

Effectiveness of study visa site under existing legal and regulatory framework

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Abstract. The legal effect of site often because its effectiveness visa problems caused by the two sides issued a controversial contract, according to the Supreme Court judicial interpretation, combined with a list of specifications and the relevant provisions of 2013 No. 369 document and other documents, with the relevant case law, to clarify the field of visa achieve member, to achieve unity send contracting parties recognize the effectiveness of on-site visa, provide a common basis for the parties to resolve such disputes.

Keywords: site visa; effectiveness; laws and regulations.

1. Introduction

Site visa is issued contracting parties in the process of building a state contract to compensate imbalances important means having a fast and flexible. Supreme People's Court judicial interpretation disputes about engineering required, if the disputed amount for the project, according to on-site visa paperwork to be confirmed.

According to the Supreme Court judicial interpretation, engineering occurs when a price dispute, the determination of quantities has a direct relationship with the visa, thus reflecting the visa legally effective once signed, thus affecting the price paid. Similarly, in the "Interim Measures for the construction price settlement" Cai Jian [2004] No. 369 Article 15 shall be issued a visa requirement on-site contracting parties or their authorized representatives to confirm the signing site, and costs incurred Changes to be negotiated confirm the price adjustment which should occur in the completion of settlement truthfully handle. GB 50500-2013 "Bill of Quantities construction specifications" of 9.8.6 states: visa calculated price in the contract price shall be adjusted by the Employer in the scene and confirmed the payment period. In summary, the effectiveness of on-site visa to be recognized in the law, because the scene Visa and engineering, project cost is directly related to, which will directly affect the interests of both the contractor made. To ensure that quantities scattered outside the contract or the amount of non-genetic engineering contractor responsibility actual price can be compensated, the Contractor shall promptly apply for visas site and ask the developer to pay the price; and letting people lack technical mastery of the project, to visas remain skeptical attitude to make visa processing time does not affect the enthusiasm and progress of the project contractor, the developer generally hold temporary visas consent attitude, completion settlement later stage developer of power do not recognize the advantages of visa validity.

2. Related literature

Combing through the literature, the effectiveness of on-site visa to study research projects scattered settlement, claims and changes in the paper, less targeted research. A summary from the existing literature to explore the effectiveness of on-site visa, consists of two parts, namely a part of the program determines the effectiveness of the program; part of the content that is the content of the decision effectiveness.

2.1 Implementation relies on site to explore the effectiveness of visa procedures

Some scholars believe that the effectiveness of implementation of key scene is the scene visa visa procedures, sails and other works from the perspective of visa-site audit of the effectiveness of the audit that the key lies in whether the program review site visa compliance, legal. Zhengzeng Feng also think the scene is common visa agreement or consensus on a written procedure by the Employer,

the Contractor, supervision, at the first key point is that the visa procedures visa management. Sun jiansheng proposed site visa regime from the claim that the parties of the legal acts by consensus, to directly determine the distribution of interests of both sides, the risk of loss can be directly used as a basis for settlement project, and stressed that for an invalid visa, visa negligence, since its difficult to prove illegality visa will normally process these visa as a valid visa, and therefore obtain a visa is generally not dependent on the supporting evidence.

2.2 Visa site to explore the effectiveness of implementation depends on the content

On the content validity of the visa field, Xu zhenna from the perspective of "People's Republic of China Contract Law" (hereinafter referred to as the "Contract Law"), obtained a visa as a supplementary agreement scene contract must meet the "Contract Law" effective conditions of Contract that is the true meaning of the visa and said the two sides after the signing officers have the right to confirm the signing, while details of the visa agreement. Wu bing by comparing the 2013 list of specifications, "the construction price settlement Interim Measures," "Supreme People's Court judicial interpretation" that the visa is issued on-site contracting parties of the construction process, the responsibility of the event to sign and acknowledge the documentation, through the improvement of laws and regulations, improve contract management and contracting parties rely on understanding and compromise made to the visa-site to minimize risk. Zhang equality scene firsthand visa as a construction site, contractors often use unreasonable to make up their own site visa losses low bid, but the effectiveness of on-site implementation of the visa's work relies on explicit content and considered from the perspective of cost consultation visa-related procedures to achieve.

3. Relevant case studies on the site implemented visa validity

The case is in the settlement process, the Employer deems unilateral visa quantities and unit price is too high and a false visa situation, the effectiveness of on-site implementation study visa, background and analysis as follows.

Case Background: in October 2004, the plaintiff was a contractor Hunan Hydropower Construction Co., accused of letting people Jianghua County River Hydropower Co., Ltd., the two sides signed "A River Hydropower Plant in civil engineering and metal structures and equipment installation agreement", the same year October 29 plaintiff entering the construction. In 2007 the main project completion, construction in April 2008, the agreement exit, the plaintiff would have been completed engineering, temporary facilities, transfer of the accused. October 2008, the plaintiff submitted the completed project completion settlement information, but the defendant has neither audited arrears and unpaid project, the two sides dispute settlement completion of the project to question the effectiveness of a single visa, specifically shown in Figure 1.

