



**SOUTH DELHI MUNICIPAL CORPORATION
OFFICE OF THE ADDL. COMMISSIONER (FINANCE)**

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No. 48 | Addl. Commr (Fin) / SDMC

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C I R C U L A R

Sub : Procedure for Conducting Negotiations with L1/H1 Bidders

The guidelines of Central Vigilance Commission (CVC) with regard to procedure to be followed for conducting negotiations with L1/H1 bidders (issued vide Circular No.01/01/2010 dated 20/01/2010) are reproduced below :

"As Post tender negotiations could often be a source of corruption, it is directed that there should be no post tender negotiations with L1, except in certain exceptional situations". It has come to Commission's notice that this has been interpreted to mean that there is a ban on post tender negotiations with L1 only and there could be post tender negotiations with other than L1 i.e. L2, L3 etc. This is not correct.

It is clarified to all concerned that – there should normally be no post tender negotiations. If at all negotiations are warranted under exceptional circumstances, then it can be with L1 (Lowest tenderer) only if the tender pertains to the award of work/supply orders etc. where the Government or the Government company has to make payment. However, if the tender is for sale of material by the Government or the Govt. company, the post tender negotiations are not to be held except with H1 (i.e. Highest tenderer) if required."

2. In this regard, the provisions as contained in Clause 5.1.8 of the CPWD Manual, are reproduced below :

Clause 5.1.8(2) – *"CPWD Manual 2019 Clause 5.1.8 also mention that "negotiations should not normally be conducted with the bidder, but in case where it becomes necessary to do so, negotiations should be restricted only to the lowest bidder only under exceptional circumstances with the approval and recommendation of the next higher authority. Convincing reasons must be recorded by the authority recommending negotiations.*

The justification and details of such negotiations should be duly recorded and documented without any loss of time. For procedure Refer SOP 5/4."

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SOP 5/4 – *"(1) Negotiations are not normally conducted with the tenderers, but in case where it becomes necessary to do so, negotiations are restricted only to the 1st lowest tenderer under exceptional circumstances. In case if L-1 withdraws or found ineligible after opening of tenders, tenders are recalled invariably. The officer not below the rank of CE or any other officer designated by the CPWD Directorate negotiates with the lowest tenderer in case of tenders beyond the acceptance powers of CE. If negotiations are required in the case of tenders to be sent to the Central Works Board. Director General, Special DG or the Additional Director General, as the case may be, for their/his/her approval, the Chief Engineer negotiates with the lowest tenderer before sending the tenders to them.*

(2) The justification and details of such negotiations are duly recorded and documented without any loss of time. Convincing reasons are recorded by the authority recommending negotiations.

(3) It is necessary for tender accepting authority to obtain prior approval of next higher authority (Chief Engineer being the highest accepting authority of a tender, approval of officer not beyond level of ADG is necessary for tender of any amount) whenever negotiation become necessary for reasons of urgency due to time constraint in execution of works or urgent nature and when time is not available for rejection and recall.

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(4) *The negotiations by the accepting authority only in following situations:*

a) *For clarification and confirmation on any error/ambiguity in the nomenclature/rate of item(s) of work that is possible to set right after negotiation with the lowest tenderer without any obvious disadvantage to other tenderers/Govt.*

b) *In case of receipts of higher rates on recall of a tender which was rejected on earlier occasion for reasons of higher rates than the justified rates including the allowable variations permitted."*

3. In view of the CVC guidelines as well as the relevant provisions of CPWD Manual as above, the following directions are issued for strict compliance :

- i) The aforesaid CVC guidelines and the provisions of CPWD Manual in this regard shall be followed strictly by all concerned.
- ii) Negotiation shall not be conducted with the bidder under normal circumstances. The same shall only be conducted under exceptional circumstances and the reason for proposing such negotiations should be well mentioned in the approval note.
- iii) The approval for negotiations for a particular tender should be taken from the authority next to the accepting authority for that particular tender. However, the Additional Commissioners of the departments will have full powers to accord approval to conduct negotiations with L1/H1 bidder.

4. This issues in supersession of all the earlier order(s) issued in this regard and with the prior approval of the competent authority.

Sd/-

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South DMC

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