaian law for insurance coverage; the Workmen’s Compensation Law, 1987 imposes employer liability and a mechanism for determining the extent of liability. It does not set requirements for employer financing of potential liability. Thus, FIDIC clauses designed to require contractor insurance for workers’ accidents – distinct from clauses indemnifying the employer liability or requiring insurance for the injury of third parties – ought to be placed as a matter of standard procedure in all DFR contracts. They currently are not.\textsuperscript{18}

2. Clauses driven by donor initiative or financing

Current labour clause practices at DFR are driven by the availability of financing. According to interviews with GoG officials – confirmed by review of contract documents – clauses are included in contracts where there is a certainty that funds are available to pay for them.\textsuperscript{19} Thus, such clauses are found in contracts financed by the IDA, DANIDA, and the EC, but not in those paid by the GoG.\textsuperscript{20} Considering the “business as usual” non-compliance with labour standards noted by the SAC Project, two-tiers of working conditions might be the expected result in Ghana’s road construction sector. Conditions meeting legal requirements will be found in donor financed projects and conditions falling below legal requirements – because of lax monitoring or failure to include in bids the costs of compliance – where GoG finances works. This might not be the medium to long term result either if consulting engineers become lax in their monitoring labour clauses, shifting the upper tier downward, or contractors on GoG financed projects begin to model their bidding and management behaviour after practices on upper tier donor-financed contracts.

In any case, inclusion of labour clauses driven by a policy decision would show domestic commitment to the idea of improving respect for labour laws where public contracts are concerned. Such a policy should take up issues of financing, use of provisional sums, selection and content of clauses, and monitoring.

THE QUESTION OF “CASUALISATION”: THE EXAMPLE OF SOCIAL SECURITY COVERAGE

The idea of hiring unskilled workers for relatively short periods of time is an important aspect of providing rural workers employment in the operation of labour-based construction projects. This practice is often referred to as casual employment, acknowledging that rural labour has other long-term commitments to such activities as food production and processing, but would welcome the opportunity for occasional cash earning activities.

\textsuperscript{17} Found at page 40.

\textsuperscript{18} Information was received that it is common practice in the industry for “all risk” insurance to be taken by contractors. It was not possible to investigate if, in fact, all risk insurance covers workers’ injury. This matter should be investigated further.

\textsuperscript{19} This is so even though there is no consistent practice of setting particular labour clause requirements out as provisional sums.

\textsuperscript{20} It would be interesting to study to what degree the cost of compliance with labour standards implied but not specifically stated in contracts are subsumed in evaluation of projects and in actually bidding.
Despite this, as a result of SAC project, DFID-financed contract language now specifies that

“The Contractor shall comply with the statutory regulations in respect of the employment of casual labour and shall not allow the deliberate or repeated casualisation of labour during the currency of the Contract.”

The essence of the clause is that workers should get what they are entitled to under law and, the contractor should not use repeated casualness as an excuse for denying rights. A critical underlying assumption of this clause is that persons hired intermittently and or for short durations are entitled to fewer rights and benefits *in law*.21

The fact of the matter is that there are no statutory regulations in Ghana concerning the employment of “casual” labour. Ghanaian law does not define “casual” labour or “casual workers”. There is no distinction made in law between workers based on their “casualness” – whatever one defines that to be in practice; the legislated rights of the “casual” are equal to that of a “non-casual”. Thus the enforcement of statutory regulations is the issue, not casualisation *per se*.

This is an area of real concern, as workers often do not, in fact, receive benefits and rights required by law *regardless of their employment status*. The question of social security contribution/deductions can be used as an *extreme* example since

(1) rural workers do not press for and indeed tend to resist registration and membership in SSNIT;

(2) employers face a cost for respecting the SSNIT requirements; and

(3) enforcement is, to say the least based on the SAC experience, not fully effective.

The pattern of intermittent and short duration waged employment the bulk of rural workers face undermines the possibility that the law – in this case the social security scheme – can be enforced. The stage is thus set for a policy choice: Either try to force application of the law as it stands, or craft the law to accommodate the employment pattern, that is, create in law a *class* of casual labour with rights different from other workers. In the former case there is a danger that this would encourage employers to minimize local recruitment because of the problems with registration and payment of short-term employees. In the later case there is a possibility that the assignment of rights to the new class of casual workers removes fundamental protections and encourages more abuse of labour standards; or that the reduction in rights is so great that employers deliberately casual-ize workers, adjusting the characteristics, i.e. duration/intermittency, of employment so that they fit the legal definition. In the case of Ghana, the rights currently granted to workers are not so onerous as to justify a reduction for a new class of casuals – the social security area is simply a good and extreme example of the problem.22

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21 It is interesting that there was some discussion at the outset of the project of the issue of “casualization”, reflected in an inception report.

“Monitoring indicators were suggested for the 9 core labour standards. However, during discussions to refine these indicators at the first workshop, participants thought equality of treatment and casualisation could be bulked as one in the Ghanaian context. Hence, the workshop reduced the 9 standards to 8 standards. At the second workshop, we decided to retain the 9 standards as originally prescribed. The argument being that, the 9 standards are part of a list of standards, which are internationally recognised and different from each other. It would then be plausible if it is maintained as such and observed during implementation so as to build and refine qualities associated with it. The monitoring indicators were circulated without Casualisation. It was however discussed and monitored during the pilot period at the site meetings. Stakeholders though still have not been able to fully differentiate between equality of treatment and casualisation. It has however been reinserted.”

22 See Annex VII: The rights of Ghanaian workers found at page 35. A very important nuance for consideration: The development of better management skills i.e proper elementary record keeping, required to administer the currently reasonable
A constructive revision to one aspect of the law is currently being investigated by SSNIT under World Bank funding. In its Informal Sector Social Security Scheme SSNIT is trying to craft benefits as part of the national social security scheme that appeal to the “informal” sector – which is very similar to the situation for rural workers of the type employed intermittently and for short periods of time in labour-based employment projects.

In addition, a Labour Bill is currently before the Ghanaian Parliament. It contains, for the first time, a definition of “casual worker”. The current draft does not deal with the Social Security Act; it is not clear how its provisions would affect employment practices in the labour-based construction sector. Further comment on the draft is found in Annex VIII: Comments on the draft Labour Bill. However it should be noted that the proposed definition of a casual worker:

“casual worker” means a worker engaged on a work which is intermittent and whose remuneration is calculated on a daily basis.

is unclear and open to abuse. Furthermore, the rights belonging to the new class of casual workers is unclear as currently drafted.

The judgment of what approach should be taken belongs to the legislator. The idea of a “casual worker” should be crafted to protect the rule of law by ensuring that the standards that are in place do not meet the fate of Ghana’s social security scheme – unappreciated by all involved and ultimately not applied. The concept can have abusive results where the rights removed are extreme, or where forces in the labour market do not operate to support enforcement of even the most minimum of labour standards. Basic awareness of rights among workers is also critical for preventing abuse.

**NATIONAL POLICY ON LABOUR CLAUSES IN PUBLIC CONTRACTS**

As mentioned earlier, there is no clear policy on the inclusion of specific clauses on labour related matters in public contracts either at DFR or in Ghana. Despite this, there are indications that such a policy would be consistent with existing DFR practice.

First, it is very important to appreciate that the labour standards elaborated in the SAC initiative already exist in Ghanaian law. So much is recognized as early as 1998 and reiterated in project documentation in 2001. The aim of the SAC project was to improve the effect given to the legal provisions in practice by spotlighting the issue.

Second, from a rule of law/good governance perspective – something endorsed by the GoG and the Bank – it is similarly critical to understand that contractors are obliged to respect Ghanaian labour laws since they are contractually obliged to respect Ghanaian law generally. Legally speaking the addition of specific labour clauses does not add to

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23 “Most (if not all) of these norms are incorporated in Ghana’s legal and constitutional framework, and a number of them are given operational form in agreements pertaining to the construction industry (see SAC Report 1998). The regulatory framework for protection of workers’ rights is therefore comprehensive; but the extent to which standards are adhered to in practice falls far short of the intention of the labour laws.” *Piloting Labour Standards in the Western Region of Ghana: Final Report on Lessons Learnt*, January 2001, Integrated Social Development Centre, Ghana, page 6.

24 For example, FIDIC General Conditions of Contract: **Compliance with Statutes, Regulations**

The Contractor shall conform in all respects, including by the giving of all notices and the paying of all fees, with the provisions of:

(a) any National or State Statute, Ordinance, or other Law, or any regulation, or bye-law of any local or other duly constituted authority in relation to the execution and completion of the Works and the remedy of any defects therein, and
contractor obligations. In practice, however, both the specification of particular concrete obligations – to provide latrines, safety equipment, and first aid kits to specification, keep particular types of records, etc., – and the provision of provisional sums, represents a very important development in trying to model future behaviour.

And third, Ghana ratified in 1961 the ILO’s Labour Clauses (Public Contracts) Convention, 1949 (No. 94) establishing an important basis for policy implementation. Ghana has never, however, been able to demonstrate to the relevant international supervisory bodies that it is implementing the Convention’s main obligations.25

Contracts … shall include clauses ensuring to the workers concerned wages (including allowances), hours of work and other conditions of labour which are not less favourable than those established for work of the same character in the trade or industry concerned in the district where the work is carried on-

(a) by collective agreement or other recognised machinery of negotiation between organisations of employers and workers representative respectively of substantial proportions of the employers and workers in the trade or industry concerned; o

(b) or by arbitration award; or

(c) by national laws or regulations.

…

Where appropriate provisions relating to the health, safety and welfare of workers engaged in the execution of contracts are not already applicable in virtue of national laws or regulations, collective agreement or arbitration award, the competent authority shall take adequate measures to ensure fair and reasonable conditions of health, safety and welfare for the workers concerned.

Set against this backdrop, and considered in light of the lack of full respect for the rule of Ghanaian law, there is no justifiable argument against clear behaviour-modelling labour clauses in Ghanaian procurement contracts.

THE IMPLICATIONS OF THE SAC PROJECT AND DEVELOPING LABOUR CLAUSE PRACTICE

The SAC project has drawn attention to the fact that Ghanaian labour standards are not fully applied in practice in at least certain branches of the construction sector. The project has also shown that spotlighting the issue, developing a mechanism for ensuring payment for costs of implementation – estimated at 7% – and for promoting the monitoring of implementation can improve the situation.

