ERBUD S.A.

Current Report No. 43/2019
Report date: 2019-07-25

Topic:
Signing a significant construction contract with a net value of PLN 29,180,251.69 concerning alteration, extension and addition of storeys - Podkarpackie Centre for Lung Diseases in Rzeszów.

Legal basis:
Article 17(1) of the MAR – confidential information

Content of report:

The Management Board of Erbud SA (the "Issuer") hereby informs that on 25.07.2019 the Issuer concluded a construction contract on the terms and conditions specified below:

1. Contract date: 25.07.2019.
2. Customer: Kliniczny Szpital Wojewódzki Nr 1 im. Fryderyka Chopina w Rzeszowie, ul. Szopena 2, 35-055 Rzeszów.
3. Contract value: PLN 29,180,251.69 net (say: twenty-nine million one hundred eighty thousand two hundred fifty-one Zloty and 69 Groszy).
4. Contract subject: Alteration and extension of and addition of storeys onto the existing building of Podkarpackie Centre for Lung Diseases in Rzeszów, incl. internal systems: water and sewage, central heating, gas, forced ventilation, air conditioning, refrigeration, electrical wiring, phone wiring, medical gases; partly demolition of the existing building (segment B); alteration and extension of the medical gases building, incl. internal systems: electrical and phone wiring, medical gases, central heating, forced ventilation; construction of transformer station and power generator; construction of parking spaces, roads, footways retaining wall, oxygen tank, air intake; directly buried systems: water supply, central heating, domestic hot water, process heat, gas, storm and sanitary drainage medical gases, low voltage, diversion of electric systems, exterior area lighting and underground cable ducting lighting: mains and services: adjustment of sewage piping and phone cables, low voltage service line - on plots No. 69/19, 69/17, 69/14, 69/20, 69/21, cadastral district 207 in Rzeszów at 2 Rycerska St. - STAGE I.
5. Site location: Kliniczny Szpital Wojewódzki Nr 1 im. Fryderyka Chopina w Rzeszowie, Podkarpackie Centrum Chorób Płuc w Rzeszowie, ul. Rycerska 2, 35-241 Rzeszów.
6. Completion period: 25.07.2019 - 25.03.2021.
7. Payment terms: Lump sum remuneration. Invoices payable up to 60 days from the date of receipt of the invoice and attached required documents by the Customer.
8. Performance Bond: 6% of the gross contractual remuneration, which equals to PLN 2,135,267.88.
   - 70% of the security will be returned within 30 days after signing the Final Acceptance Certificate;
   - 30% of the security will be returned no later than on the 15th day after the expiry of the warranty period.
9. Defects Liability Bond: The warranty period for construction, structural and installation works as well as for all mounted equipment and furnishings is 7 years from the date of Final Acceptance of Works.
10. Other guarantees: The Contractor will provide, at its own expense, within 7 years from the date of Final Acceptance Works services related to technical inspections and maintenance of equipment, materials and furnishings.
11. Penalties: as per Contract:

    XII. Contractual penalties.

    § 17

    1. The Contractor shall pay the Customer contractual penalties in the following cases:

       a. for delay in completion of the subject of the Contract - 0.05% of the net remuneration for the subject of the Contract specified in § 5 of the Contract, for each business day of delay;

b. for delay in providing documents required to obtain the occupancy permit- 0.05% of the gross remuneration for the subject of the Contract specified in § 5 of the Contract, for each day of delay;
c. for delay in removing defects found at the time of handing over or during the warranty period - 0.5% of the value of the defective element, for each day of delay counting from the date set for removing the defects.

2. If the delay in removing defects exceeds 14 days, the Customer shall be entitled to remedy the defects at the Contractor's expense. The Contractor shall pay 100% of the costs of removal of defects. In such a case, the Customer shall not lose the rights arising from the warranty or guarantee granted by the Contractor.
3. The Contractor shall pay the Customer a contractual penalty within 14 days from the date of the Customer's request for payment of the penalty or the penalty shall be deducted from the Contractor's remuneration specified in § 5 of the Contract, to which the Contractor shall agree.
4. Regardless of contractual penalties, it shall be allowed to claim damages exceeding the amount of those penalties for damages caused as a result of non-performance or improper performance of the obligation.
5. If the Contractor or subcontractor fails to submit documents confirming the employment of persons under the employment contract referred to in § 8 of this Contract - PLN 1,000.00 for each case.
6. Reporting employee's salary for revaluation, according to the principles described in § 23 of the Contract, if during the period of receiving the increased salary the employee does not perform work on this project only - PLN 3,000.00.
7. In addition, the Contractor shall pay the Customer Employer contractual penalties:
   - for non-payment or late payment of remuneration due to Subcontractors or further subcontractors in the amount of PLN 2,500.00 for each case of non-payment found or for each day of late payment counted from the date specified in the subcontract as the payment date.
     In case of non-payment, the penalty will be charged until the day the Customer receives a confirmation that the payment has been made.
   - for failure to submit for approval a draft subcontract for works under the Contract or a draft amendment thereto - in the amount of PLN 1,500. 00 for each such a case found;
   - for failure to submit a certified true copy of the subcontract for works, supplies or services or an amendment thereof - in the amount of PLN 2,500.00 for each such a case found;
   - for failure to amend to the subcontract for supplies or services as regards the payment deadline in the amount of PLN 5,000.00 for each day counted from the day set by the Customer to make this change, until the date of receipt by the Customer of the amended subcontract.
8. In the event of repeated breaches of the obligations described in this paragraph by the Contractor, the Customer may terminate the Contract due to the fault of the Contractor. In the event of termination of the Contract by the Customer due to the Contractor's fault, the Contractor shall pay the Customer a contractual penalty of 10% of the Contract value / Contract performance scheduled value.
9. The limit of contractual penalties for each Party may not exceed 15% of the remuneration referred to in §5 of the Contract, This shall not exclude the possibility of claiming compensation on a general principles basis.

§ 18

1. The Customer shall pay the Contractor contractual penalties in the following cases:
   - for delay in acceptance - 0.05 % of gross remuneration for the subject of the Contract specified in § 5 of the Contract, for each day of delay, counting from the day following the date on which the acceptance should be completed by signing FAC confirming the proper performance of works or identifying defects to be removed.

§ 19

1. The Party withdrawing from the Contract for reasons for which the other Party is not responsible shall pay the other Party a contractual penalty amounting to 5% of the lump sum remuneration referred to in § 5 of the Contract.
2. The provision in item 1 above shall not apply to the Customer in the event of cases referred to in Article 145 and 145a of the Public Procurement Law Act.

§ 20

If the damage exceeds the amount of the contractual penalty, the Parties may require extra compensation in accordance with the provisions of the Civil Code.