

रक्षा लेखा नियंत्रक, कार्यालय, गुवाहाटी, उदयन विहार, नारंगी, गुवाहाटी-781171

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IMPORTANT CIRCULAR

No: E/III/A/MISC/VOL-II

Date: 03/11/2015

TO,

ALL AO GEs/ AO AGEs(I) Offices

SUB: SCRUTINY OF CONTRACTS, WORK ORDERS AND DEVIATION ORDERS.

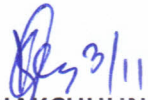
Of late it is observed that AO GEs/ AO AGEs(I) are forwarding CA concluded by GEs/ AGEs(I) to main office for scrutiny of WOs without proper scrutiny of the contract as per procedures laid down in OM VIII and other Govt. Orders on the subject circulated by HQrs Office CGDA from time to time. In some cases it is observed that scrutiny of CA is virtually absent from the AO GEs/ AO AGEs(I) part and even documentations are not complete. Which causes delay in processing of scrutiny of WOs and Dos in the main office and raises dissatisfaction from Engineering authorities and vendors side. This has been viewed seriously by the higher authority.

Therefore, it is, enjoined upon all the concerned to strictly follow Para 24 and Annexure 'A' Check List of OM PART VIII, copies uploaded on CDA Guwahati website which may be down loaded. Other Govt. Orders on the subject circulated by HQrs Office CGDA from time to time may also be followed while scrutiny of GEs/ AGEs(I) contract before forwarding to Main Office.

Before forwarding of Amendments to contracts and Dos to main office please also comply Para 27 to 32 to OM Part VIII along with other order on the subject.

This has issued with approval of CDA.

Please acknowledge receipt.


(K. LALBIAKCHHUNGA)
ACDA

Copy to,

**EDP Cell
website.**

M O Guwahati(Local)

: **With a request to uploading on CDA Guwahati**

accepting officer. Two copies of the Deviation Orders are received through the AO.

NOTE (ii): In the case of contracts accepted by CWE / CE a copy of the CST will be scheduled to RAO / LAO concerned for verification in the formation concerned at the time of his audit visit.

24. **Scrutiny of Contract** – The various forms of Contracts and types of contracts that are generally dealt with in the MES are described in paragraphs 403 to 414 of the Regulations for the MES (1968 Edition) and are to be studied with reference to the revised Contract Forms. When the Contracts are prepared on standard forms, their scrutiny by the PCDA/ CDA prior to acceptance is not necessary, but the original documents should be forwarded to the PCDA/ CDA for post scrutiny and safe custody. Contract agreement will be scrutinized inter-alia to see :-
- (i) The Administrative Approval has been obtained and technical sanction accorded by the Competent Engineering authority. In case of Term Contract for Artificers Work on allotment of funds under the appropriate minor head implies administrative approval to the execution of services to that extent and no further administrative approval is required;
 - (ii) That the Contract Agreements are concluded on the Standard forms and that the rates secured are the lowest obtainable keeping in view the efficiency of services and supplies, etc.;

In the case of tenders containing freak rates, the lowest tenderer has been asked at the pre-acceptance stage to correct the same and no upward revision of freak rates has been allowed in any case. The lump sum quoted by the contractor has been corrected on the basis of the revised rates and the quantities of items involving freak rates have been reasonably estimated on the basis of known facts.

That in the case of tie between two lowest tenderer whose tenders are on the same level and when the accepting officer is unable to decide as to whose tender should be accepted, both the tenderers have been asked to re-quote on the spot confidentially and lowest re-quoted tender (not more than the previous tenders in the tie) has been accepted.

- (iii) That the rates allowed compare favorably with the former rates as well as those prevailing in the neighboring Division for similar types of work; marked variations, if any, will be commented upon;
- (iv) That the Standard Security Bond or the Earnest money and Security Deposit have been furnished and that the contractor has not been given a contract in excess of his financial limits, in exceptional cases, Chief Engineers are authorized to exempt specialist firms and other reliable Security. Such discretion will, however be exercised with the prior concurrence of the E-in-C;