It is not at all clear that the features of the project experience that were critical for making a difference will be sustained in either the short or the longer term. Currently, for example, the practice of giving time during pre-bidding meetings for focus on labour standards appears

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25 The interested reader is advised to consult the full text of the instrument, available on the Internet at: http://www.ilo.org/ilolex/cgi-lex/convde.pl?C094
only to occur in DFID financed projects. From a policy standpoint it is also not clear how long provisional sums would be needed to reinforce the idea that contractors should treat the cost of compliance as an integral part of the cost of doing business by estimating costs and bidding with compliance taken into account. 26 Lastly, monitoring capacity needs to be protected against fatigue; if this sets in room will be created for padding profits instead of providing standards that have been paid for.

Public construction and maintenance projects are the most important when it comes to the employment of labour as a result of public procurement; they produce a lot of jobs. Labour clauses should thus be extended there, after consolidation and further experience in road construction and maintenance, both labour- and equipment-based. The areas of attention indicated in this study should inform the extension of such clauses.

Principal Recommendations

Policy. A government policy statement is introduced to cover all infrastructure procurement stating that in the construction and maintenance of civil engineering works, labour-based technology approaches will be adopted wherever these are technically feasible and cost effective.

Implementation strategy. To facilitate this policy, three strategies are proposed:

- All contract documentation for works deemed technically feasible should be technologically neutral. That is, the packaging specifications and bills should be able to accommodate a labour or equipment based approach, or a combination of these approaches.

  - A standard form of contract document should be developed to lessen the potential for errors and misunderstandings from new entries into the industry, to help contractors and consultants to better appreciate the requirements of the client and to generally improve enforcement of contract conditions. The new FIDIC Short Form of Contract would appear to be an excellent vehicle for the type of work currently carried out by DFR.

- Consideration should be given to a percentage preference to tenders utilising labour-based works and guaranteeing an agreed percentage of labour content in the works.

- The innovative work carried out by the DFR over the past fifteen years to train and equip labour-based contractors should be revisited to see if it is possible to adapt and streamline the approach to a more competitive environment

Appropriate labour clauses. Labour clauses need to be applied consistently in all projects, consistent in language, and appropriate with respect to the actual content of the project. Special attention is drawn to:

  - consistency in all DFR contracts in respect of insurance cover against workers’ accidents;

  - an industry standard being developed giving detailed specifications in relation to safety and health obligations, with a view to prevent undercutting that can result from vague requirements; and

26 In the area of occupational safety and health, it is probably a good idea to develop very specific industry requirements that can easily be estimated, in order to avoid undercutting that can accompany lesser attempts at implementing vague requirements.
standard groups of clauses be developed for different types of construction projects in order to insure both consistency and appropriateness.

Monitoring. It will be necessary to develop a set of guidelines to enable these recommendations to be implemented and monitored. Reliance for monitoring in the short term may be placed on consulting engineers, but in the longer-term approaches must be taken either to strengthen the capacity of the Department of Labour, or to explicitly broaden the mandate and capacity of consulting engineers. Procedures should be put in place to allow communities to inform Government of the impact of improved procedures and cases of lack of compliance. This will have increasing relevance as the Government’s policy of decentralized provision of infrastructure is mainstreamed.
ANNEXES
Annex I: Terms of Reference

Terms of Reference for CPAR assessment of Social Dimensions of labour standards

As agreed with the World Bank

The purpose of this assessment is find out how labour standards are treated in the legal framework, procedures, bidding process and contract supervision and controlled by the Ministry of Labour and to make recommendations for improvements.

The assessment will determine whether the country has policies and a proper legal framework aimed at environmentally and socially responsible procurement.

More specifically; the assessment will cover the following;

i. The clarity, comprehensiveness and consistency of the procurement system with regard to labour standards and safety in construction contracts.

ii. Role and power of the Ministry of Labour in the area of Labour Standards and safety in construction contracts.

iii. Whether the packages of project components is appropriate for procurement purposes, allowing participation of local suppliers.

iv. Whether labour standards and decent working conditions are reflected adequately in the bidding documents, bid evaluation and contract award, contract documentation, and contract supervision and payments.

v. The existence of monitoring and enforcement mechanisms to ensure compliance with contractual obligations with regard to labour standards.

vi. Synthesis of any existing evaluation of pilot operations on labour standards conducted under DFID funding.

vii. Any other issues in connection with this aspect.

The Assessors will work in close collaboration with staff of the Ministries and agencies that deal with works contracts.
## Annex II: Persons Met

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>S K Addison</td>
<td>Contractor</td>
<td>Afadsi Construction Works Ltd</td>
</tr>
<tr>
<td>Joana Adgei</td>
<td>LB contractor</td>
<td>Pasagyei Enterprises Ltd</td>
</tr>
<tr>
<td>Tony Airey</td>
<td>MST Project Manager</td>
<td>DFR</td>
</tr>
<tr>
<td>Ibrahim I Akalbila</td>
<td>Programme Officer</td>
<td>ISODEC</td>
</tr>
<tr>
<td>Paul K Amegee</td>
<td>Asst Chief Labour Officer</td>
<td>Labour Department</td>
</tr>
<tr>
<td>Tsri Apronti</td>
<td>Procurement Specialist</td>
<td>World Bank</td>
</tr>
<tr>
<td>B K Arthur</td>
<td>Contractor</td>
<td>Knatto Complex ltd</td>
</tr>
<tr>
<td>A B Asare</td>
<td>Contractor</td>
<td>Qubias (GRA)</td>
</tr>
<tr>
<td>Nii K Ashong</td>
<td>Deputy Director</td>
<td>DFR</td>
</tr>
<tr>
<td>Eric Asumda</td>
<td>Contractor</td>
<td>Uratec Engineering Ltd</td>
</tr>
<tr>
<td>Kofi Awanya</td>
<td>Procurement Specialist</td>
<td>World Bank</td>
</tr>
<tr>
<td>Prince J Banyerah</td>
<td>Contractor</td>
<td>Ba-Iseng Ltd</td>
</tr>
<tr>
<td>A G Beckley</td>
<td>RSDP Donor Coordinator</td>
<td>MRT</td>
</tr>
<tr>
<td>Henry Danso</td>
<td>National Coordinator</td>
<td>DFR</td>
</tr>
<tr>
<td>Amanda Duff</td>
<td>Engineering Adviser</td>
<td>DFID</td>
</tr>
<tr>
<td>Rosemund Ebdon</td>
<td>Social Development Adviser</td>
<td>DFID</td>
</tr>
<tr>
<td>Edward Ghanem</td>
<td>Contractor</td>
<td>Ghamini Enterprises Ltd</td>
</tr>
<tr>
<td>Ted Greenhalf</td>
<td>Carl Bro</td>
<td>DFR</td>
</tr>
<tr>
<td>Dauda Hakim</td>
<td>Road Contractor</td>
<td>Mikah Construction Company</td>
</tr>
<tr>
<td>Joseph E Hewton</td>
<td>National Secretary</td>
<td>ASROC</td>
</tr>
<tr>
<td>J Inumesi-Mensah</td>
<td>Contractor</td>
<td>Nkuantalisa? Engineering</td>
</tr>
<tr>
<td>Malik Issahaku</td>
<td>Contractor</td>
<td>Mallam Issa Ishaku &amp; Bros Ltd</td>
</tr>
<tr>
<td>James Klu</td>
<td>Quantity Surveyor</td>
<td>DFR</td>
</tr>
<tr>
<td>Bernard Koranteng-</td>
<td>Contractor to donor coordinator</td>
<td>MRT</td>
</tr>
<tr>
<td>Yorlle</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Don F Kuubeterzi</td>
<td>Regional Engineer Western</td>
<td>DFR</td>
</tr>
<tr>
<td>Ian Lunt-Bell</td>
<td>Maintenance Management Specialist</td>
<td>DFR</td>
</tr>
<tr>
<td>Hans Maennchen</td>
<td>GTZ Project Manager</td>
<td>GHA</td>
</tr>
<tr>
<td>Name</td>
<td>Position</td>
<td>Organization/Project</td>
</tr>
<tr>
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</tr>
<tr>
<td>I S Maliame</td>
<td>Contractor</td>
<td>Sawana Construction Co Ltd</td>
</tr>
<tr>
<td>Mbubu Mbunga</td>
<td>Senior Procurement Specialist</td>
<td>World Bank</td>
</tr>
<tr>
<td>Martin H Mensah</td>
<td>Director</td>
<td>DFR</td>
</tr>
<tr>
<td>Ernest Obuobi</td>
<td>Resident Engineer</td>
<td>Hag Consult</td>
</tr>
<tr>
<td>Joshe Poku</td>
<td>Director</td>
<td>Hitracs</td>
</tr>
<tr>
<td>Pious M K Quainoo</td>
<td>General Secretary</td>
<td>CBMWU</td>
</tr>
<tr>
<td>K Abbey Sam</td>
<td>Adviser</td>
<td>MRT</td>
</tr>
<tr>
<td>K Ghartey Sam</td>
<td>Contractor</td>
<td>BROSAM Ltd</td>
</tr>
<tr>
<td>Alhaji S Soaley</td>
<td>Contractor</td>
<td>Midjinmata Trading and Construction Enterprises Ltd</td>
</tr>
<tr>
<td>Ulla N Tawiah</td>
<td>First Secretary</td>
<td>Royal Danish Embassy</td>
</tr>
<tr>
<td>Robert K Tette</td>
<td>Contractor</td>
<td>Rotek Ltd</td>
</tr>
<tr>
<td>David L Tumweigye</td>
<td>Chief Technical Adviser</td>
<td>Ghana Social Trust Pilot project</td>
</tr>
</tbody>
</table>
Annex III: Documents studied

A Bill Entitled the Public Procurement Act, 2002

Collective Agreement Between the Association of Road Contractors of Ghana and the Construction And Building Materials Workers Union of the Trades Union Congress of Ghana (1st June 2000 – 31st May 2001)

Cost Comparison between Labour-Based and Equipment-Based Methods for Roadworks: A Case Study from Ghana, Rural Transport Research Programme Sub-Saharan Africa (R6239), Gary Taylor 27 July 1998

Critical Comments of the TUC on Labour Bill (undated)

