



सत्यमेव जयते



केन्द्रीय सतर्कता आयोग
CENTRAL VIGILANCE COMMISSION

सतर्कता भवन, जी.पी.ओ. कॉम्प्लेक्स,
ब्लॉक-ए, आई.एन.ए., नई दिल्ली-110023
Satarkta Bhawan, G.P.O. Complex,
Block A, INA, New Delhi-10023.

सं./No..... Conf./9533/19-46769/

दिनांक / Dated..... 02.12.2020.....

OFFICE MEMORANDUM

Subject: - Report of the Committee of CVOs of MOC, CH and NCL on Systemic Improvement Suggestion w.r.t. to various provisions of purchase manual of CH-reg.

Ministry of Coal may refer to their Letter No. 13026/5/2020-Vig. dated 06.11.2020 on the subject cited above.

2. Report of Committee of CVOs of Ministry of Coal, CH and NCL on Systemic improvement Suggestion regarding various provisions of purchase manual of CH submitted by Ministry of Coal has been perused in the Commission.

3. Commission has directed CVOs, Ministry of Coal & CH to submit the recommendations to CH management for issue of appropriate guidelines/instruction in the matter. Commission also advised that the recommendations may be uploaded on the websites of CH and subsidiaries.

4. The Commission has also decided to add this agenda in the meeting Scheduled with Secretary, Ministry of Coal at the end of December 2020.

Vivek Khare
2/12/2020
(Vivek Khare)
Director

✓ Ministry of Coal.
(Ms. Vismata Tej. Joint Secretary & CVO).
Shastri Bhawan.
New Delhi.

Coal India Ltd.
(Sh. Saroj Kumar Sadangi, CVO).
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V.S.
3/12/20
Dir (Vig.)

Annexure

In compliance to the advice as contained in the D.O. Letter no. Conf/9533/19-462238-wE dated 01.10.2020 issued by Addl. Secretary, CVC a committee was formed comprising of JS&CVO, MOC, CVOs of CIL and NCL to work on systemic improvement suggested by CVO NCL in a PIDPl case of CVC vide CVC reference no. Conf/9533/19-444550-wE dated 14.01.2020.

The committee met through VC on 08.10.2020 and 22.10.2020 and deliberated on provisions of earlier purchase manual of Coal India, the revised purchase manual issued in 2020 and manual issued by DoE in this regard pertaining to the issues raised in systemic improvement suggestion. The detail analysis and recommendation against each three systemic improvement suggestions made by CVO NCL is as below:-

(I). **Systemic Improvement Suggestion related to review of Ancillary Status:**

A. Systemic Improvement Suggested by CVO NCL:

Ancillary status awarded by NCL to different firms is open ended without any validity period which is not proper. Ancillary status has been awarded to many firms including Misra & Brothers more than 10 years back. It needs to be reviewed immediately in time bound manner in line with per new Purchase Manual 2020 clause 2.8.8.3 which stipulates that ancillary status given to a firm shall valid for a period three years

B. Observations:

Para 2.8.8.3 of new purchase manual issued in 2020 mentions as "Ancillary Status granted to a firm shall be valid for a period of three years during which the performance of the firm shall be monitored and in case of consistent unsatisfactory performance of the firm or change in the status of the firm from MSE to Medium or Large Enterprise, the ancillary status granted to the firm shall be withdrawn. Renewal of ancillary status for another three years shall be considered only after receipt of request made by the firm." As the new purchase manual 2020 has already covered the granting and reviewing of ancillary status in detail, ancillary status granted to companies prior to new manual should also be reviewed in light of complaint received and in accordance to new manual immediately to have uniform policy across CIL.

C. Recommendations:

Ancillary status granted to all companies prior to issue of new purchase manual 2020, in all subsidiaries which has completed three years, to be reviewed immediately and for other companies which are yet to complete three years, immediately after three years in accordance with the provisions of new purchase manual 2020.

(II). **Systemic Improvement suggestions related to issue necessary instructions for TC:**

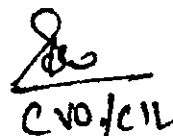
A. Systemic Improvement Suggested by CVO NCL:

Management may issue necessary instructions to ensure that the eligibility conditions are followed in toto by technical scrutiny members/TC.

B. Observations & Recommendations:

These are general principles and NCL may issue necessary instructions to all concerned to ensure that the eligibility conditions are followed in toto by technical scrutiny members/technical committee.


V.M.


CVO/CIL


MOC

(III). Systemic Improvement related to need of obtaining performance certificate by end user from the bidder in bid.

A. Systemic Improvement Suggested by CVO NCL:

The submission of performance certificate in bid by the bidder should also be made compulsory in bid/tender avoiding any ambiguity at later stage.