- (v) That the accepting officer has signed personally (a) the comparative statement of tenders under the heading "orders of the officer accepting the tender" and (b) the Tender and Contract Forms (IAFsW No. 2159, 1779, 1821 etc.) in the space following the words "Accepted by me" and also (c) the endorsements specifying the rank, name and designation of the officers (who will not be below gazetted or commissioned rank) authorized to sign the remaining documents comprising the contract;
- (vi) That the notice of tender, comparative statement of tenders, tender and contract forms with all annexure (e.g. special conditions, errata sheets, specifications and drawings, etc.) and any errors, omissions corrections, erasures alternatives and additions in any documents relating to the contract have been signed or initialed by the Accepting officer or his representative except as stated above and the contractor;
- (vii) That the contract agreement concluded is for the services for which the MES is responsible under rules;
- (viii) That the terms and conditions of the contract are so worded as not to admit of any two alternative interpretations being placed thereon;
- (ix) That the contract does not include uncertain or indefinite liabilities for other side;
- (x) That the legal aspects of the contract have been considered where necessary;
- (xi) That no undue liability is imposed on Government due to omission of necessary clause or insertion of unauthorized clauses or by faulty wording of any condition for the supply of materials or labour or other facilities to the contractor;
- (xii) That one of two alternatives – water will be supplied by MES or water will not be supplied by MES – is deleted from the tender;

NOTE — If according to tender, water will be supplied by the MES, the particular mode of assessing the recovery of water charges is specified in the tender and the exact number and locations of the points (where water supply is existing at more than one point) from which water will be made available is also mentioned in the Special Conditions of the Contract.

- (xiii) That the contract has not been made by or on behalf of a minor;
- (xiv) That where a contract has been signed by a person holding a power of attorney on behalf of a contractor, a copy of the Power of Attorney is furnished. It will be ensured that the Power of Attorney is executed before, and authenticated by a Notary Public (entitled to practice under Notary Act 1952 (53 of 1952)) or any court, Judge Magistrate, Indian Counsel or vice Counsel or representative of the Central Government.

The copy of power of Attorney will be recorded with the original contract in cases where delegation is for the specific contract and in a

guard file where the delegation is in general terms. In the latter case, a note will be kept on the contracts concerned that the Power of Attorney in the guard file has been verified.

- (xv) That the authority concluding the contract on behalf of Government is competent to do so. In the case of a "Term Contract" for a period of more than a year the authority competent to accept a contract is determined on the basis of the estimated value of one year's approximate work;
- (xvi) That prior sanction of the E-in-C, is obtained where a departure from the existing procedure is involved or where special tenders such as "Cost Plus" type are invited;
- (xvii) That in the case of transactions of the nature given below, the PCDA/ CDA has been consulted as far as possible, before the conclusion of the contract :
 - (a) Making a contract without calling for tenders including single tender contracts up to rupees 10 Lakh.
 - (b) Accepting a tender other than the lowest or of an unusual nature. All such tenders should be noted in a register to be maintained for the purpose (for completion of Statement 'D' of Annual Review of Works Expenditure).
 - (c) Accepting tender containing freak rates or rejecting tender containing freak rates which otherwise was most acceptable.
 - (d) Making a long term contract.
 - (e) Supply of electric energy and water to private building (i.e. buildings not owned, hired, leased or appropriated or used by the Government of India in the Min. of Defence) if the rates are not the All India recovery rates in force from time to time :
- (xviii) Single tender contracts up to **Rs. 25,000/- 6.00 Lakh and 10 Lakh*** have been concluded by GE, CWE and CE respectively in consultation with the PCDA/ CDA except where for reasons of urgency (to be recorded) it is not considered possible to do so. (In all such cases the accepting authority should render a report to the next higher engineer authority). In the case of such contracts concluded by the GE, the value of which exceeds Rs. 10 Lakh, prior approval of E-in-C, and FA has been obtained.
- (xix) That in the case of contracts of a doubtful nature or involving an uncertain liability or any condition of an unusual character, sanction of the Government of India exists vide Para 394 MES Regulations (1968 Edition 1982 Reprint).
- (xx) That there is a provision for arbitration in the contract and the arbitrator is specified to be an engineer officer to be appointed by the "Engineer in Chief" for contracts accepted by the CE and by "CE of a Command" for contracts accepted by a CWE, GE or AGE;

- (xxi) That an index letter and serial number has been allotted to the contract;
- (xxii) That the acceptance letter, composition of contract sheet, notice of tender, tender forms (including schedules), conditions of contract, specifications, drawings, etc., which form part of the contract documents have been furnished in original along with the comparative statement for scrutiny and record with the contract agreements. The contract documents should reach the PCDA/ CDA's office within four weeks of their acceptances.

NOTE: In the case of (i) works for which tenders were previously called for but not accepted due to change of policy (ii) tenders being too high for want of adequate competition, the original copy of the comparative statement of tenders relating to these tenders for the same job is also required to be forwarded to the PCDA/ CDA along with the fresh tenders.