Danida Health and Safety Audit on the Takoradi - Agona Jn. Road TSPS, Ghana 26 September - 5 October, 2001


Department of Feeder Roads Road Sector Development Programme (RSDP) - IDA Credit 3554-GU, Regraveling of Selected Feeder Roads in Ghana, Pokuase-Ablekuma Feeder Road, Contract No: DFR/GAR/REG/RSDP/IDA/LOT 1/2, Bidding Documents

Department of Feeder Roads Transport Sector Programme Support (Phase I) Progress Report No.12, 4TH Quarter 2002, December 2002

DFID Funded Support to Rural Feeder Roads - Standard Tender Documents, Section 3: Conditions of Contract Part II Conditions of Particular Application

DFID Funded Support to Rural Feeder Roads - Standard Tender Documents, Section 4 Special Specification

DFID Support for Rural Roads Project, Improvement of Feeder Roads in the Sene District, Contract No DFR/BAR/DFID/IMP/LCB Tender Documents, Hitracs Consult

DFID SUPPORT TO FEEDER ROADS IN GHANA INTERIM REPORT March 2002, IT Transport - Scott Wilson Joint Venture

Donors Conference, Ministry of Roads and Transport, November 2002, compilation of presentations


Factories, Offices and Shops (Registration Certificates) (Fees) Regulations, 1997 L.I. 1635

Factories, Offices and Shops Act, 1970 Act 328

Final Pilot Labour Standards Workshop in Takoradi, ISODEC, January 2001


21
From Workfare to Fair Work, The Contribution of Public Works and other Labour-based Infrastructure Programmes to Poverty Alleviation, S Devereux, ILO, November 2002

Ghana Poverty Reduction Strategy, February 20, 2002

Ghana: Bridges for Feeder Roads PEC (97) 27, 5 August 1997

Ghana: Support to Rural Feeder Roads, Project Submission, 23 March 1999 PEC(99)11

Guidelines, Procurement under IBRD Loans and IDA Credits, The World Bank; January 1995

ILO/ASIST Technical Brief No. 5: Contract Documents


Industrial Relations Act, 1965 Act 299

Informal Sector Social Security Scheme Implementation report, The Informal Sector Project, SSINT, October 29, 2002


Labour Bill (undated)


Labour Standards Report for Bridges, OPR December 2002, Annex to main report

Labour-Based Contracting, A Study to Develop Guidelines for Project Formulation and Implementation, ILO, July 1995

Labour-Based technology for Construction/Maintenance of Feeder Roads, Ted Greenhalf, CarlBro International, undated


Ministry of Roads and Highways Department of Feeder Roads, Articles of Agreement for a Routine Maintenance Contract

Ministry of Roads and Transport Guidelines for the Classification of Contractors for Road and Bridge Works, 2nd Sept, 2002


Project Report, 2nd Phase of the DFID/DFR Labour Standards Project in the Western and Central Regions, ISODEC, September 2002

Road Sector Development Programme, 2001 Review Report, Ministry of Roads and Highways

Road Sector Development Programme, 2002 Review Report, Ministry of Roads and Highways


Socially Responsible Construction Investments, International Labour Office
### Annex IV: System for classification of contractors

<table>
<thead>
<tr>
<th>Class</th>
<th>Type of Work</th>
<th>Maximum Tender 10⁶ Cedi</th>
<th>Minimum Capital 10⁶ Cedi</th>
<th>Annual²⁷ Turnover 10⁶ Cedi</th>
<th>Full time staff</th>
<th>Minimum Equipment Holding²⁸</th>
</tr>
</thead>
<tbody>
<tr>
<td>C</td>
<td>Road construction, maintenance and spot improvement using labour based methods</td>
<td>Not stated</td>
<td>100</td>
<td>Up to 200</td>
<td>1 civils supervisor</td>
<td>9 items of plant including 2 rollers, 1 tipper truck and 3 farm tractors (trailers are not mentioned)</td>
</tr>
<tr>
<td>A4</td>
<td>Spot improvement and reshaping up to 80km. And regraveling up to 20km</td>
<td>2,125</td>
<td>100</td>
<td>Up to 200</td>
<td>3 technical and administrative staff including 1 civils supervisor and 1 mechanical supervisor</td>
<td>4 items of plant including 1 grader, 1 roller and 2 tipper trucks</td>
</tr>
<tr>
<td>A3</td>
<td>As above plus rescaling up to 20km and resurfacing up to 10km</td>
<td>5,590</td>
<td>200</td>
<td>200 to 400</td>
<td>6 technical and administrative staff including 3 civils supervisors and 2 mechanical supervisors</td>
<td>10 items of plant including 1 dozer, 1 grader, 2 rollers and 4 tipper trucks</td>
</tr>
<tr>
<td>A2</td>
<td>As above plus improvement, rehabilitation and minor construction work</td>
<td>10,750</td>
<td>500</td>
<td>400 to 600</td>
<td>17 technical and administrative staff including 1 engineer, 8 civils supervisors and 6 mechanical supervisors</td>
<td>30 items of plant including 2 dozers, 2 graders, 2 loader/excavators, 4 rollers and 8 tipper trucks</td>
</tr>
<tr>
<td>A1</td>
<td>As above plus major construction of roads and airports</td>
<td>No limit</td>
<td>1,000</td>
<td>Over 600</td>
<td>28 technical and administrative staff including 2 engineers, 5 civils supervisors and 12 mechanical supervisors</td>
<td>63 items of plant including 3 dozers, 4 graders, 5 loader/excavators, 9 rollers and 20 tipper trucks</td>
</tr>
</tbody>
</table>

²⁷ The intention of this obligation is not clear. The text states that this is the minimum turnover required for classification, but the figures are presented as an upper limit, ie if your turnover is greater than 200 million cedi you presumably cannot be classified as a labour-based contractor.

²⁸ The C class contractor equipment holding is significantly more comprehensive than the A4 contractor who is not required to hold equipment for excavating or loading material.
Annex V: Excerpts from existing guidelines for labour-based and other employment creating procedures

1. Proposals for Tender Evaluation

As proposed in the bill entitled The Public Procurement Act, 2002. The following extracts relate particularly to the social and employment aspects of the tender evaluation process.

Evaluation of tenders

To determine the lowest evaluated tender, the procurement entity shall consider the effect, the acceptance of the tender will have on:

1. the balance of payments position and foreign exchange reserves of the country; the extent of local content, including manufacturer, labour and materials, in goods, works or services being offered by suppliers or contractors;

2. the economic-development potential offered by tenders, including domestic investment or other business activity;

3. the encouragement of employment, the reservation of certain production for domestic suppliers;

4. the transfer of technology;

5. the development of managerial, scientific and operational skills;

Margin of preference

A procurement entity may grant a margin of preference for the benefit of tenders for work by domestic contractors or for the benefit of tenders for domestically produced goods or the benefit of domestic suppliers of services.

The margin of preference shall be calculated in accordance with the procurement regulations and reflected in the record of the procurement proceedings;

Study commentary

The matters highlighted in the “evaluation of tenders” section are very pertinent to maximising the employment creation potential of the procurement process. However it is not clear how effects will be measured and what weight should be given relative to the price.

Detailed guidelines informed by a national study will be necessary to make this process effective.

The margin of preference is a much simpler procedure to operate, as the weighting is clear. However the determination of the size of the margin should be a matter of national policy.

2. Guidelines for identifying works suitable for using labour-based methods

Extracted from DFR Terms of Reference for Engineering Studies and Design Services for bitumen surfacing, rehabilitation and spot improvement of roads.
The consultant shall identify road links, which are appointee for rehabilitation using labour-based methods developed by DFR. The criteria for selection of road links suitable for labour-based methods are:

1. Earthworks should be minimal and roadside material is suitable for road formation.

2. Haulage distance for gravel sub-base and surfacing materials shall not exceed 5km;

3. Under employed or surplus labour is available along the road within a walking distance to and from work site.

4. Road section requires minor culverts.

For equipment-intensive National Competitive Bidding, the consultant shall package lots consisting of 15km, 25km, and 45km, without subdividing a specified road link into lots, to enable participation of contractors classified for A1 to A4 contracts by the Ministry of Roads & Transport.

For Labour-Based National Competitive Bidding, the aggregate length of road links in a lot shall be between 20 and 25km.

Study commentary

Item 3 requiring surplus labour is an obvious requirement, however it can be a difficult criteria to establish without conducting on site surveys and interviews. The availability of labour is highly dependent on the season in agricultural areas, but also on the general economic situation in the area.

Engineering consultants may not be equipped to carry out such studies adequately unless more guidelines are provided based upon national experience and advice from labour-studies.

Items 1, 2 and 4 are more difficult to justify, given that A4 contractors are allowed to bid. Equipment output for earthworks and skills in structures are unlikely to be very different between a class C and an A4 contractor. Similarly, tractor/trailer combinations are perfectly feasible for gravel haulage over distances up to 10 km.

In general experience, labour-based contractors provided with the equipment fleets specified in the classification system should be perfectly able to undertake the work required for gravel road rehabilitation and improvement.

The maximum lot size of 20 km for a labour-based contractor is an appropriate provision if the work is to be completed in one year.
Annex VI: Concerning labour standards selected in the SAC project

The following appears as standard Special Specifications in DFID and IDA funded rural feeder roads projects. Provisions dealing with provisional sums and other special compensation are italicised.

LABOUR STANDARDS

General

Labour Standards included in this Contract should not be regarded merely as protection for employees but as a way of improving the worker’s welfare and hence their productivity. Labour Standards are included in the Conditions of Contract Part II, Conditions of Particular Application. Specific Bill of Quantities Items cover some of the requirements in respect of Labour Standards, the remainder are deemed to be included as overheads in the Contractor’s general rates.

The Contractor shall fully comply with the following requirements in respect of Labour Standards the majority of which are already in force and embodied in the labour laws of Ghana. References to various laws, statutes, decrees legal instruments and other ordinances are given for information purposes and the Contractor shall ascertain for himself his obligations in respect thereof including those arising from any subsequent legislation. Compliance with this list of Labour Standards shall in no way absolve the Contractor of any of his obligations in respect of any of the labour laws in force in Ghana.

Study commentary

The study suggests that the selection of items placed in the Specific Bill of Quantities, Provisional Sums, or left as a “remainder … deemed to be included as overheads in the Contractor’s general rates” is of critical importance, both for immediate impact, but also for issues of sustainability and industry practice, and monitoring.