B. Observations:

The Previous manual does not specifically mention about submission of performance certificate or self-certificate in this regard. The tenderer was to submit notarized copy of purchase order(s) received from HQ and/or Areas of subsidiary including latest one together with performance report issued by subsidiary HQ, if any. In case of purchase order of other subsidiary, in similar way tenderer should submit notarized copy of purchase order(s) received from HQ and/or Areas of subsidiary of CIL including latest one together with performance report issued by subsidiary HQ, if any.

Therefore, the submission of performance report was optional. Bidder was to submit only the copy of supply order which actually does not validate about successful supply, commissioning and successful working for the specified period.

The provisions of clause 13.11.3 dealing with this subject in new purchase manual issued in 2020 is reproduced below.

"Technical scrutiny of all the bids received against tenders shall be carried out by the technical department strictly as per the criteria specified in the tender document. The final Technical Scrutiny Report (TSR) shall be forwarded to the MM department, duly vetted by the concerned HOD of technical department. Past performance of the offered product(s) in terms of guaranteed availability, warranty/ guarantee and other performance parameters as stipulated in the relevant purchase orders, should also be taken into consideration while submitting the final TSR, along with authenticated copies of the performance reports if the offered product(s) has been used in the past in the same subsidiary company where procurement is being made. Considering the practical difficulties in obtaining the performance reports in cases where provenness of the offered product is being ascertained on the basis of supply made in other subsidiaries of CIL or other PSUs/ Govt. Departments, the bidder will be asked to submit a Self-Certificate in the following format:

"The items covered in the Purchase Order(s)/ Rate Contract(s) copies enclosed with our offer have been fully executed and have performed satisfactorily as per the provisions of respective Purchase Order(s)/ Rate Contract(s) and all the complaints/claim (s) lodged by the purchaser, if any, have been attended to and no complaints/ claims(s) are pending".

In case, any specific Purchase Order(s) has/ have not been fully executed and any complaint/ claim is pending, then details of such cases to be categorically mentioned with the reasons thereof so that decision making is in clear perspective without any hidden facts in the subject matter. The authenticity of the self-certificate as well as other documents submitted/uploaded by the bidder will solely be their responsibility and appropriate action will be taken by CIL/Subsidiary Company if it is subsequently found to be misleading/ false/ forged. However, the Purchaser reserves the right to obtain the performance directly from the end user of the item/product. The responsibility of the correctness of the final TSR shall lie with the concerned Technical Department."

Further clause 2.4 of chapter 10 defining satisfactory performance as "Satisfactory Performance means the supplied equipment must have achieved the guaranteed

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annual availability, if any, as per the performance guarantee clause of the supply orders/contracts for a minimum period of three years/ one year (as the case may be) from the date of commissioning. In case supply orders/ contracts do not have provision for guaranteed annual availability, the bidder will submit satisfactory performance report issued by end users as per benchmark regarding performance of equipment, if any, incorporated in the supply orders/ contracts against which these equipment were supplied. In case, the Performance Report(s) of the End-User(s) is not available, the bidder shall submit self-certification claiming satisfactory performance of the equipment supplied. Clause 15.3.3 of manual however desires the performance certificate from OPM mentioned as "Self-certified copy of performance certificate from the end user to assess the provenness credibility of the OPM."

After going through the above provisions of new purchase manual, it is observed that bidder is supposed to provide the supply order/purchase order in the bid similar to earlier manual. The new manual does mention about submitting performance certificate issued by end user or self-certified of performance certificate issued by end user but made optional in lieu of practical difficulties in obtaining the performance reports in cases where provenness of the offered product is being ascertained on the basis of supply made in other subsidiaries of CIL or other PSUs/ Govt. Departments and rely on self-certificate by bidder only in respect of supply order/purchase order submitted by the bidder of other subsidiary or other PSU or other department.


C. Recommendations:

The committee deliberated on need of submission of performance certificate issued by end user in the bid in light of amount involved in the procurement and also deliberated on the provision of submitting completion certificate by the bidder as per procurement manual for goods, issued by DoE in 2017. However, considering the difficulty mentioned in the new purchase manual regarding obtaining performance certificate from other subsidiary or department and delay in tender as experienced by Coal India in past and provisions in the manual to address subsequently the fake documents submitted by the bidder if any, the committee recommends the following:

- In case of no performance certificate or completion certificate is submitted by the bidder, provision should be made for submission of the proof of payment of the items supplied against supply order/purchase order by the bidder along with the self-certificate.
- Committee would also like to recommend to Coal India management to designate a nodal officer in each subsidiary for verification of credential/documents from other subsidiary of Coal India in respect of any tender as single point of contact for verification and reverting in a week to avoid delay in the process of verification if any.


Vismita Tej
JS & CVO Ministry of Coal


S. K. Sadangi
CVO CIL


Amit Kumar Srivastava
CVO NCL
4/11/2020
