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GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF WORKS
CENTRAL PUBLIC WORKS DEPARTMENT

NO. DGW/CON/59

New Delhi, dated the 18.6.93.

M E M O R A N D U M

Subject : Implementation of Arbitration Awards.

Arbitration is an alternative forum for resolution of disputes between two parties who had entered into a contract for rendering of services. Awards given by the Arbitrators for either accepted or challenged. If in the opinion of the Department, the arbitration awards is not justified and requires to be challenged, the Department has to take steps to file objections in the Court of appropriate jurisdiction within the statutory period of 30 days.

Para 36.45 of CPWD Manual Vol. II down that an award (if found acceptable by the Department) exceeding Rs. 50,000/- should be made a Rule of the Court before payment is made. The underlying principle for approaching the Court is to ensure enforceability of the award through the instrumentality of the Court.

The Ministry of Law are of the view that irrespective of the amount involved, the payment should be made to the contractor immediately without making a rule of the Court after obtaining an undertaking from the contractor for acceptance of the award in full and final settlement. Immediate payment ensures that the Deptt. is absolved of the liability of payment of interest on the amount awarded. The undertaking is to be obtained from the contractor on stamped paper, as per specimen form approved by Ministry of Law enclosed at Annexure 'A'. Before obtaining the said undertaking, the contractor will be addressed, as per specimen letter at Annexure 'B' formally informing him of the intention of the Department to accept the award. Thereafter the contractor will be called upon to sign the undertaking.

In case where the awards are in favour of the Department and recoveries to be made from the contractor who does not accept the award, then the Department should move an application immediately before the competent Court to obtain a decree in terms of the award.

In cases where the awards are interest bearing and the proposed awarded amount may be deposited in the Court as provided under the provisions of order 24 of C.P.C. in order to avail the accrual of interest thereon.

*to be challenged,

(N.S.K. RAO)

P.O. TO D.G.(WORKS)

8/6/93
21/-

Specimen form of 'Undertaking' (to be obtained on stamped paper from the contractor where the arbitration award has been received and is found acceptable by the Deptt.)

- 1) Whereas the Union of India, represented by _____
_____ (Executive Engineer, operating
the contract No. _____ with M/s _____
(Name of contractor to be indicated) for execu-
tion of the work _____ (Detail of work to be
indicated i.e. Name of the work & Agreement No.)

Whereas certain disputes had arisen in the execu-
tion of the said contract :

Whereas the parties decided to go for arbitration,
the demand for arbitration having been made by
_____ (indicate contractor/Govt.);

Whereas the DGW/CE _____ (Delete whichever is
not applicable; in the case of CE indicate the
Zone etc.) under his powers vested in clause 25
of the Agreement had appointed Shri _____
_____ as Arbitrator;

Whereas the said arbitrator had given his award
dated _____ and had awarded a sum of Rs. _____
(in figures and words) in favour of the contractor
in Arbitration case No. _____) and

Whereas the U.O.I have decided to accept the said
award.

- 11) It is hereby agreed upon and accepted by both the
parties to the above mentioned contract that the
said award in its entirety is final and binding as
regards to all the disputes referred to the arbi-
trator by them and an amount of Rs. _____ (in
figures and words) given in the award in favour of
the contractor will be paid by the Union of India
in full and final settlement of the amounts due to
the contractor under the said contract.

Signature of Contractor.
Witness :

Signature of the Ex. Eng.
(for and on behalf of the
President of India).

To

Subject : Award dated _____ made by Sh. _____
_____ Arbitrator in regard to the disputes arising out of agreement No. _____ and referred to arbitration Case No. _____.

Dear Sirs,

With reference to the award mentioned above, I am to say that the Union of India has decided to accept the said award provided you accept the same as final and binding. Please intimate that you agree to accept payment of the sum awarded in full and final settlement of all your claims forming the subject matter of the reference to arbitration in the above case.

Yours faithfully,

(EX. ENGINEER)

FOR AND ON BEHALF OF PRESIDENT OF INDIA

Government of India
Directorate General of Works
Central Public Works Department

105
27 MAY 1993

No.4/5/86-CWBd Vol.III

New Delhi, dated: the

May, 93

MEMORANDUM

Subject:- Rejection of abnormally low tender - Maintenance works.

Ref:- This Directorate's Circular No.CE/CON/839,
dated 28.7.86.

The matter regarding rejection of abnormally low tender in respect of maintenance works was re-examined.

Under provisions of this Directorate Circular quoted above, every case of rejection of abnormally low tender should be reported to the next higher authority with a brief note indicating the reasons for rejection.

In supercession of the above order, it has been decided that in future the acceptance of the lowest tender after rejecting the abnormally low tender would be decided by the next higher authority as per extant orders. Further; whenever abnormally low tender is received which is proposed to be rejected and another higher tender is to be accepted, the officer normally competent to accept such tenders, should forward all the tenders alongwith justified rates (with details thereof) to the next higher authority, who will decide the lowest tender. Such next higher authority will also scrutinise the justified rate.

(N.S.K. RAO)

FINANCIAL OFFICER TO D.G. (W)

To

1. M/o Urban Development, New Delhi.
2. The CCA & F.A., C.P.W.D., New Delhi.
3. Director of Admn., C.P.W.D., New Delhi.
4. All DDAs in C.O., C.P.W.D., New Delhi.
5. All SEs/SSWs/EEs in C.P.W.D.