

# KNOWLEDGE CENTRE

Advance Payment and Security / Mobilization  
Payment and Security

AA:3

## Relevant Facts or Questions Asked

A Procuring Entity (PE) sought guidance as follows:

- I. Clarity is sought regarding the amendments to Clause 33 in the Public Procurement Regulations, 2018 (and subsequent amendments 2025), which deal with the **Provision of Advance Payments as a Contract Term**. Clause 33 covers Goods and Services Contracts only. We note that Clause 34, which deals with mobilization Payments for Works Contracts remain unchanged.
- II. Please advise if the repealing of Clause 33 affects the allowable percentage for mobilization payments for works contracts in Clause 34.
- III. NB- We referenced the 2008 and 2014 Handbooks of Public Sector Procurement Policy as well as the Public Procurement Act 2015, and note that in all instances, mobilization payments for works were distinct from advance payments for goods and services.

## Advice

### Continued Distinction Between Advance Payments and Mobilization Payments

1. The repeal and replacement of Regulation 33 by the Public Procurement (Amendment) Regulations, 2025, does not alter the long-standing policy distinction between:
  - **Advance payments** under contracts for goods and services; and
  - **Mobilization payments** under contracts for works.

2. Regulation 34 remains unchanged and continues to specifically govern mobilization payments in works contracts. The retention of Regulation 34 in its existing form reflects the clear legislative intention to preserve mobilization payments as a distinct contractual mechanism applicable exclusively to works procurement.

#### **Scope of Regulation 33 (As Amended)**

3. Although the amended wording of Regulation 33 no longer expressly states that it applies solely to goods and services, it must be interpreted:
  - In the context of the overall structure of the Regulations;
  - In harmony with Regulation 34;
  - Consistent with the established procurement framework under the Public Procurement Act, 2015; and
  - In the context of established practice.
4. Accordingly, Regulation 33 continues to apply to **advance payments in contracts for goods and services only**, and does **not** extend to works contracts.
5. To interpret Regulation 33 as applying to works would render Regulation 34 redundant, which would be inconsistent with established principles of statutory interpretation that require provisions to be read in a manner that gives effect to all sections of the Regulations.

#### **Effect on Allowable Percentage for Mobilization Payments**

6. The repeal and replacement of Regulation 33 does not affect:
  - The allowable percentage for mobilization payments under Regulation 34; or
  - The requirement for appropriate mobilization security in works contracts.
7. Regulation 34 remains fully operative and continues to exclusively govern mobilization payments in works procurement.

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