- Freedom of Association and Collective Bargaining: The Contractor shall adopt a co-operative attitude towards officers and members of registered trades unions in accordance with the provisions of the Industrial Relations Act, 1965. Section 7 of this Act lends legal force to process of collective bargaining and any collective agreement concluded through that process. The current collective agreement between the Association of Building and Civil Contractors of Ghana (ABCCG) and the Construction and Building Materials Workers Union of TUC (CBMWU) for the period from 1st January 2000 to 31st December 2001 provides for many of the following Labour Standards.

Study commentary

Reference should be made to the agreement made with the Association of Road Contractors of Ghana, and consideration given to making contract special specifications consistent with the collective agreement, where they are different. Collective agreements should be cited as the basis for labour standards, and care should be taken to refer to those that are most directly applicable to the works concerned.

- Equality of Treatment: The Contractor shall comply fully with Legal Instrument 632, Labour Relations, 1969. Part VIII provides that males and females shall receive equal pay for equal work. As a requirement of this Contract the Contractor shall afford equal opportunity for women to perform any site task including those of a supervisory nature.
• **Payment of Remuneration:** N.L.C.D. 157, Labour Decree, 1967, Part VII requires that the whole of worker’s remuneration shall be in legal tender. The minimum rates of remuneration for the various groups recognised by the industry are set out in Section 9.8 of the current collective agreement between ABCCG and CBMWU for the period from 1\textsuperscript{st} January 2000 to 31\textsuperscript{st} December 2001. However the rates contained therein were only applicable for the year 2000 and the Contractor shall pay any increases to those minimum rates that may have subsequently been agreed. The Contractor shall ensure that prompt and full payment of remuneration shall be made directly to individual workers.

• **Hours of Work:** Normal working hours as set out in Section 3.3 of the current collective agreement between ABCCG and CBMWU shall not exceed 40 in any week worked from Monday to Friday. Time worked in excess of the normal working hours shall be paid as overtime in accordance with Section 3.5 of that collective agreement which provides that overtime will be paid at the following rates:

- Monday – Friday: Normal hourly rate x 1.25
- Saturday: Normal hourly rate x 1.50
- Sunday: Normal hourly rate x 2.00

The Labour Regulations, 1969 provide that workers shall be given a rest period of 36 consecutive hours in every 7 days of normal working hours.

Where work is allocated on a task basis, a task should be capable of being completed by an average worker within an 8-hour working day.

• **Protective Clothing:** The provisions of Act 328, the Factories, Offices and Shops Act, 1970, Section 25 require the Contractor to provide each worker with adequate, free protective clothing and appliances appropriate to their tasks. Minimum requirements for protective clothing particular to the industry are set out in Section 5.3 of the current collective agreement. The Contractor shall provide protective clothing to all site employees as follows:

<table>
<thead>
<tr>
<th><strong>Basic protective clothing for all employees (including supervisors)</strong></th>
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</thead>
<tbody>
<tr>
<td>Steel toe-capped safety boots</td>
</tr>
<tr>
<td>Overalls</td>
</tr>
<tr>
<td>Gloves</td>
</tr>
<tr>
<td>Raincoats for any works in rainy seasons</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Additional protective clothing and equipment for specific tasks</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety helmets for workers engaged in the construction of bridges or box culverts of height 2m and above.</td>
</tr>
<tr>
<td>Wellington boots, dust masks and safety goggles for concreting works.</td>
</tr>
<tr>
<td>Dust masks for work in dusty conditions.</td>
</tr>
<tr>
<td>Wellington boots for work in wet conditions.</td>
</tr>
<tr>
<td>Ear defenders/plugs for work in noisy conditions.</td>
</tr>
</tbody>
</table>

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**Study commentary**

Although the Factories, Offices and Shops Act, 1970, is applicable to premises in which articles are made or prepared incidentally to the carrying on of building operations or works of engineering construction (the construction of any road) it does not apply to the premises in which such building operations or works of engineering construction are being carried on. See §83(1)(d) read with §86(1). This may warrant further investigation, and this is not to suggest that the application of this requirement is inappropriate – just probably not required by this particular law. This comment applies to other citations to this Act in these provisions.
The Contractor shall provide the protective clothing and equipment to his employees as soon as practicable during the mobilisation period and in any case no later than 42 days from the Engineer’s instruction to commence the Works.

Section 5.3 of the collective agreement states that it is an infringement of the spirit and letter of that agreement for an employer to fail to provide necessary protective clothing and equipment. Notwithstanding that similarly it is an infringement of the spirit and letter of that Agreement for an employee having been provided with protective clothing and equipment to fail to use them, the Contractor shall stringently endeavour to ensure that any safety equipment provided for his workforce is effectively utilised.

The Contractor’s attention is drawn to the fact that different sizes of clothing will be required to meet individual needs and that non-standard sizes e.g. safety boots for women may need advance ordering from suppliers.

Separate payment shall be made under the Provisional Sum Items A420.2 and A420.3, Bill No. 1 of the Bills of Quantities “Provide and maintain protective clothing, safety equipment for use by site employees” and “Replacement of protective clothing, safety equipment and first aid kit items” respectively.

A percentage adjustment on those Provisional Sum Items is included as Item A420.8, Bill No. 1 of the Bills of Quantities.

If, in the opinion of the Engineer, the Contractor has failed to achieve full compliance with the requirements of this Clause, a reduction will be made in the amount payable as a bonus for full compliance with obligations in respect of Labour Standards to be awarded at the discretion of the Engineer under Item A420.9, Bill No. 1 in the Bills of Quantities.

- **Safety:** The Contractor shall nominate and train one employee per lot as safety officer. The Contractor shall establish a safety committee during the mobilisation period comprising the Contractor’s Safety Officer, the Engineer’s Representative and one worker’s representative from each site. The committee shall meet monthly to discuss the promotion of safe working practices, the prevention of accidents and other safety issues and shall report to the monthly progress meetings.

The Contractor shall nominate and train one employee per site to be responsible for first aid. The Contractor shall organise and pay for the first aid training of his nominated employee with the Ghana Red Cross Society (Contact Person, J. Harold Atisu, Coordinator, Resource Development Tel 021 661491 – 3).

Pursuant to the Factories, Offices and Shops Act 1970, Section 28, the Contractor shall provide and place under the charge of the person responsible for first aid a first aid kit at each site. That person shall be responsible for managing the first aid kit and informing the Contractor from time to time of any first aid items that have expired or been consumed. The Contractor shall immediately arrange for the replacement of such items.

The first aid kit shall include:

- Antiseptic Cream
- Gentian Violet
- Sterilised Needles
- Bandages
- Hydrogen Peroxide
- Surgical Blade
- Cotton Wool
- Iodine
- Surgical Gloves
- Crepe Bandages
- Lint
- Triangular Bandages
- Disinfectant
- Measuring Cup
- Tweezers
- Eye Rinsing Bath
- Plasters
- Washing Bowl & Soap
- Eye Wash
- Safety Pins
- Gauze
- Scissors
Pursuant to Section 5.4 of the collective agreement the Contractor shall provide free medical attention including drugs to his employees and, up to the agreed limits therein, their families.

The Contractor shall establish emergency evacuation procedures to enable rapid response to accidents viz establish prior contact with local clinics, health centres and district hospitals, make prior arrangements for transport, etc.

Separate payment will be made for the provision of a first aid kit and training of a first aider under the Provisional Sum Item A420.5, Bill No. 1 of the Bills of Quantities.

A percentage adjustment on that Provisional Sum Item is included as Item A420.8, Bill No. 1 of the Bills of Quantities.

If, in the opinion of the Engineer, the Contractor has failed to achieve full compliance with the requirements of this Clause, a reduction will be made in the amount payable as a bonus for full compliance with obligations in respect of Labour Standards to be awarded at the discretion of the Engineer under Item A420.9, Bill No. 1 in the Bills of Quantities.

- **Drinking Water:** The Contractor shall provide, pursuant to the Factories, Offices and Shops Act, 1970, Section 20 an adequate supply of potable water for all employees at each site. Potable water shall comply with WHO standards. A minimum of 10 litres per employee per day is to be provided and a minimum buffer supply of 250 litres is to be maintained at each site irrespective of the number of employees at the site.

  The vessels used to transport and store drinking water shall be manufactured from polythene or similar approved material and shall only be used for those purposes. Such vessels shall be clearly and legibly marked “Drinking Water Only”. The Contractor shall take all necessary steps to preserve the water and vessels from contamination and they shall be emptied, cleaned and sterilised with a solution of chlorine powder on a regular basis at intervals not exceeding twice per week.

  Separate payment will be made for the provision of drinking water under the Provisional Sum Item A420.1, Bill No. 1 of the Bills of Quantities “Provide safe drinking water for site employees including storage facilities (Polytank, etc)”

  A percentage adjustment on that Provisional Sum Item is included as Item A420.8, Bill No. 1 of the Bills of Quantities.

  If, in the opinion of the Engineer, the Contractor has failed to achieve full compliance with the requirements of this Clause, a reduction will be made in the amount payable as a bonus for full compliance with obligations in respect of Labour Standards to be awarded at the discretion of the Engineer under Item A420.9, Bill No. 1 in the Bills of Quantities.

- **Water for Other Purposes:** Pursuant to the Factories, Offices and Shops Act, 1970, Section 16, the Contractor shall provide adequate and suitable washing facilities at each site. The design, construction and location of washing facilities shall be subject to the approval of the Engineer. The Contractor shall provide hand-washing facilities (washing bowl, stand and soap) at each latrine location. The Contractor shall maintain a continual supply of clean water at each washing and hand-washing facility.

- **Latrines:** Pursuant to the Factories, Offices and Shops Act, 1970, Section 19, the Contractor shall construct temporary latrines at each culvert location unless otherwise directed by the Engineer. Separate facilities shall be provided for male and female workers.

  Latrines shall be provided with privacy screens, screened ventilation pipes, covers and airtight slabs or squatting plates that may be readily cleaned so as to reduce any fly-borne nuisance. In formulating their design for temporary latrines Contractors shall take into consideration the economic need to maximise the re-use of materials and the frequency that
such facilities will need to be relocated. Contractors shall submit their proposed designs for approval in respect of temporary latrines within 14 days from the date of the Engineer’s instruction to commence the Works pursuant to Clause 41 of the General Conditions of Contract. The location of individual latrine sites shall be as directed by the Engineer.

