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ABSTRACT

Public Works Department - Buildings - Recommendations - Accepted - Orders Issued.

Public Works (G2) Department

G.O.(Ms) No. 60

Dated: 14.3.2008

Sarvajit - Panguni - 1

Thiruvalluvar Aandu 2039

Read:

- 1 From the Builders Association of India, Representation dated 11.9.2006, 30.9.2006 and 5.12.2006.
- 2 From the Chief Engineer (Buildings), Chennai-5 letter No. HDO (A) /11843 / 2003, dated 26.9.2006 and 27.7.2007.
- 3 From the Engineer-In-Chief, Water Resources Organisation, Chennai, letter No. HDO / 25440 / 2007, dated 28.6.2007, 20.9.2007 and 3.10.2007
- 4 Minutes of the Meeting held by Secretary (Finance), Secretary (Public Works), Secretary (Highways), dated 21.1.2008.

ORDER:

The Builders' Association of India (Southern Centre) made representations on certain concerns like undue increase in the cost of materials, labour etc affecting the progress of Government works and therefore requested for appropriate action particularly in providing price adjustment for materials, labour etc. The Chief Secretary held a meeting on 3.7.2007 during which Secretaries and Heads of the Departments concerned and office bearers of Builders' Association (Southern Centre) were present and discussed various matters relating to construction industry and timely completion of Government Works.

2. Some of the main demands of the Builders' Association of India (Southern Centre) are as follows: -

- (i) Presently, the price adjustment is valid for contracts of more than 18 months only. As the cost of materials and labour considerably escalates over short durations, the price adjustment should be given effect to at an interval of six months as against the present 18 months. A similar practice is in vogue in Andhra Pradesh.

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for P.S.

- (ii) More importantly the key inputs like Cement, Steel, Bitumen etc., which were earlier used to be supplied by the Government itself should be appropriately considered for short interval price adjustment.
- (iii) While preparing the schedule of rates, necessary provision for overheads and profit should be considered.
- (iv) Solvency certificates presently being issued by Revenue Department should also be permitted to be issued by Banks as in the case of Central Public Works Department, Railways, etc.
- (v) The cost of tender documents should be reduced.
- (vi) A representative of Builders' Association of India should be allowed on the Committee for fixing Schedule of Rates.

3. The representations of the Builders Association of India were examined in detail in the light of the reports given by Engineer-in-Chief, Water Resources Organisation, Chief Engineer (Buildings) and Chief Engineer (Highways) in joint sittings of Secretary Public Works and Secretary Highways along with their Heads of Departments on 4.10.2007, 1.11.2007 and 15.11.2007. Thereafter a meeting was held on 3.12.2007 among Secretary, Finance, Secretary, Public Works and Secretary, Highways and accordingly the following recommendations were made.

(1) PRICE ADJUSTMENT

- (a) The full price adjustment on all the components other than cement, steel, bitumen and Petroleum, Oil and Lubricants (POL) shall be applicable to the works with contract period of more than 12 months instead of the present system of 18 months, with all other conditions remaining the same subject to amendment for Rule 14 (b) of Tamil Nadu Transparency in Tenders Rules, 2000 which needs to be issued.
- (b) Price adjustment clause may be considered for contract with agreement period of 12 months and below subject to the following conditions:
 - (i) Price adjustment clause will be applicable for select critical construction inputs namely cement, steel, bitumen and POL and that too for Capital / Plan works only. No price adjustments will be applicable for repairs and maintenance works.
 - (ii) Price adjustment will be applicable for works with value of works put to tender costing RS.25.00 lakhs and above for which, the agreement period is above six months.
 - (iii) Price adjustment will apply only when the fluctuation of rates exceeds by 3% compared to the estimate rates (RBI Index price). Price adjustment shall be made for both increase and decrease in the cost of materials.

- (iv) Price variation will be calculated once in a quarter in respect of cement and steel as per the specified formula from the date of agreement upto the end of agreement period based on Wholesale Price Indices of Reserve Bank of India. The quarter would be reckoned with reference to the quarter of the calendar year in which the agreement is signed, for the purpose of calculation of price adjustment.
- (v) The price adjustment shall be calculated only on the departmental estimated cost of the work.
- (vi) In respect of bitumen and POL, it may be considered on 'pass through' basis with payment of actual rates / price at the rates charged by Indian Oil Corporation.
- (c) All works for which price escalation is contemplated must have milestones fixed in physical terms and have a pre-fixed timeline for usage of inputs which would clearly stipulate the nature and quantum of cement, steel and other inputs which would be utilized for the work in each time period between two milestones. Escalation will be given for only those quantities which would have been used had the contractor stuck to this original timeline. However, if the contractor does a certain quantity of the work in the third quarter which he should have done in the second quarter, he can still claim escalation on that quantity at the rates as applicable in the second quarter.
- (d) Liquidated damages will be imposed on the contractor for the lapses / shortfall in achieving the rate of progress as per existing schedule.
- (e) The price adjustment mechanism will cease to operate for value of work executed beyond the agreement period. But agreement period shall include the "actual period" for which the work was "suspended officially" and extension of time permitted for any valid reasons such as, war, natural calamities, like flood, earthquake and other risks arising out of acts of God during the agreement period; work delayed due to the land acquisition process; change in design, change in scope of work, etc., which is given in writing by the Tender Calling Officer of the respective work.
- (f) In order to avoid Revised Administrative Sanction proposals, provision for escalation can be included in the original estimate itself at the rate of 5% of cost of works for every year of the duration of the contract.
- (g) Price variation will be operated by the respective Divisional Engineers / Executive Engineers.
- (h) With the advent of price adjustment mechanism, there is no justification for allowing tender excess based on price related factors and it needs to be given in rare cases of non-input related difficulties and these powers shall vest with only Tender Award Committee. The existing powers for approving tender premium now vested with Chief Engineers and below shall stand cancelled in respect of works eligible for cost escalation. In respect of works for which value put to tender is below Rs.25 lakhs, there will be no change in the powers.

