

GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF WORKS
CENTRAL PUBLIC WORKS DEPARTMENT

F. No. 22/1/07-WI(DGW) 301

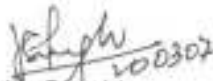
Nirman Bhawan, New Delhi.
Dated the March 2007.

OFFICE MEMORANDUM

Sub: Tendering Process – Negotiation with L-1.

Please find enclosed herewith a copy of Circular No.4/3/07 dated 3rd March, 2007 received from Central Vigilance Commission on the above mentioned subject for information and compliance. This may further be circulated to all concerned within your jurisdiction.

Encl: As above.


(P.K. Singh)
Director (P&WA)

To

1. All the ADGs in CPWD.
2. All Chief Engineers (Civil & Electrical) in CPWD.

✓ DW (S&D)

प्राप्त दिनांक D.W. (S & D) Unit
22 MAR 2007
डा. नं. ड. नं. 943

Safarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi- 110 023
Dated the 3rd March, 2007

Circular No. 4/3/07

Sub:- Tendering process - negotiations with L-1.

Reference is invited to the Commission's circulars of even number, dated 25.10.2005 and 3.10.2006, on the above cited subject. In suppression of the instructions contained therein, the following consolidated instructions are issued with immediate effect:-

- (i) As post tender negotiations could often be a source of corruption, it is directed that there should be no post-tender negotiations with L-1, except in certain exceptional situations. Such exceptional situations would include, procurement of proprietary items, items with limited sources of supply and items where there is suspicion of a cartel formation. The justification and details of such negotiations should be duly recorded and documented without any loss of time.
- (ii) In cases where a decision is taken to go for re-tendering due to the unreasonableness of the quoted rates, but the requirements are urgent and a re-tender for the entire requirement would delay the availability of the item, thus jeopardizing the essential operations, maintenance and safety, negotiations would be permitted with L-1 bidder(s) for the supply of a bare minimum quantity. The balance quantity should, however, be procured expeditiously through a re-tender, following the normal tendering process.
- (iii) Negotiations should not be allowed to be misused as a tool for bargaining with L-1 with dubious intentions or lead to delays in decision-making. Convincing reasons must be recorded by the authority recommending negotiations. Competent authority should exercise due diligence while accepting a tender or ordering negotiations or calling for a re-tender and a definite timeframe should be indicated so that the time taken for recording requisite approvals for the entire process of award of tenders does not exceed one month from the date of submission of recommendations. In cases where the proposal is to be approved at higher levels, a maximum of 15 days should be assigned for clearance at each level. In no case should the overall timeframe exceed the validity period of the tender and it should be ensured that tenders are invariably finalised within their validity period.

775-700 (100)
15/3/07

DW (P&M)
Re-arrange to all cases / Ann E.
for compliance
14/3



- (iv) As regards the splitting of quantities, some organisations have expressed apprehension that pre-discussing the distribution of quantities in the bid document may not be feasible, as the capacity of the L-1 firm may not be known in advance. It may be stated that if, after due processing, it is discovered that the quantity to be ordered is far more than what L-1 alone is capable of supplying and there was no prior decision to split the quantities, then the quantity being finally ordered should be distributed among the other bidders in a manner that is fair, transparent and equitable. It is essentially in cases where the organisations decide in advance to have more than one source of supply (due to critical or vital nature of the item) that the Commission insists on pre-disclosing the ratio of splitting the supply in the tender itself. This must be followed scrupulously.
- (v) Counter-offers to L-1, in order to arrive at an acceptable price, shall amount to negotiations. However, any counter-offer thereafter to L-2, L-3, etc., (at the rates accepted by L-1) in case of splitting of quantities, as pre-disclosed in the tender, shall not be deemed to be a negotiation.

2. It is reiterated that in case L-1 backs-out, there should be a re-tender.
3. These instructions issue with the approval of the Commission and may please be noted for immediate compliance.

[Signature]
 27/3/07 (Vinod Mathur)
 Deputy Secretary

All Chief Vigilance Officers

Chief Vigilance Officer
 DG (W), CPWD, New Delhi
 Duty No. 497
 Date 28/3/07

Important
 Pl. circulate to all
 concern.

ER (W) H. CPWD
 Dy. No. 223
 Date 12/3/07



Kamraj/3/07

SECRET-II

- Copy to all in the room
- ADDG, CPWD
- Pl put up on file so that copy be sent to ADDG (T&D) for n/a pl

Smt. M
[Signature]
 12/3/07

ADDG (T&D)

SECRET-I

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