Latrines construction shall commence as soon as practicable during the mobilisation period and continue from time to time on an “as needs” basis such that adequate facilities are available to the whole workforce.

The Contractor shall ensure that latrines are continuously maintained in a clean and sanitary condition. The Contractor shall provide and maintain hand-washing facilities including adequate supplies of soap and water for hand washing at all latrine sites.

Separate measurement and payment shall be made for providing latrines under the Provisional Sum Item A420.4, Bill No. 1 of the Bills of Quantities “Provide and maintain temporary latrines, relocate as necessary and remove and backfill on completion.

A percentage adjustment on that Provisional Sum Item is included as Item A420.8, Bill No. 1 of the Bills of Quantities.

75% of the cost for providing latrine facilities will become payable upon acceptance and approval by the Engineer of the first pair of latrine facilities. The remaining 25% will become payable upon removal and satisfactory backfilling and reinstatement of the final latrine to be last in use.

If, in the opinion of the Engineer, the Contractor has failed to achieve full compliance with the requirements of this Clause, a reduction will be made in the amount payable as a bonus for full compliance with obligations in respect of Labour Standards to be awarded at the discretion of the Engineer under Item A420.9, Bill No. 1 in the Bills of Quantities.

• Record Keeping: The Contractor shall maintain contemporaneous records of all employees engaged under the Contract. Records shall be kept at the site and shall be made available for inspection by the Engineer or any Labour Officer pursuant to L.I. 632, Labour Relations, 1969, Section 19 at any reasonable time. Records are to be maintained from the date of the Engineer’s instruction to commence the Works pursuant to Clause 41 of the General Conditions of Contract.

Contractors shall use the standard forms given in Appendix 1 to keep Employment Records, Daily Records of Hours Worked, Monthly Pay Records and Accident Records.

Contractors shall not engage workers through repeated temporary contracts or apprenticeship schemes to avoid meeting the wages and other benefits given to permanent workers.

Separate measurement and payment shall be made for record keeping under Item A290.3, Bill No. 1 of the Bills of Quantities “Keeping of employment records”.

The unit of measurement shall be the month of adequate record keeping submitted to the Engineer. If, in the opinion of the Engineer, the Contractor has failed to achieve full compliance with the requirements of this Clause, a deduction in the amount for payment will be made against that item in the Bill of Quantities.

The tendered rate shall include for the full costs associated with complying with the requirements of this specification including the provision of stationery, clerical staff and associated office facilities.

• Employment of Children: N.I.C.D. 157, Labour Decree, 1967, Section 44 proscribes child employment. Section 45 defines a child as a person under the apparent age of 15. Section 46 requires the Contractor to keep a register of young persons employed including their dates
of birth or, if unknown, their apparent age. Section 45 provides that young persons under the age of 18 should not work at night.

- **Forced Labour:** In accordance with the provisions of N.I.C.D. 157, Labour Decree, 1967, Part IX the use of forced labour by the Contractor is prohibited.
HIV/AIDS AWARENESS

The Contractor shall display appropriate health education materials at the Site concerning the dangers and impact of Sexually Transmitted Diseases (STDs) in general and HIV/AIDS in particular. Suitable materials are available from the Ministry of Health and the Ghana AIDS Commission. The Contractor shall also facilitate local Ministry of Health staff to conduct awareness and consultation visits to each site at least every four months for the benefit of site staff and labour.

The Contractor shall throughout the Contract (including the Defects Liability Period if workers are on site) also facilitate local Ministry of Health staff to operate an STD clinic on site periodically or make arrangements for workers to visit suitable local clinics.

All the above provisions shall be provided free of charge to staff and labour.

The Contractor shall make condoms freely available to all of the workforce free of charge. No separate measurement and payment shall be made for the provision of condoms the costs of which shall be deemed to have been covered elsewhere in the Contractors rates and prices.

Separate payment for the education of workers and local communities in STDs and HIV/AIDS awareness shall be made under the Provisional Sum Item A420.6, Bill No.1 of the Bills of Quantities “Provide assistance to and facilitate site visits by MOH personnel to educate workers and local communities in STDs HIV/AIDS awareness and consultation meetings”

A percentage adjustment on that Provisional Sum Item is included as Item A420.8, Bill No. 1 of the Bills of Quantities.

If, in the opinion of the Engineer, the Contractor has failed to achieve full compliance with the requirements of this Clause, a reduction will be made in the amount payable as a bonus for full compliance with obligations in respect of Labour Standards to be awarded at the discretion of the Engineer under Item A420.9, Bill No. 1 in the Bills of Quantities.

APPENDIX

The Contractor shall record the particulars of each employee on an Employee Record Card as follows:

<table>
<thead>
<tr>
<th>EMPLOYEE RECORD CARD</th>
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</thead>
<tbody>
<tr>
<td>Employee Name:</td>
</tr>
<tr>
<td>Employee Work Reference №.</td>
</tr>
<tr>
<td>Date of Birth:</td>
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<tr>
<td>Age:</td>
</tr>
<tr>
<td>Sex:</td>
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<tr>
<td>Marital Status:</td>
</tr>
<tr>
<td>Social Security Number</td>
</tr>
<tr>
<td>Home Town</td>
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<tr>
<td>Address / House Number</td>
</tr>
<tr>
<td>Previous Employment</td>
</tr>
<tr>
<td>Date of Employment</td>
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<tr>
<td>Date of Termination</td>
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<tr>
<td>Membership of Union</td>
</tr>
</tbody>
</table>
### Daily Record of Hours Worked

**Contract Name:**  
**Name of Contractor:**  
**Date:**  

<table>
<thead>
<tr>
<th>Employee’s Name</th>
<th>Sex</th>
<th>Casual / Permanent</th>
<th>Absent / Present</th>
<th>Reason for Absence</th>
<th>Start Time</th>
<th>Close Time</th>
<th>Overtime Hours</th>
<th>Work Done</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

### Monthly Record of Payment

**Contract Name:**  
**Name of Contractor:**  
**Month:**  
**Year:**  

<table>
<thead>
<tr>
<th>Employee’s Name</th>
<th>Sex</th>
<th>Class of Employment</th>
<th>Basic Pay</th>
<th>Overtime Pay</th>
<th>Gross Pay</th>
<th>Social Security</th>
<th>Tax</th>
<th>TUC Dues</th>
<th>Net Pay</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

### Accident Record

**Contract Name:**  
**Name of Contractor:**  

<table>
<thead>
<tr>
<th>Month</th>
<th>Accident Number</th>
<th>Date / Time</th>
<th>Name of Employee</th>
<th>Accident Type</th>
<th>Injuries Sustained</th>
<th>Damage to Property, etc.</th>
<th>Measures Taken</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
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34
Annex VII: The rights of Ghanaian workers

There is no distinction made in Ghanaian law between workers employed for short, intermittent or in any way “casual” periods of time. The following is a collection of provisions that are the rights of Ghanaian workers that would be of interest to labour-based contractors.

- All workers are covered by the minimum wage, just pegged at 9,200 Cedi ($1.07).
- Records must be kept by the employer of remuneration paid to workers covered by a remuneration order.\(^{29}\)
- Annual leave not less than 14 working days with full pay in any calendar year of continuous services, that being 200 days in the year in question.\(^{30}\)
- Hours of work are a maximum of 8 per day or 45 hours a week.\(^{31}\)
- A rest break of 30 minutes must be given during a continuous working day; where the working day is split in two parts, one unpaid hour must be given and the break is not counted toward working hours.\(^{32}\)
- A daily rest period must be given, that is, at least 12 hours of rest between two consecutive workdays.\(^{33}\)
- A weekly rest period of 36 consecutive hours to be given in every 7 days of normal working hours.\(^{34}\)
- Rest periods are not inclusive of public holidays.\(^{35}\)
- The previous provisions dealing with hours of work and rest, daily, weekly and between days of work, are not applicable to task workers.\(^{36}\)
- Equal pay for equal work as between men and women.\(^{37}\)
- Protection from victimization where worker has made a complaint, given evidence or assisted relative to a violation of law.\(^{38}\)

\(^{29}\) §17 Labour Regulation, 1969

\(^{30}\) §34 and 35 Labour Regulation, 1969

\(^{31}\) §49 Labour Regulation, 1969. Certain flexibilities are possible, for example for seasonal work, and average of daily work hours of one year is to be used, with an absolute maximum of 10 hours a day.

\(^{32}\) §§55 Labour Regulations, 1969

\(^{33}\) §56 Labour Regulation, 1969

\(^{34}\) §57 Labour Regulation, 1969

\(^{35}\) §58 Labour Regulations, 1969

\(^{36}\) §59 Labour Regulations, 1969. This exception would be applicable to task workers properly organized under labour-based construction methods.

\(^{37}\) §57 Labour Regulation, 1969

\(^{38}\) §70 Labour Regulation, 1969

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– Employer may not employ any unemployed or employed person unless that person is in possession of a registration certificate showing registration with the Public Employment Centre.\(^{39}\) Penalty of 200 Cedis or imprisonment not exceeding 12 months.\(^{40}\)

– For any agreement the duration of which is unspecified, other than for the performance of some specific work, the agreement to remuneration at a monthly rate.

– Severance pay is required only with an enterprise closes\(^{41}\) and then where it has been negotiated.

– Where an agreement to work is to pay remuneration at any rate other than monthly or weekly, i.e. at a daily rate, it is deemed to be a contract determinable at the close of any day without notice.\(^{42}\)

– The employer is liable for personal injuries as a result of an accident occurring in the course of an employee’s employment. Certain exceptions are made in coverage.\(^{43}\) A mechanism is established for determining how much should be paid to an individual suffering permanent or temporary, partial or complete invalidity as a result of the accident.\(^{44}\)

**Study Commentary**

As can be seen here, there is little in these provisions that would be offensive to a reasonable employer with respect to providing decent work to unskilled rural workers on a short-term basis. Several – those dealing with record keeping, for example – would seem to be simply a matter of basic good management of labour-based construction activities.

