

DELHI DEVELOPMENT AUTHORITY
E.M.'S OFFICE

NO. EM1(10)98/Vol-II/Pt-9/13808

Dt. 23.11.2001

CIRCULAR No. 546

SUB-DETERMINATION OF LOWEST TENDER
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Section -20 to CPWD Manual Vol.II, 1988 lays down the procedure for acceptance of tenders. There are instances where the lowest tender is found invalid or is withdrawn by the tenderer during the original validity period (normally 90 days). Doubts raised in this regard, whether in such cases the next lowest valid tender can be considered as the lowest tender, have been clarified by CPWD vide O.M. NO. DGW/MAW/57 dt. 5th Jan., 2001 which has been approved by the Competent Authority to be followed in DDA also and which specifies that if the lowest tenderer backs out, there should be re-tendering in a transparent and fair manner as advised by the Central Vigilance Commission. The CVC has also advised that in such a situation the authority may call for limited or short notice tender if so justified in the interest of work and take a decision on the basis of lowest tender. Copy of CVC's letter NO. 98/ORD/1 dt. 24/8/2000 is enclosed.

It is, nevertheless, emphasized that withdrawal of tender is a serious matter. The explanation of the contractor, who withdraws the tender, should be called and disciplinary action should be taken, where necessary, in addition to forfeiture of the earnest money absolutely in accordance with the relevant condition of PWD-6. However, if the lowest tenderer refuses to extend the validity after expiry of the original validity period (normally 90 days), no action can be taken against the contractor for such refusal and the cases should be decided on individual merits. The Tender Accepting Authority should also satisfy itself that the lowest valid tender proposed to be accepted is reasonable and recall is not likely to give substantially better results.

S.M. Madan
(Er. S.M.MADAN),
CHIEF ENGINEER (H.Q.)
DDA.

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V.K. Chopra
(V.K.CHOPRA),
EO-I to EM, DDA.

Compared
H. Jaha

IMMEDIATE

No.98/ORD/1
GOVERNMENT OF INDIA
CENTRAL VIGILANCE COMMISSION.

Satarkta Bhawan, Block 'A',
GPO Complex, INA,
New Delhi-110023.
Dt.24th Aug.,2000.

- To
- i) The secretaries of All Ministries/Departments of Government of India.
 - ii) The Chief Secretaries to All Union Territories.
 - iii) The Comptroller & Auditor General of India.
 - iv) The Chairman, Union public service Commission.
 - v) The Chief Executives of All PSEs/public sector Banks/ Insurance Companies/Autonomous Organisations/Societies.
 - vi) The Chief Vigilance Officer in the Ministry/Department/ PSEs/public sector Banks/Insurance Companies/Autonomous Organisation /Societies.
 - vii) presidents' secretariat/ Vice-president's secretariat/ Lok Sabha secretariat/Rajya Sabha secretariat /PMO.

SUBJECT: IMPROVING VIGILANCE ADMINISTRATION - TENDERS.

Sir,

please refer to the instructions issued by Commission vide its communication NO. 8(1)(h)/98(1) dated 18/11/98, banning post tender negotiations except with L-1.

2. The Commission has been getting a number of queries on how to handle the matter if the quantity to be ordered is more than L-1 can supply or about placement of orders on public sector undertakings. It is requested that such matters may be dealt with in accordance with the clarifications issued by the Commission vide its letter of even number dt. 15/3/99 (copy enclosed).

3. Some of the organisations have sought clarification as to whether they can consider the L-2 offer or negotiate with that firm if L-1 withdraws his offer before the work order is placed or before the supply or execution of work order takes place. In this regard, it is clarified that such a situation may be avoided if a two-bid system is followed (techno-commercial) so that proper assessment of the offers is made before the award of work order. Therefore, if L-1 party backs out, there should be retendering in a transparent and fair manner. The authority may in such a situation call for limited or short notice tender if so justified in the interest of work and take a decision on the basis of lowest tender.

4. The Commission has also been getting references for its advice on the procedures being followed in individual cases of tenders. The Commission would not involve itself in the decision making process of individual organisations. It, however, would expect the organisations to implement its instructions dt. 18/11/98, in its spirit and to ensure that the decisions of administrative authorities are transparent.

Yours faithfully.

sd/-

(K.L.Ahuja),
Officer on Special Duty.

Compared
G.L. 2
NE-V

GOVERNMENT OF INDIA
CENTRAL VIGILANCE COMMISSION

Satark: Shewan, block-A
GPO Complex, INA,
New Delhi-110023.
dt. the 15th March, 1999.

- To
- i) The secretaries of all Ministries/Departments of Government of India.
 - ii) The Chief secretaries to All Union Territories.
 - iii) The Comptroller and Auditor General of India
 - iv) The Chairman, Union public service Commission.
 - v) Chief Executives of All PSUs/Banks/Organisations.
 - vi) All Chief Vigilance Officers in the Ministries/Departments/PSUs/public sector Banks/Insurance Companies/Autonomous Organisations/Societies.
 - vii) President's Secretariat/Vice-president's Secretariat/Lok Sabha Secretariat/Rajya Sabha Secretariat/PMO.

SUBJECT: IMPROVING VIGILANCE ADMINISTRATION- TENDERS.

Sir,

please refer to CVC's instructions issued under letter NO. 8(1)(h)/98(1) dt. 18/11/98 banning, post tender negotiations except with L-1 i.e., the lowest tenderer. Some of the organisations have sought clarifications from the Commission as they are facing problems in implementing these instructions. The following clarifications are, therefore, issued with the approval of Central Vigilance Commissioner.

- i) The Government of India has a purchase preference policy so far as the public sector enterprises are concerned. It is clarified that the ban on the post tender negotiations does not mean that the policy of the Government of India for purchase preference for public sector should not be implemented.
- ii) Incidentally, some organisations have been using the public sector as a shield or a conduit for getting costly inputs or for improper purchases. This also should be avoided.
- iii) Another issue that has been raised is that many a time the quantity to be ordered is much more than L 1 alone can supply. In such cases the quantity order may be distributed in such a manner that the purchase is done in a fair transparent and equitable manner.

Yours faithfully,

ed/-

(P.Fatehullah)
DIRECTOR

Compared

15/3/99