- (xxiii) That whenever the schedule or prices is taken as the basis of the contract for any payment, the schedule and the rate in force on the date of issue of the notice of tender have been made applicable. In the case of contracts where no notice was issued, the schedule of prices in force on the date on which the contractor was asked to undertake the work will apply;
- (xxiv) That the rates for material to be supplied on repayment shown in Schedule 'B' are correct according to the *MES Standard Schedules of Rates/ Estimating Data**, in force;
- (xxv) *That tenders for works costing between Rs 5 Lakh and Rs 20 Lakh have been advertised in the local newspapers by direct press advertisements and for works above Rs 20 Lakh through DAVP; Accepting Authorities may at their discretion also advertise tenders for works costing Rs 5 Lakh and below**;*
- (xxvi) That the tenderers have been given a period of 4 to 5 weeks for submission of tenders in respect of contracts concluded by CE and 3 to 4 weeks in respect of contracts concluded by CsWE/ GEs except in case of small jobs when the period allowed to the tenderers will not less than 3 weeks. However, for item rate contracts, this period shall not be less than two weeks.
- (xxvii) That a clause has been included in all tender documents specifying the period for which the tender will remain open (from the date prescribed for its submission).

NOTE: A period of thirty days will normally be specified in all B&R, Furniture and Electric contracts. In the case of contracts for specialists services e.g. Air conditioning etc. where it is anticipated that it may not be possible to take a decision with regard to the acceptance of tender within this period, a longer period may be specified initially.

- (xxviii) That the Administrative Approval has not lapsed and the contract is not likely to cause an excess over the amount of the Administrative Approval;

- (xxix) That the details of the original works(s) and special repairs shown in Schedule 'A' of the Contract Agreement conform to the Administrative Approval and Technical sanction thereof;
- (xxx) That works which provide for the restoration of buildings, roads; installations or services rendered unusable by a extraordinary cause e.g. a building damaged by storm, fire or earthquake, are treated as original works and not ordinary / special repairs;

NOTE : The authority to determine whether a building damaged as stated above is unusable or not will be decided by a Court of Enquiry convened to investigate the loss.

- (xxxi) That works involving the demolition of buildings and rebuilding them over existing foundations either to existing or improved specifications are treated as original works and not as normal / special repairs;
- (xxxii) That the sanction of the Chief Engineer of the Command to the hire of the T and P at the rates shown in the Schedule 'C' of the contract Agreement exists;
- (xxxiii) That the rates of hire of Government transport mentioned in Schedule 'D' of the Contract Agreement conform to the rate prescribed for the purpose;
- (xxxiv) That in the case of projects estimated to cost Rs. 1 Lakh or more, when the amount of accepted contracts reduces the cost of project below the administratively approved amount by more than 15%, the approved amount of the project has been reduced by the amount exceeding 15% by CE / CWE within whose powers of technical sanction the work falls. The details of reduction have been sent to the PCDA/ CDA and all other concerned. The amount of 15% retained is used to cover variation in cost for technical reasons;
- (xxxv) That the contract does not overlap any existing contract;
- (xxxvi) That the specifications of work in the contract do not vary from those described in the costed schedules of works;
- (xxxvii) That the number of contractors who applied for the tender is shown in the comparative statement. In cases where tenders are not issued to any of the contractors who applied for them, the reasons for not doing so may be ascertained from the accepting officer in particular cases;
- (xxxviii) That normally contracts have been placed only after tenders were openly invited from the contractors on the MES approved list. In cases where tender document were issued to a contractor not on the approved list and such a contractor turns out to be successful it should be seen that he had enlisted himself before the contract was actually awarded to him. In all such pending proper enlistment and execution of Security Bonds, the contractor's tender is required to be accompanied by an earnest money limited to the amount of security deposits under Para 504 of the MES regulations (1968 Edition Reprint 1982).

(xxxix) That prior permission of Ministry of Defence has been obtained for carrying out negotiation with tenderers.

NOTE: - Any reference to tenderers for the purpose obtaining clarifications in respect of freak rates shall not be considered as negotiation.

24-A Check list on the scrutiny of contracts by the Main office is appended as Annexure to this Manual.

25. Special attention will be paid to the following requirements which are essential to guard against fraudulent alteration;

- (i) That contract agreements are prepared in the same handwriting and ink throughout;
- (ii) Blank spaces are either filled in or a line is drawn through such spaces;
- (iii) Rates including the percentage above or below the schedule are expressed in words as well as in figures. Even where the contract form does not provide for the rates to be shown therein, it should be seen that the Engineer Officer concerned exhibits the rates in words as well as figures.