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\(^{39}\) §5(1) Labour Decree, 1967

\(^{40}\) §9 Labour Decree, 1967

\(^{41}\) §34 Labour Decree, 1967

\(^{42}\) §33 Labour Decree, 1967. Short term, locally

\(^{43}\) The following persons are exempted from the definition of “workman” –

(a) A person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer’s trade or business, not being a person employed for the purposes of any game or recreation and engaged or paid through a club;

(b) an outworker; or

(c) a tributer; or

(d) a member of the employer’s family dwelling in his house or compound; or

(e) a person employed in agriculture or handicraft work by an employer who normally employ less than five workmen; or

(f) any class of persons declared by regulations made under this Law not to be workman for the purposes of this Law.

\(^{44}\) Workmen’s Compensation Law, 1987
Annex VIII: Comments on the draft Labour Bill

A draft Labour Bill is being debated in the Ghanaian Parliament. It introduces, for the first time in Ghana, the concept of temporary and casual workers. The Memorandum accompanying the Bill says about these provisions:

Part X is on special provisions which relate to temporary workers and casual workers. The Part dwells, among others, on the remuneration of temporary and casual workers and payment of remuneration for public holidays. A novelty of this Part is the right of the casual workers to receive equal pay for equal work and to benefit from any necessary medical facilities provided to workers by an employer (Clause 73(5)).

The following criticisms can be levelled against the draft, purely on drafting grounds.45

− It does not make sufficiently clear who is a casual worker would be. The following definition is given and does not provide certainty as to what would be considered “intermittent” or what the phrase “calculated on a daily basis” means.46

Interpretation

76. In this Part

“temporary worker” means a worker who is employed for a continuous period of not less than one month and is not a permanent worker or employed for a work that is seasonal in character;

“casual worker” means a worker engaged on a work which is intermittent and whose remuneration is calculated on a daily basis.

− The provisions do not make clear what rights or benefits temporary or casual workers are entitled to. The following provision seems to say that any agreement between the worker and the employer is binding even though it does not respect the requirements of the law mentioned. Furthermore, there is a conflict between the definition of temporary worker above and that in clause 4 below.

73. ...

(2) A contract of employment with a temporary workers or a casual workers need not be in writing and shall bind the parties with respect the terms and conditions of employment mutually agreed by the parties.

(3) Without prejudice47 to the terms and conditions of employment mutually agreed by the parties, the provisions of this Act in respect of minimum wages, hours of work, rest period, paid public holidays, night work and sick leave are applicable to the contract of employment with a temporary worker.

(4) A workers who is employed by the same employer on a daily basis for a continuous period of six months and more shall be treated for the purposes of the Part as a temporary worker.

− The remaining provisions, concerning Remuneration of temporary and casual workers and Payment of remuneration for public holidays are in comprehensible. They also seem to suggest an ongoing nature of the employment of these persons.

45 The Mission received a full draft of the document from the Department of Labour. As the document is a draft, it is not certain if the provisions discussed here have fallen away, have been amended, or are moving toward inclusion in a final law.

46 The fact that such a calculation is made suggests that the employment would be ongoing for a period, that is to say, wages calculated on the basis of each day worked but paid at some time in the future.

47 Webster’s Third New International Dictionary, Unabridged Edition defines the term: “Without injury to or detraction from one’s own rights or claims or any cause of action or defence asserted.”
Remuneration of temporary and casual workers

74. (1) Subject to this section, the minimum remuneration of a temporary worker or a casual worker shall be determined as follows:

(a) where a temporary worker or a casual worker is required to work on week-days only, the minimum monthly remuneration is the amount represented by the worker’s daily wage multiplied by twenty-seven;

(b) where a temporary worker or a casual worker is required to work every day in the week, the minimum monthly remuneration is the amount represented by three hundred and sixty-five times his daily wage divided by twelve.

(2) A temporary worker or a casual worker referred to in subsection (1)(a) is not entitled to 1/27 of his or her minimum monthly remuneration as specified in that paragraph for each day the worker is absent from work during the month.

(3) A temporary worker or a casual worker referred to in subsection (1)(b) is not entitled to a twenty-eighth, twenty-ninth, thirtieth or thirty-first part of his or her minimum remuneration as specified in that paragraph for each day the worker is absent from work during the month, depending on whether the month consists of twenty-eight, twenty-nine, thirty or thirty-one days.

Payment of remuneration for public holidays

75(1) Every employer shall pay each temporary or casual worker in respect of every public holiday the full remuneration which would have been payable to the temporary or casual worker for a full day’s work if that day had not been a public holiday.

(2) Where a temporary or casual worker attends and performs work of a full day or more on a public holiday, the employer shall pay the worker in addition, the remuneration which would have been payable to the temporary or casual worker for the work if that day had not been a public holiday.

(3) Where a temporary or casual worker attends and performs work for part only of a public holiday, the employer shall pay the worker in addition to the remuneration provided under subsection (1), the proportion of the remuneration for a full day’s work on that day if that day had not been a public holiday, represented by the number of hours for which the temporary or casual worker has performed work.

(4) Any payment required to be made under subsection (1), (2) or (3) in respect of a public holiday shall be made after the public holiday in the same manner as the worker is normally paid.

(5) When an employer fails to comply with subsection (1), (2), (3) or (4), the temporary worker or the casual worker aggrieved by the non-compliance of the employer may present a written complaint to the Commission for determination and the parties shall abide by the decision of the Commission.

(6) The Commission may order the employer to pay, such sum as appears to the Commission to be due to the temporary worker or the casual worker on account of any remuneration payable to him or her under the section, and may in that order specify the time within which the payment shall be made.

-- Clause 73(5)(a) saying that “A casual worker shall (a) be given equal pay for equal work” is duplicative of an clause 68 that says “Every worker shall receive equal pay for equal work without distinction of any kind.”

The idea of creating levels of rights is not new to Ghanaian labour law. The Labour Decree, 1967 does so as seen in the table below; the divisions are done by sector and not type of employment arrangement.
As shown in the table, the rights set out in Parts II and I are not oriented toward employment rights and benefits and benefits, *per se*. It would be possible, for example, to organize the arrangement of the labour law such that all workers get a group of core rights and benefits, and then, exceptionally, workers who are employed in long-term relationships can receive additional rights. In the case of Ghana, however, it is worth saying once more, that the rights that are, in fact, granted in law, do not appear to be onerous, even for small enterprises.
Annex IX: Comparison of contract clauses

Study Commentary

The contracts reviewed were confirmed to be representative of the vast number actually produced. Labour clauses of different types appear in different locations in the contracts reviewed in this study. The contracts reviewed consist of a several sections based on the FIDIC model. Thus:

- **General conditions of Contract** (Part I of FIDIC 4\textsuperscript{th} Edition contract) are FIDIC clauses intended to be used unaltered for all contracts.

- **Conditions of Particular Application** (Part II of FIDIC 4\textsuperscript{th} Edition contract) are standardized FIDIC clauses (commonly called “sub-clauses”) selected and specially prepared for inclusion in each contract. They may introduce amendments or additions to Part I.

- **General Specifications** set out the quality of work required and may contain stipulations as to the manner of working.

- **Special Specifications** specify the materials, workmanship and testing required relating to those works and activities required on a particular contract not covered in the General Specifications and to further specify special requirements that apply to a particular contract or group of contracts. The provisions tend to be the most detailed.

To summarize what is detailed below:

- DFID, DANIDA and GoG contracts are based on FIDIC 4\textsuperscript{th} Edition; IDA contracts are based on World Bank Procurement of Works, Smaller Contracts, 1995.

- DFID contracts have the most detailed provisions; contracted financed by DANIDA have IDA labour clauses, but not as explicit and detailed in the case of DFID. GoG do not have labour clauses.

- Pre-bidding meetings where time is specifically set aside to explain the labour clauses are provided currently in DFID financed projects. This does not occur in the case of contracts financed by other sources.

- Provisional sums are provided in DFID financed contracts, but there are differences as between items that are included. There are also differences in items included where provisional sums are included in contracts financed by other sources.
- Provisions concerning insurance, and specifically insurance cover for workers’ accidents differ between contracts with different financing.
- Provisions concerning penalty for breach are made only in the DANIDA financed contract, i.e. removal for pre-qualification list.

