

DELHI DEVELOPMENT AUTHORITY
E.M.'S OFFICE

No : EM 1(10)2007/Civ (consultant) DDA/3457 Dated : 20/9/07

CIRCULAR No. 606


Subject : Appointment of Consultant.

While inspecting one of the DDA work, CTE observed:

- (1) That Consultant has been engaged for simple & repetitive type of job, though DDA has its own infrastructure and set up to deal with.
- (2) That Consultant has been appointed without call of tenders.

It is enjoined upon all concerned that as far as possible the planning/design job should be done in-house only making full use of the available expertise and infrastructure. Private consultant be appointed only in exceptional cases where it is absolutely necessary and that too by call of tenders. The Circular No. OFF-I-CTE-I dated 25.11.02, issued by Chief Technical Examiner and CVO letter No. 3L-IRC-I dt. 10.1.1983 is also enclosed for guidelines and strict compliance.

Encls : As above.


(A.P. Singh) 19/9/07

Chief Engineer(HQ)

Copy to: -

1. All CEs (Civil/Elect.) DDA with 20 spare copies for further distribution amongst SEs and EEs, Jt. CAO/FO & CE (HQ), DDA
2. CE (QC), DDA with 10 spare copies for circulation among SEs & EEs under his control.
3. CE (Design), DDA with 10 spare copies for circulation among SEs & EEs under his control.
4. CVO, DDA with 16 spare copies for circulation among SEs & EEs under his control.
5. CAO, DDA.
6. Project Manager (Flyover) Gr., I and II, DDA with 7 spare copies each for circulation among EEs and FOs.
7. Director (Systems) for necessary action.
8. Director (Hort.), North and South, DDA with 10 spare Copies each for circulation among Jt./Dy. Directors
9. Director (MM), DDA with 7 spare copies for circulation among EEs and FOs under his control.
10. Director (Works), DDA, Director (PR), DDA
11. EO-I, II, III, EE (PRC), DDA
12. Dy. CAO (Plan), DDA
13. Sr. R.O. (RTI), DDA
14. Hindi officer for Hindi version please.
15. Copy to File No. EM8(2)98/All Zones/04/DDA/Pt.

Copy also forwarded to -

1. PS to VC for kind information of the latter.
2. PS to EM for kind information of the latter.
3. PS to FM for kind information of the latter.


20/9/07
ED to EM

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No..OFF 1 CTE 1
Government of India
Central Vigilance Commission
(CTE's Organization)

Satkarkta Bhawan, Block A,
GPO Complex, INA
New Delhi-110023
Dt. the 25TH November 2002

OFFICE MEMORANDUM

Subject: Appointment of Consultants

While highlighting the common lapses/irregularities observed in the Construction works undertaken by the PSUs/Banks, under the guidance of Consultants, the Commission had issued certain guidelines vide letter No. 3L PRC 1 dated 12.11.1982 [copy enclosed-Annexure-1] so as to avoid recurrence of such lapses. These were further emphasized vide letter No. 3L-IRC-1 dated 10.1.1983 [copy enclosed-Annexure-II], inter-alia, bringing out the guidelines circulated by the Bureau of Public Enterprises in their letter no. DPE/GL-025/78/Prodn./PCR/2/77/BPE/Prodn. dated 15.07.1978 and it was reiterated that the appointment of Consultants should be made in a transparent manner.

2. However, it has been observed during intensive examination of various works/contracts by the CTEO that these instructions are not being followed by a large number of organizations. The consultants are still appointed in an ad-hoc and arbitrary manner without inviting tenders and without collecting adequate data about their performance, capability and experience. In some cases, the consultants were appointed after holding direct discussions with only one firm without clearly indicating the job-content and consultation fee payable to them. Often the scope of work entrusted to the consultants is either not defined properly or the consultants are given a free hand to handle the case due to which they experiment with impractical, fanciful and exotic ideas resulting in unwarranted costs. The organizations display an over-dependence on consultants and invariably abdicate their responsibility completely to the latter. The officials do not over see the working of the consultants resulting in the latter exploiting the circumstances and at times, in collusion with the contractors, give biased recommendations in favour of a particular firm. It has also been noticed that the consultants recommend acceptance of inferior items/equipments / payment for inadmissible items and also give

