

Confidential

**OFFICE OF THE CHIEF VIGILANCE OFFICER
DELHI JAL BOARD, GOVT. OF N.C.T. OF DELHI
VARUNALAYA PH-II:KAROL BAGH, NEW DELHI**

No. DJB/CVO/07/1792

Dated: 30/4/07

While discussing Item No. T - 178 regarding construction of 31.18 ML capacity MBR/BPS at Okhla Pipe store, the members of the Delhi Jal Board in the Board meeting held on 31.1.2007, had observed that there was no justification for the decision of the then Technical Committee to reject the offer of L - 1 in the first instance in the aforesaid case, which was subsequently cleared by them for the same firm but at a higher rate, which has not only caused loss of time but also cost escalation.

2. In the same meeting, while considering other cases, it was observed that the tenders were discharged on the ground that the rates quoted were on the higher side, though, this ground has not been substantiated by the relevant facts/figures. Whereas in almost all such cases the rates quoted were found to be well within the departmental justification of rates, yet negotiation was resorted to by the Technical Committee, which was against the guidelines laid down by CVC. The Technical Committee did not record any justification nor gave details for such negotiations.
3. CVC vide its circular dated 25.10.05 has categorically instructed that *'Negotiations, if at all, shall be an exception and only in the case of items with limited source of supply. Negotiations shall be held with L-1 only'* and *'Negotiations can be recommended in exceptional circumstances only after due application of mind and recording valid, logical reasons justifying negotiations'*.

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4. However, in majority of cases, where Technical Committee had resorted to negotiations with L-I, the decision apparently, did not go along with the aforesaid CVC guidelines. Rather, it appeared contrary to the basic spirit of the instructions as quoted above. Not only this, in almost all cases the Technical Committee failed to appreciate the fact that re-inviting the tender would entail unnecessary expenditure on re-publication of NIT and even after that there was no guarantee of getting rates upto the expectations of Technical Committee, alongwith time and cost overrun.
5. It has, therefore, been decided that henceforth the Technical Committee must consider any proposal in its totality along with consequential loss to the organization including cost escalation and delay in the event of its rejection. Further, CVC has issued revised guidelines on the subject vide Circular no. 4/3/07 dated 03.03.07, copy of which is enclosed, and should be followed in its letter and spirit before considering any proposal for negotiation.
6. The aforesaid points may please be noted for immediate compliance.


(Amod K. Kanth)

I.P.S

Chief Vigilance Officer

Sh. Ranbir Yadav,
Member (Dr.)
(Member of Technical Committee)

Encl.: As above

No.005/CRD/012
Government of India
Central Vigilance Commission

Satarkta Bhawan, Block 'A',
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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 supersession 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 according 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.