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<tbody>
<tr>
<td>1.16.2 (Concerning pretender meeting)</td>
<td>Pre-bid meeting, but not specific indication that labour issues are to be discussed.</td>
<td>No pre-bid meeting referred to in documentation</td>
<td></td>
<td>Section 1. Instructions to Bidders</td>
</tr>
<tr>
<td>1.18.1 Conditions of Labour</td>
<td>The tenderer’s particular attention is drawn to the requirements in the Conditions of Contract to comply with all regulations, rules or instructions concerning conditions and terms of employment of any class of employee. Before submitting his tender the tenderer is to ascertain from the Labour Department their requirements affecting the employment of labour in respect of this contract and obtain from the appropriate officer of the Labour Department a statement that this has been done, which statement shall be attached to the tenderer’s submission in compliance with this instruction.”</td>
<td></td>
<td></td>
<td>Section 19. Pre bid meeting</td>
</tr>
<tr>
<td>1.28 Preference for Labour-based Tenderers</td>
<td>Labour-based contractors will receive a margin of preference in the evaluation of Tenders, for which this clause shall apply. Labour-based tenderers shall provide a copy of their valid MRH classification certificate confirming their status as Category C Labour-based contractors pursuant to Sub-Clause 1.13 to prove their eligibility for a ten (10) percent margin of preference in the comparison of their Tenders with those of Tenderers who do not qualify for the preference.</td>
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<tr>
<td>1.28.2 Labour-Based Contractors shall not subcontract more than 25 percent of the Works measured in terms of the value for equipment-based contractors and shall undertake to utilize only the major items of equipment listed pursuant to Clause 1.3.4(e) of the Instructions to Tenderers for the execution of the Works.</td>
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</tbody>
</table>
| 1.28.3 Responsive tenders will be classified into two groups for the purposes of applying a margin of preference as follows: (a) tenders offered by labour-based contractors complying with the requirements of Sub-Clauses 1.28.1 and 1.28.2 above; and (b) all other Tenderers. | | | | | 41
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<tr>
<td>1.28.4 For the purpose of further evaluation and comparison of tenders only, an amount equal to ten (10) percent of the evaluated tender prices determined in accordance with Clause 1.29.2 (a), (b), (d), (e) will be added to all evaluated tender prices classified in Group (b).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FIDIC Part I Provisions</td>
<td>Fourth Edition</td>
<td>Short Form</td>
</tr>
<tr>
<td>19.1 Safety, Security and Protection of the Environment</td>
<td>19.1 Safety, Security and Protection of the Environment</td>
<td>FIDIC Short form is used. No relevant provisions in this part of the contract documentation</td>
</tr>
<tr>
<td>19.2 Employer’s Responsibilities (concerning his own workforce on site)</td>
<td>19.2 Employer’s Responsibilities (concerning his own workforce on site)</td>
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</tr>
<tr>
<td>24.2 Insurance Against Accident to Workmen</td>
<td>24.2 Insurance Against Accident to Workmen</td>
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<tr>
<td>25.1 Evidence and Terms of Insurances</td>
<td>25.1 Evidence and Terms of Insurances</td>
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<tr>
<td>26.1 Compliance with Statutes, Regulations</td>
<td>26.1 Compliance with Statutes, Regulations</td>
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<tr>
<td>34.1 Engagement of Staff and Labour</td>
<td>34.1 Engagement of Staff and Labour</td>
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<td>35.1 Returns of Labour and Contractor’s Equipment</td>
<td>35.1 Returns of Labour and Contractor’s Equipment</td>
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<tr>
<td>45.1 Restriction on Working Hours</td>
<td>45.1 Restriction on Working Hours</td>
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<tr>
<td>70.1 Increase or Decrease of Cost</td>
<td>70.1 Increase or Decrease of Cost</td>
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<tr>
<td>FIDIC Part II Provisions</td>
<td></td>
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<tr>
<td>Re: Employment</td>
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<tr>
<td>16.4 Employment of Local Personnel</td>
<td>Section 30 Preference for domestic bidders</td>
<td></td>
</tr>
<tr>
<td>The Contractor shall, to the extent practicable and reasonable, employ staff and labour from sources indigenous to the neighbourhood of the Works.</td>
<td>Not applicable</td>
<td></td>
</tr>
<tr>
<td>36.1 Quality of Materials, Plant and Workmanship</td>
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<tr>
<td>The Contractor shall, to the extent practicable and reasonable, use materials and Plant from sources within Ghana.</td>
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<tr>
<td>34.1 Engagement of Staff and Labour</td>
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<tr>
<td>The Contractor shall make his own arrangements for the engagement of all labour, local or otherwise, and same insofar as the contract otherwise provides, for the transport, housing, feeding and payment thereof. The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with the required qualifications and experience from sources within Ghana. The Contractor shall not knowingly employ staff who are in regular employment of the Government, unless the services of such persons are no longer required by the Government.</td>
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</tr>
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42
### Re: Safety of Environment

19.2 Safety, Security and Protection of the Environment

   (f) provide adequate sanitary facilities for his staff and labour and that of his Sub-Contractors, and submit the details of his proposed arrangements to the Engineer, for approval, within 14 days of the Commencement Date of the Contract, and

   (g) ensure that no sanitary waste or other spillage or leakage of materials likely to cause pollution is discharged into groundwater or surface watercourses, and ...

### Re: Insurance

25.1 Evidence and Terms of Insurance

The Contractor shall provide evidence to the Employer as soon as practicable after the respective insurance have been taken out but in any case prior to the start of work at the Site that the insurances required under the Contract have been effected and shall, within 84 days of the Commencement Date, provide the insurance policies to the Employer.

25.1 Evidence and Terms of Insurance

(a) loss of or damage to the Works, Plant, and Materials;

(b) loss of or damage to Equipment;

(c) loss of or damage to property (except Works, Plant, Materials, and Equipment) in connection with the Contract; and

(d) personal injury or death.

Clause 13 Insurance

13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date through the end of the Defects Liability Period, in the amounts and with the deductibles stated in the Contract Data for the following events, which are due to the Contractor's risk:

(a) loss of or damage to the Works, Plant, and Materials;

(b) loss of or damage to Equipment;

(c) loss of or damage to property (except Works, Plant, Materials, and Equipment) in connection with the Contract; and

(d) personal injury or death.

Clause 13.0 Contract Data

Minimum insurance coverage shall be:

(a) the maximum deductible for insurance of the works and of plant and materials is 100,000,000 Cedis;

(b) the minimum coverage for insurance of the works and of plant and materials in respect of the contractors' fault in design is 200,000,000 Cedis;

(c) the maximum deductible for insurance of equipment is 2,000,000 Cedis;

(d) the minimum cover for loss or damage to equipment is 1,000,000 Cedis;

(e) the maximum deductible for insurance of other property is 50,000,000 Cedis;

(f) the minimum cover for insurance of other property is 50,000,000 Cedis; and

(g) the minimum coverage for personal injury or death...
34.2 Payment of Labour

The Contractor shall pay rates of wages, on an equitable basis as between male and female labour, that are no less favourable than the minimum established by the Government in the District where the Works are being carried out.

The Contractor shall pay his staff and labour in a prompt and timely manner at the customary intervals. The Contractor shall keep accurate up-to-date records of the time worked by every employee engaged on the Contract, the class of work on which employed and the wages paid including all statutory deductions and allowances. Such records shall be available for inspection by the Engineer and the Commissioner of Labour, or their representatives, at all reasonable times for the duration of the Contract. The Contractor shall, as required by the Engineer, produce such other records as may be necessary as evidence of his compliance with the requirements of this Clause.

34.3 Payment of Wages

The Contractor shall pay his employees promptly and regularly at the customary intervals and all employees shall be paid in full and up to date before the issue of the Engineer’s Maintenance Certificate.

34.4 Records of Time Worked and Wages Paid

The Contractor shall keep proper records of the time worked by every employee engaged on the Contract, the class of work on which employed and the wages paid. Such records shall be available for inspection by the Engineer and the Engineer’s Representative or any duly appointed representative of the Commissioner of Labour, and the Contractor shall produce if required such other records as may be necessary as evidence of his compliance with the requirements of this clause.

34.4.19 Default in Payment of Wages

In the event of default being made in payment of wages of any workmen employed on the Contract, and, if a claim thereafter is filed in the office of the Engineer’s Representative and satisfactory proof thereof furnished, the Engineer shall be notified forthwith and may, failing payment by the Contractor, arrange the payment of such claim out of the monies at any time payable under the Contract and the amount so paid shall be deemed payments to the Contractor under the Contract.

34.4.19 Default in Payment of Wages

In the event of default being made in payment of wages of any workmen employed on the Contract, and, if a claim is thereafter filed in the office of the Engineer’s Representative and satisfactory proof thereof furnished, the Engineer shall be notified forthwith and may, failing payment by the Contractor, arrange the payment of such claim out of the monies at any time payable under the Contract and the amount so paid shall be deemed payments to the Contractor under the Contract.

34.20 Breach: Removal from List

Should the Contractor or any sub-contractor be found to be in breach of this clause, the Engineer may recommend should the Contractor or any sub-contractor be found to be in breach of this clause, the Engineer may recommend.
| Re: Working Hours | The Contractor shall comply with the statutory requirements in respect of working hours. Any overtime required to be worked shall not exceed the statutory hours per week for any person and such overtime shall be on a voluntary basis with no coercion or penalty being applied by the Contractor. The Contractor shall allow at least the statutory consecutive hours rest for every 7 day period for each labourer. The Contractor shall, where agreed by the Engineer, be permitted to operate a task work system for his labour, provided that any designated task shall not be more than that which a labourer can reasonably accomplish within a normal 8-hour working day. The Contractor shall keep records of all task rates for inspection by the Engineer who may withdraw his agreement to this method of work if, in his opinion, such task rates are unreasonable. |
| Re: Child Labour | No person below the age of 15 shall be employed by the Contractor and no person below the age of 18 shall be permitted to work at night or in hazardous conditions. The Contractor shall keep records of the ages of all persons under the age of 18 engaged on the works and make such records available for inspection by the Engineer whenever required. |
| Re: Forced Labour | The Contractor shall not employ any forced labour. |
| Re: Casual Labour | The Contractor shall comply with the statutory regulations in respect of the employment of casual labour and shall not allow the deliberate or repeated casualisation of labour during the currency of the Contract. |
| Re: Worker Health and Safety | Due precautions shall be taken by the Contractor, and at his own cost, to ensure the safety of his staff and labour and, in collaboration with and to the requirements of the local health authorities, to ensure that medical first aid, trained personnel and transport for sick or injured workers are available at the Contractor’s camps and on site. |
Re: Respect for Law

34.9 Compliance with Statutory Regulations
The Contractor shall comply with all statutory provisions of the Labour Law and any employment regulations as may, from time to time, be issued by the Commissioner of Labour or his authorized representative. The Contractor shall himself ascertain from the Labour Department and strictly comply with any regulations having legal force in Ghana affecting the employment of any class of employee during the continuance of the Contract. The Contractor shall display Health and Safety Regulations and information in a prominent position on the Site for the duration of the Contract.

34.4 Compliance with Laws and Regulations
The Contractor shall comply in all respects with the requirements of all laws for the time being in force and shall ascertain from the Labour Department and shall strictly comply with all the regulations written or otherwise of the Commissioner of Labour and any of his duly appointed representatives affecting the employment of any class of employee under this contract and from time to time in force.

34.5 Display of Provision of this Clause
The Contractor shall at all times during the continuance of the contract display in conspicuous places on the site and in the factory or other place occupied by him for the execution of the Contract in positions convenient, reading notices information his employees of the foregoing provisions of this Clause and of their conditions of work.

Re: Accommodation

34.7 Contractor’s Dwellings
The Contractor shall at his own expense make his own arrangements for the accommodation of his staff and labour and shall not make use of Government rest houses or other Government facilities unless with the express permission of the appropriate authorities and on payment of the appropriate charges.

Re: Supply of drinking and other water

34.11 Accidents
The Contractor shall assign one of his staff on Site to deal with accidents and shall within 24 hours of the occurrence of any accident inform the Engineer of such accident.