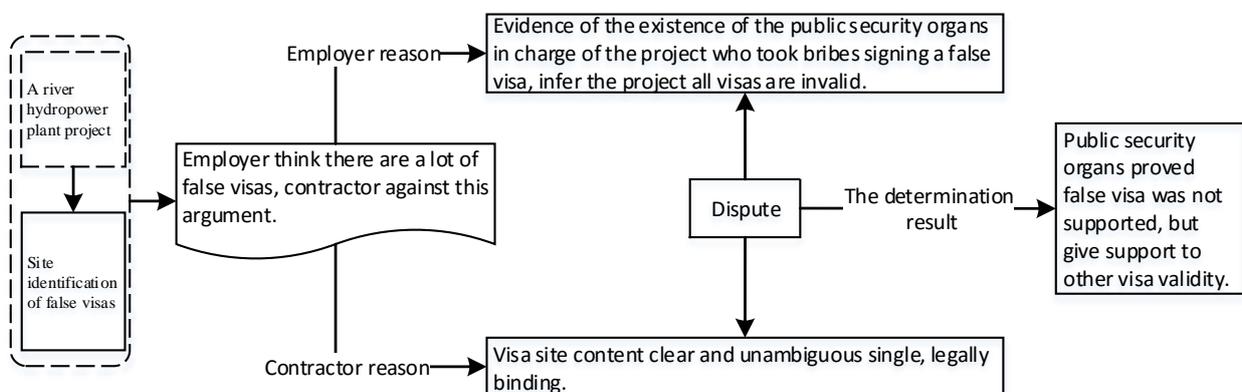


Figure 1 The dispute case analysis chart

Focus of controversy:

(1) Jianghua County River Hydropower Project that the whole amount and the actual amount of cement visa obvious discrepancies, visa contains a large number of false visas. A Hunan Hydropower Construction Co. said: visa single site content clearly, pushing down with cement quantities no scientific basis.

(2) in Jianghua County Public Security Bureau for interrogation transcripts Lee and Sohn, both sides acknowledged the progress in 2005, paid in January, Lee and Sohn malicious collusion, inflated the amount of 217.4 tons of steel, a total inflated 1,000,040 yuan steel constructions. Jianghua County River Hydropower think Sohn said after getting inflated for projects, Lee conducted to bribe to get more benefits, so the project should not be many false visa case basis to calculate the project cost . Hydropower Construction Co., a Hunan Public Security Bureau confirmed admitted by false visa, but do not think it affected the validity of the other site of a visa.

Court verdict: Questions raised Jianghua County River Hydropower Project personnel bribery and false visa bribery related to public security organs proved false visa, the court also found to be a deduction, as proposed Jianghua County River Hydropower Other Visas also it may be false, but there is insufficient evidence to prove that the court not support it.

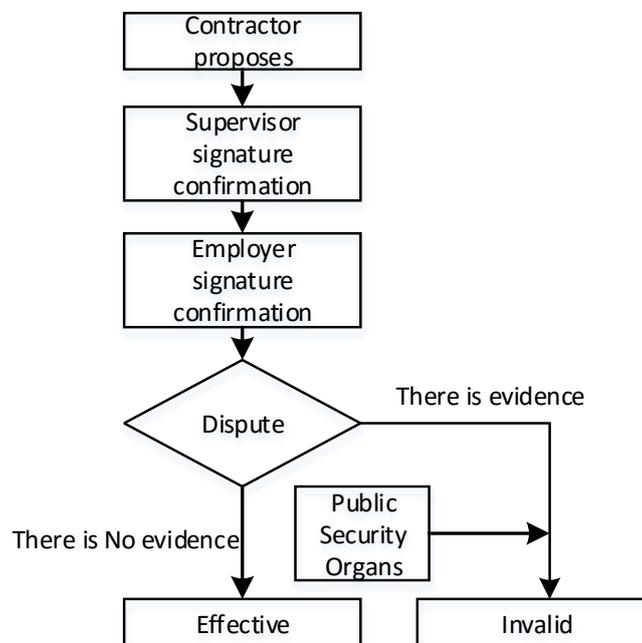


Figure 2 Field trials visa validity flowchart

4. Summary

Visa site are bilateral contracts and obligations on the contract change state during power changes caused by re-confirmation and consensus results in writing. Through the above analysis we can see the scene jurisprudence and construction process visa status changes objectivity, relevance, legitimacy, and effectiveness in the field Dispute visa process to achieve effectiveness depends on the visa procedures, no evidence to prove it. Once there is evidence of a false visa, the visa can be judged invalid based on proven evidence, and the nature of the case will also be changed, in this not too much exposition. These views and contract law and can be changed to void contract, withdraw from the contract fit, further illustrates the scene visa is an important part of the construction contract, is the true meaning of the expression hair contracting parties agreed supplemental agreement.

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