26. In addition to the general checks mentioned above, the following special instructions will be followed in the scrutiny of the contracts:-

(i) **Term Contract (IAFW-1821)**

- (a) Prior concurrence of the CE has been obtained for a term Contract covering a period of more than one year up to 2 years;
- (b) Where a limit lower than Rs. 20,000 has been specified it will be seen that the approval of the CWE concerned has been obtained thereto;
- (c) In schedule 'B' of the contract only those stores are included which either come under the category of controlled stores or are difficult to obtain in the open market. This system will have the effect of lowering the Contractor's rates as the contractors are saved the risk and trouble caused by non-procurement of these stories.

(ii) **Lump Sum Contract (IAFW-2159)**

It will be seen that:-

- (a) The services for which the contract has been concluded do not come under the term contract for the area.
- (b) A certificate has been recorded on the contract agreement that the Contract and Schedule of Errors have been checked by S.W. with Bills of Quantities.
- (c) The deviation percentage inserted in the contract is in accordance with the orders issued by the E-in-C.

ANNEXURE 'A'(REFERRED TO IN PARA 24-A)CHECK LISTSCRUTINY OF CONTRACTS (MAIN OFFICE):

1. (a) Information regarding earnest money and security as required in CST has been given.
- (b) No. and date of the communication under which SS Bond duly pledged in favour of CDA has been / will be forwarded to this office has been given.
- (c) Reference to the communication under which documents regarding security / additional security where required has been sent to Main Office has been given.
2. (a) The reasons for in-adequate responses from contractor has been furnished. Action taken proposed to be taken to stimulate better competition has been indicated.
- (b) Blank tenders have been received back.
- (c) The Contractors have been allowed a period of five to six weeks to submit their tenders.
- (d) Tenders of works costing Rs. one Lakh or more were advertised in terms of Para 386 MES Regulations.
- (e) Tenders were opened on the same day or a day after unless delay is warranted by specific circumstances (to be narrated). Amendment issued to the notice of tender has been incorporated in the contract by means of an amendment. If however the case is one of re-tendering the CST relating to the first set of tenders has been forwarded.
- (f) Administrative Approval and Technical sanction quoted on the CST have been received.
- (g) In case of single tender contract a single tender report in terms of Para 392 MES "R" has been rendered to the next higher authority and a copy endorsed to MO.
- (h) Tenders have been opened by two gazetted officers appointed by the accepting officer.
- (i) The tenderer has entered the rates, in words as well as in figures.
- (j) Estimated cost and the No. and year of the present contract have been mentioned in the space provided for in the CST.
- (k) The contractor was asked to reduce his rates which are freakish in nature.

3. (a) The period of submission of contract documents to Main Office has been adhered to.
- (b) The contractor was brought on the approved list before awarding the contract. His Index No. and date of enlistment are given.
- (c) All Amendments to IAFW-249 have been incorporated in the contract.
- (d) All Errata to Standard Forms have been incorporated in the contract.
- (e) The work being sanctioned under *Para 34 of Defence Works procedure, 2007* a copy of the report has been sent to the CFA and copy endorsed to Main Office.
- (f) In case the contract amount exceeds the amount of Admin. Approval revised admin. Approval has been accorded before acceptance of the contract.
- (g) Printed conditions of the contract (IFAW-2249) have been attached.
4. (a) All drawings have been received.
- (b) Drawings are based on designs approved by the E-in-C. It not sanction of the Govt. of India has been obtained for deviation from E-in-C's standard drawing.
- (c) CA No. and year have been noted on the reverse of the drawings.
5. (a) The exact No. and location of points from which supply of water / electricity will be made available have been specified/indicated.
- (b) If the contract caters for supply of water by MES, the contractor has expressed his willingness in writing to draw water from MES source of supply.
6. Maximum deviation percentage has been fixed for the CA (Fixing of maximum deviation percentage as a matter of course is irregular).
7. (a) In respect of supply and fix items (except sanitary works) included in the contract, the items are not covered by the rate running contract of DGS&D.
- (b) The analysis of the supplementary rate included in the contract has been furnished.
8. The name of the signatory of the CA has been indicated and a certified copy of the powers of attorney / affidavit / partnership deed / Memorandum of articles of Association has been forwarded.

Sr. AO/ Accounts officer