34.17 Accidents
The Contractor shall within 24 hours of the occurrence of any accident inform the Engineer of such accident.
| Re: | Accidents and protection against accidents of all staff and labour | Accident reporting, etc. | With safety and protection against accidents of all staff and labour. The Contractor shall report any accident occurrence, as soon as is reasonably possible, to the Engineer and to the competent authority where such a report is required by law. |
| Re: | Expatriate Labour | 34.11 Expatriate Labour | The Contractor shall make his own arrangement for the engagement of expatriate labour and for the housing, health, welfare and protection of the same, and shall conform in all respects with the conditions and requirements of the Immigration Act No. 154 of 1957 and the Aliens Act No. 160 of 1963, and any amendments thereto or replacements thereof. |
| Re: | Protective Clothing | 34.12 Protective Clothing | The Contractor and any Sub-Contractor engaged in the performance of the Contract shall provide and equip all workers in hazardous occupations with protective clothing, gloves, goggles, masks, footwear and headgear manufactured to such a standard as to ensure adequate protection against injury and accident. |
| Re: | Payment in alcohol, etc. | 34.13 Alcoholic Liquor or Drugs | The Contractor shall not, otherwise than in accordance with the Statutes, Ordinances and Government regulations or Orders for the time being in force, import, sell, barter or otherwise dispose of any alcoholic liquor, or drugs, or permit or suffer any such importation, sale, gift, barter or disposal by his Sub-Contractors, agents or employees. |
| Re: | Arms | 34.14 Arms and Ammunition | The Contractor shall not give, barter or otherwise dispose of to any person or persons, any arms or ammunition of any kind or permit or suffer the same as aforesaid. |
| Re: | Religious Customs | 34.15 Festivals and Religious Customs | The Contractor shall in all dealings with labour in his employment have due regard to all recognized festivals, days of rest and religious or other customs. |
Re: Epidemics

34.14 Epidemics

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government, or the local medical or sanitary authorities for the purpose of dealing with and overcoming the same.

The Contractor shall provide details of the measures he proposes to adopt to combat the spread of HIV/AIDS and STIs (sexually transmitted infections) amongst his staff, labour and the indigenous population. Such measures shall include education and awareness promotion campaigns conducted in conjunction with local health authorities and non-governmental organisations.

Re: Disorderly Conduct

34.17 Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst his staff and labour and for the preservation of peace and protection of persons and property in the neighbourhood of the Works against the same. The Contractor shall neither be entitled to institute his own Police Force nor to interfere with members of the Ghana Police Force who shall have free and undisputed access at all times to any part of the Works in the execution of their duties.

Re: Latrines

34.18 Temporary Latrines

The Contractor shall provide adequate and sanitary latrine facilities constructed in compliance with any Government regulations in force, for use by his employees. The Contractor shall keep temporary latrines in a clean and sanitary condition in accordance with the requirements of the health authorities and to the satisfaction of the Engineer. The Contractor shall disinfect and back fill all latrines when no longer required or instructed by the Engineer.

34.19 Trade Unions

The Contractor shall recognize the freedom of his employees to be members of registered trade unions in accordance with the labour laws of Ghana.

Re: Sub-Contractors

34.20 Observance by Sub-Contractors

The Contractor shall ensure and be held liable for the observance by his Sub-Contractors of the provisions of this Clause 34.
<table>
<thead>
<tr>
<th>Location in contract documentation:</th>
<th>Section 4: General Specifications</th>
<th>Section 3A: General Specifications</th>
<th>Section VI: General Specification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Re: Water</td>
<td>Water</td>
<td>Water</td>
<td>Water</td>
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<td></td>
<td>The Contractor shall provide an adequate supply of drinking and other water for use of his employees in accordance with the provisions of the Special Specification. The Contractor shall arrange clean water for construction that is free of concentrations of deleterious salts and other materials. He shall arrange water sources so as not to adversely affect the quality or availability of ground water or surface water resources to the indigenous users. The cost of providing water for construction shall be included in the prices tendered for the various items of work for which water is needed.</td>
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<tr>
<td>Re: Health and Safety</td>
<td>Health and Safety</td>
<td>Health and safety</td>
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<td></td>
<td>The Contractor shall take due precautions to ensure the health and safety of his employees and shall comply with statutory and local health and safety and labour regulations. He shall ensure that medical first aid, trained personnel and emergency transportation for sick and injured workers are available on the Site at all times. The Contractor shall notify the engineer immediately if any accident occurs that results in injury to any person, whether concerned with the Site or a third party. The Contractor shall include in his work plan details of measures he proposes to adopt to combat the spread of HIV/AIDS and STIs (sexually transmitted infections) amongst his work force and the local community.</td>
<td>The Contractor shall take due precautions to ensure the health and safety of its employees and shall comply with health and safety and labour regulations. He shall ensure that medical first aid, trained personnel and emergency transportation for sick or injured workers is available on the Site at all times. The Contractor shall notify the Project Manager immediate if any accident occurs that results in injury of any person, whether concerned with the Site or a third party. The Contractor shall include in his work plan details of the measures he proposes to adopt to combat the spread of HIV/AIDS and STIs (sexually transmitted infections) amongst his work force and the local community. Such</td>
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</table>
| **DFID Road**  
Pokuase-Ablekuma Feeder Road  
DFR/GAR/REG/RSDP/IDA/Lot1/02  
(December 2002) | **GoG**  
From Document:  
Invitation for bid, instruction to bidders, conditions of contract, technical specifications, Bill of Quantities for the rehabilitation of Aver Ebo-Adwin (4.5 km) |
|---|---|---|---|
| Such measures shall include education and awareness promotion campaigns conducted in conjunction with the local health authorities and access to condom supplies. More detailed provisions for health and safety, labour and HIV/AIDS prevention measures are given in the Special Specifications. | Such measures shall include education and promotion campaigns conducted in conjunction with local health authorities and access to condoms. More detailed provisions for health and safety, labour and HIV/AIDS prevention measures are given in the Special Specifications. | Sanitation  
The Contractor shall locate sanitary facilities so that the disposal of waste does not pollute any ground water or surface watercourses. Pit latrines shall be kept clean and odor free. The Contractor shall not use disinfectants or detergent to clean such latrines, only water. Pit latrines shall be lined with a supposedly structure completely removed when the pit is no longer required, or when the pit is full to within 700mm of ground level, all to the approval of the Engineer. When instructed, the Contractor shall construct permanent pit latrines in accordance with the Drawings and to the Engineers satisfaction. Where the use of latrines is not appropriate, the Contractor shall ensure that his workforce dig holes and cover their excrement on an individual basis. More detailed requirements for sanitation are given in the Special Specifications. | Sanitation  
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Public Consultation and Payment to Property Owners and Users  
A public consultation was carried out during the Design Phase with regard to the Permanent Works. The Contractor shall organise public consultations to discuss temporary land take for working areas, and water sources. The Contractor shall invite the following people to the consultation, clearly stating the date, time and location of the consultation.  
- Paramount Chief  
- Village/Area Chief  
- Assemblymen  
- Village Development Committee Chairman  
- Engineer’s Representative  
- DFR Regional Engineer  
- Local school teacher  
- Village secretary  
The Contractor shall also erect notices in the villages along the route to inform villagers of the consultation.  
The Contractor shall inform all attendees at the consultation of:  
- The works to be carried out and the | **A Public Consultation and Payment to Property Owners and Users**  
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- Village/Area Chief  
- Assemblymen  
- Village Development Committee Chairman  
- Engineer’s Representative  
- DFR Regional Engineer  
- Local school teacher  
- Village secretary  
The Contractor shall also erect notices in the villages along the route to inform villagers of the construction.  
The Contractor shall inform all attendees at the consultation of:  
- The works to be carried out and the |
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<td>(Kwame Danso – Gysipo, Contract No. DFR/BAR/DFID/IMP/LCB, September 2002)</td>
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<td>consultation of:</td>
<td></td>
<td></td>
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<tr>
<td>* Item 5</td>
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<tr>
<td>The work to be carried out and the associated health and safety risks. Parents and village elders shall be requested to ensure that children do not play on the construction sites,</td>
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<tr>
<td>The need for labourers, and the rates of pay and conditions which will be available. The Contractor shall, as a minimum, comply with the requirements of this Specification and National labour laws.</td>
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</tr>
</tbody>
</table>

### Section 4 Special Specification

**Contents:**

See:

Annex VI: Concerning labour standards selected in the SAC project

See:

Annex VI: Concerning labour standards selected in the SAC project (provisions are identical, with exception of reference to Project Manager and not Engineer)

**Provisions in Provisional Sums**

- **A150:** Insurance against accident to workmen, Clause 24
- **A290.3:** Keeping employment records
- **A290.2:** Provide safe drinking water for the employees including storage facilities (Polytank, etc.)
- **A320.3:** Provide and maintain protective clothing, safety equipment for use by the site employees
- **A320.4:** Replacement of protective clothing, safety equipment for use by the site employees
- **A320.5:** Provide and maintain temporary latrines, relocate as necessary and remove and backfill on completion
- **A320.6:** Provide first aid kit and train First Aider
- **A320.7:** Provide assistance to and facilitate site visits by MOH personnel to educate workers and local communities in STDs/HIV/AIDS awareness and consultation meetings

- **Provisional Sums:**
  - Provide water storage
  - Provide safe drinking water for site employees
  - Provide and maintain sanitary latrines
  - Provide water storage tanks
- **A150:** Insurance against accident to workmen, Clause 24
- **A320.2:** Provide water including storage facilities for the employees (Polytank, etc.)
- **A320.3:** Provide and maintain protective clothing, safety equipment for use by the site employees
- **A320.4:** Replacement of protective clothing, safety equipment for use by site employees
- **A320.5:** Provide and maintain temporary latrines, relocate as necessary and remove and backfill on completion
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<table>
<thead>
<tr>
<th>Project</th>
<th>Sponsor</th>
<th>Document Details</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>DFID Road</td>
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<td>DFID Road (Kwame Danso - Gyasi, Contract No. DFR/BAR/DFID/IMP/LCB, September 2002)</td>
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<td>DANIDA</td>
<td></td>
<td>IDA Pokuase-Ablekuma Feeder Road DFR/GAR/REG/RSDP/IDA/Lot1/02 (December 2002)</td>
<td>MOH personnel to educate workers and local communities in STDs HIV/Aids awareness and consultations meetings</td>
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<tr>
<td>GoG</td>
<td></td>
<td>From Document: Invitation for bid, instruction to bidders, conditions of contract, technical specifications, Bill of Quantities for the rehabilitation of Aver Ebo-Adwin (4.5 km)</td>
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</table>