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undue benefit to the contractors like non-recovery of penalties for the delayed completion. The position in respect of projects with multiple consultants is still worse as the self-interest of so many outside agencies takes precedence over the loyalty towards the organization. These agencies tend to collude or collide with each other, and both the situations are detrimental to the smooth implementation of the project.

3. Some of the common irregularities/lapses observed during the last four years or so in this regard are highlighted as under:-

- i) One organization engaged architect from a very old panel, prepared about 15 years back.
- ii) An organization invited and short-listed 5 consultants but awarded the contract to the highest bidder on the plea that the bidder had done a very good job in some other project with the organization. Extra amount of account of travel expenses, boarding and lodging was also sanctioned beyond contractual terms.
- iii) A bank for construction of its Head Office in Mumbai, short-listed three firms after a thorough scrutiny of offers submitted by a large number of bidders. The price bids of these firms were opened, but in a surprising manner, the work of consultancy was awarded to an L-2 firm thus compromising all ethics of tendering.
- iv) The payment terms to the contractors are often allowed quite liberally. In one case, the consultant's fee was paid on quarterly basis without linking the same with the progress of the project. Full payments had been authorized even before the completion of the project. In another work, the consultants were paid substantial amount at an early stage of the project though they had submitted only preliminary drawings. Subsequently, the consultants failed to complete the job and the department took no action against them. In yet another case, the consultant was allowed extra payment for additional documents that he had to generate due to re-tendering of the case. However, the reasons for re-tendering were found attributable to the consultants and instead of penalizing, they were rewarded with extra payment.

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- v) The consultants tend to increase the cost of the work for more fees as generally the fee of the consultants is fixed at a certain percentage of the final cost of project. In an office building work, tender was accepted for Rs.10.00 crores but during execution, specifications were changed and actual cost on completion was twice the tendered cost. Thus, the consultant was unduly benefited as there was no maximum limit fixed for the consultant's fee.
- vi) In the consultancy agreement generally the nature of repetitive type of work is not defined. In one work, 4 similar blocks comprising of 100 hostel rooms each were constructed. The consultants were paid same standard fees for each block. Due to this, the organization suffered loss at the cost of the consultant.
- vii) There is no check on consultant's planning, design and execution. In one work, pile foundation for a workshop building was designed with the capacity of the piles, capable of carrying twice the required load. In the same project, high capacity piles (450 mm dia, 20 m deep) were provided for a single-storeyed ordinary office building, which did not require pile foundation at all.
- viii) In another case, the project was for a design and construction of a training institute on a big plot of land in a very posh and expensive area. The whole construction was two storied with no scope for future expansion. Ironically all other buildings in the vicinity are multi-storeyed highlighting the fact that space utilization here was very poor. Further, the walls in the reception area and on the outside of the auditorium were provided with acoustic insulation with no rationale. For air-conditioning of the library instead of providing a single AHU of suitable capacity with ducting, etc. 20 plus AHUs had been provided in the room. Such fanciful ideas along with poor planning and supervision resulted in the project suffering heavy cost and time overruns.
- ix) In one of the works for a bank in Mumbai, the substation equipment has been installed in the basement area; jeopardizing the safety aspect, as Mumbai gets its fair share of heavy rains and the area is also in close proximity to the sea.