- (1) The revised price adjustment system shall come into effect prospectively and shall be available only for those tenders which have been called for on or after the date of this Government order.

The above price adjustment mechanism will be put on trial and reviewed after one year from the date of implementation.

(2) OVERHEAD CHARGES AND PROFITS:

It is noted that a separate Cell, viz. Public Procurement Procedure Cell has been formed by the Government in the Finance Department for updating the standard data book of Public Works Department in which overhead charges and profits are being considered. The Cell has already submitted its recommendation to the Government and decisions on the recommendations of the above Cell will be expedited and made applicable to Public Works Department and Highways Department.

(3) SOLVENCY CERTIFICATE

The present practice of accepting solvency certificate issued by the Revenue Department may be continued.

(4) TESTING CHARGES

As regards to the testing charges, no separate provision is required to be included in the estimate itself, since it could be considered as part of overhead charges.

(5) BANK GUARANTEE FOR EMD

The practice of receiving bank guarantees for Earnest Money Deposit should not be a favoured mode of payment.

(6) SCHEDULE OF RATES

A representative from Builders' Association of India may be invited to the preliminary meetings of the Committee as a Special Invitee to provide their inputs before finalising the Schedule of Rates at the State level. This will also facilitate transparency in the adoption of market rates in the Schedule of Rates.

The Chief Engineer (General), Highways Department, Chennai-5 may also be included as a Member of the Committee and suitable amendment to G.O.Ms.No.555, Public Works Department, dated 17.11.1999 may be issued for the above.

(7) COST OF TENDER DOCUMENTS

As the e-tendering system has been introduced and presently tender documents can be downloaded free of cost from the websites, no change is necessary with regard to cost of tender documents, in respect of works costing Rs.10.00 lakhs and above. For the works costing less than Rs.10.00 lakhs, the cost of tender documents may be reduced by 50% on the cost fixed in G.O.(Ms).No.538, Public Works (G2) Department, dated 01.10.2004, limiting to RS.1,500/- (+) VAT maximum and necessary amendment may be issued for the purpose.

(8) BONUS FOR ADVANCE COMPLETION OF WORK

Bonus as an incentive for advance completion of work may be introduced. Any work completed in advance by not less than 10% of agreement period can be considered and bonus of 1 % on the value of actual quantum of works executed at tendered rate may be paid.

(9) BID CAPACITY

There should be a system to assess the bid capacity of the contractor in relation to all the works he executed at any point of time based on which the capability, efficiency and eligibility of that particular contractor shall be assessed before awarding a new work.

4. The Government, after careful consideration, decided to accept all the recommendations contained at para -3 above and accordingly direct that the price adjustment and other provisions be adopted and implemented by Public Works and Highways Department with immediate effect in the interest of further facilitating timely completion of works.

5. Orders regarding amendment to Rule 14(8) of the Tamil Nadu Transparency in Tender Rules, 2000 will be issued separately by Finance Department for implementing the price adjustment clause 1 (a) in para 3 above.

6. This order issues with the concurrence of Finance Department vide its U.O. No. 92 / DS (AR) / 08, dated 14.3.2008.

(By order of the Governor)

**S. AUDISFESHIAH,
SECRETARY TO GOVERNMENT**

To

The Engineer-in-Chief, Water Resources Organisation and Chief Engineer (General), PWD, Chennai-5.
The Chief Engineer (Buildings), Public Works Department, Chennai-5.
The Chief Engineer (General), Highways Department, Chennai-5.
All Chief Engineers, Public Works Department,
All District Collectors.
The Accountant General, Chennai-18 / 35.

Copy to:

The Secretary to Chief Minister, Chennai-9.
The Secretary to Government, Finance Department, Chennai-9.
The Secretary to Government, Highways Department, Chennai-9.
All Secretaries to Government, Chennai-9.
The Senior PA to Minister (Finance), Chennai-9.
The Senior PA to Minister (Public Works & Law), Chennai-9.
The Senior PA to Minister (Highways), Chennai-9.
The National Informatics Centre, Chennai-9.
The Secretary, State Information Commission, Chennai-18.
All Departments of Secretariat, Chennai-9.
All Sections of Public Works Department, Chennai-9.