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- x) In many cases, the consultants charge exorbitant traveling expenses. For a work in Punjab, Mumbai based Architects were appointed. The fee payable to them was Rs.6.00 lakhs, but the actual traveling expenses ultimately paid to them were to the tune of Rs.7.5 lakhs.
 - xi) Sometimes the consultants pass on their responsibility to the contractor. In one work, the consultant was supposed to give design and drawing as per the consultancy agreement. While preparing the tender document for construction work, the responsibility for the preparation of drawings and structural design was entrusted with the construction contractor by adding a condition to that effect. The contractors loaded the quoted rates for the above work and the consultant was benefited at the cost of the organization.
 - xii) In case of road projects, it was observed that consultants under different categories like general consultants, planning & design consultants and construction management consultants were appointed for almost all the activities of the projects without competitive bidding. The work done by the consultants is not checked by the departmental engineers who feel their job is mainly to issue cheques to the consultants/contractors.

4. The above list is only illustrative and not exhaustive. The Commission would like to reiterate the instructions regarding appointment of consultants. The appointment of consultants should be absolutely need based and for specialized jobs only. The selection of consultants should be made in a transparent manner through competitive bidding. The scope of work and role of consultants should be clearly defined and the contract should incorporate clauses having adequate provisions for penalizing the consultants in case of defaults by them at any stage of the project including delays attributable to the consultants. As far as possible a Project Implementation Schedule indicating maximum permissible time for each activity should be prepared with a view to arrest time overruns of the projects. There should be no major deviation in the scope of work after the contract is awarded and the consultant should be penalized for poor planning and supervision if the deviations result in excessive cost overruns. Further, the consultant's fee should be pegged based on the original contract value. The role of the consultants should be advisory and recommendatory and final authority and responsibility should be with the departmental officers only.

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It is suggested that these instructions may be circulated amongst the concerned officials of your organization for guidance in appointment/working of consultants in the engineering works/contracts. These instructions are also available on CVC's web site, <http://cvc.nic.in>

Sd/-
(M.P.Juneja)
Chief Technical Examiner

Encl: As above

To

All CVOs of Ministries/Departments/PSUs/Banks/Insurance Companies/Autonomous Organizations/Societies/UTs.

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ANNEXURE-II

No. 3L - IRC 1
Government of India
Central Vigilance Commission

No. 3, Dr. Rajendera Prasad Road,
New Delhi, dt. 10-1-1983

To,

**All Chief Vigilance Officers of all Public
Enterprises/National Banks.**

Sub: APPOINTMENT OF CONSULTANT.

Guidelines in connection with the selection of consultants by Public Sector Enterprises for preparation of project reports have been laid down by Bureau of Public Enterprises vide letter No. BPE/GL-025/78/Prodn.IPCR/2/77/BPE/Prodn. dt. 15th July, 1978.

In brief the guidelines laid down are: +

- A. For any new projects, expansions, modernization/modification of the existing projects involving an expenditure of Rs.5 crores and above these guidelines are applicable.
- B. The pre-qualifications public notice should be issued to enlist names of suitable consultants.
- C. The pre-qualification bid should be screened by a scrutinising committee.
- D. The final selection and commissioning of the consultant should be done with the approval of the board of public sector enterprises.
- E. Based on the above guidelines each enterprise should prepare their own instructions and procedure duly approved by the board for the appointment of consultants to ensure that the selection is made with maximum attention to the suitability, competence and proven track record.

The Chief Technical Engineer Organisation under the control of the Commission has had occasion to examine and comment upon works undertaken by public

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sector undertakings. Common irregularities/lapses noticed in the construction works undertaken by the public sector undertakings/banks have already been

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brought to your notice vide engineering works, it was observed that consultants were appointed on ad-hoc basis without going through proper formalities as suggested by B.P.E. and/or the consultant was chosen from an old panel thereby restricting competition. In most of the cases public sector enterprises have not framed their own instructions and procedures duly approved by the Board.

Even though individually such works are less than Rs.5 crores, it is necessary that the appointment of consultant should not be made arbitrary or ad-hoc.

It is, therefore, necessary that urgent action is taken to formulate a rational policy for employment of consultants based on the broad outlines given by B.P.E.

This may be given priority and progress made in formulation of rules and procedure may be reported by 31-3-1983.

Sd/-
(D.C. Gupta)
Director