

No.F.20/6/2013/AC/10584/149-157
GOVERNMENT OF NCT OF DELHI
FINANCE (ACCOUNTS) DEPARTMENT
'A' WING, 4th Level, Delhi Secretariat
I.P.Estate, New Delhi.

Delhi: 30.05.13

ENDORSEMENT

The copies of the under mentioned papers are forward herewith for necessary action and strict compliance to the following:

1. All Pr. Secretaries/Secretaries/Special/Addl./Joint Secretaries/
Deputy Secretaries/Under Secretaries of GNCT of Delhi.
2. All Head of Departments, GNCT of Delhi.
3. All Heads of Autonomous Bodies, Govt. of NCT of Delhi
4. Commissioner, MCD (North, East & South), Town Hall, Chandini Chowk,
Delhi.
5. Chairperson, NDMC, Palika Kendra, New Delhi
6. Chief Executive Officer, Delhi Cantonment Board,
7. CEO, Delhi Urban Shelter Improvement Board, IP Estate, New Delhi.
8. Guard file
9. Website of Finance Department.


[T.ALOUSYOUS]

Under Secretary (Finance-A/cs)

List of paper forwarded

S.No.	Name of the Ministry	OM No. & Date	Subject
1.	GOI, Ministry of Home Affairs	F.No.15039/7/2013- Plg.Cell Dated 15-05-2013	Implementation of Court Order dated 13 th April, 2012 passed by Hon'ble High Court of Delhi in WP (C)No.2092/2012-Regarding
2	GOI, Ministry of Finance, Department of Expenditure (Procurement Policy Division)	F.No.26/5/2013-PPD Dated :25 th April, 2013	

MOST IMMEDIATE/

F.No.15039/7/2013-Plg. Cell
Government of India
Ministry of Home Affairs

Delhi Sachivalaya
R&I Br.
Govt. of NCT of Delhi

New Delhi, the 15th May, 2013

440/2013 | 26597

1. The Chief Secretary
Govt. of NCT of Delhi
Delhi Sachivalaya,
I.P. Estate, New Delhi-110002.
 2. The Chief Secretary,
Government of A&N Islands,
Port Blair
 3. The Chief Secretary,
Government of Puducherry,
Puducherry.
 4. The Adviser to the
Administrator,
UT Chandigarh,
Chandigarh.
 5. The Administrator,
UTs of Daman & Diu and
Dadra & Nagar Haveli,
Secretariat Silvassa, Silvassa.
 6. The Administrator,
UT of Lakshadweep,
Kavaratti.
- 20/5/13
Asst (Fin)
The Commissioner of Police,
Delhi
Delhi Police Headquarters,
I.P.Estate, New Delhi

Sub.: Implementation of Court Order dated 13th April, 2012 passed by
Hon'ble High Court of Delhi in WP (C) No.2092/2012 reg.-

Sirs,

I am directed to enclose herewith a copy each of OM's of D/o
Expenditure, M/o Finance dated 25th April, 2013 and High Court Order dated
13th April, 2012 on the subject for compliance.

Yours faithfully,

(Amrik Singh)

Under Secretary to the Govt. of India

Copy to :- US(CPD)/US(ANL)/US(DP)/SO(UTS-I)/SO(UTS-
II)/SO(D-I, D-II & NC) SO(UTP) /SO(UTL)

No.26/5/2013-PPD
Government of India
Ministry of Finance
Department of Expenditure
(Procurement Policy Division)

North Block, New Delhi
Dated 25th April, 2013

Office Memorandum

Subject:- Implementation of Court Order dated 13.4.12, passed by the Hon'ble Delhi High Court in WP(C) No. 2092/2012.

It has been observed that there are many instances of a tender being rejected or tender documents not being issued and when the party enquires reasons, the same are not communicated, leading to unnecessary litigation. In such cases the first round of litigation is to find out the reasons and the second round is to challenge the reasons.

2. In this context, the Hon'ble Delhi High Court, in its Final Order in WP(C) No. 2092/2012, has directed that a communication be circulated to all Government Departments to disclose reasons in such cases where enquiries are made by a contracting party, so as to avoid unnecessary litigation.

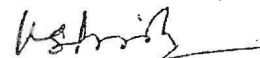
3. In this context it is mentioned that procurements made by the Central Government are regulated by the General Financial Rules (GFRs), 2005 and manuals and procedures issued there-under. While Chapter 6 of the GFRs contains the general rules applicable to all Ministries/Departments regarding procurement of goods required for use in public service, detailed instructions relating to procurement of goods are required to be issued by the procuring departments. These instructions need to be broadly in conformity with the general rules contained in this Chapter.

4. Further, in terms of Rule 137 of GFRs, 2005, every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring transparency in matters relating to public procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement.

5. Attention is also invited to Rule 160 of the GFRs which lists out certain measures required to be taken to ensure that all Government purchases are made in a transparent manner. Rule 160(ii) stipulates that suitable provision in the bidding document should be made to enable a bidder to question the bidding conditions, bidding process and/or rejection of its bid.

6. It may therefore be ensured that necessary instructions be issued (if not already in place) to all the procuring authorities to the effect that a provision, in line with Rule 160 (ii) of the GFRs should invariably be made in the bidding documents. The reasons for rejecting a tender or non-issuing a tender document to a prospective bidder must be disclosed where enquiries are made by the bidder.

7. The undersigned is also directed to forward herewith a copy of the Order dated 13th April, 2012, passed by Hon'ble High Court of Delhi in WP(C) No. 2092/2012: M/s. Amit Brothers vs Chief Engineer R&D and Another. The importance of complying with the Court Order in letter and spirit cannot be over-emphasized.



(Vivek Ashish)

Under Secretary to the Government of India

Tel: 23095629

To

1. The Secretaries of the Ministries/Departments of the Govt. of India
2. The Financial Advisers of the Ministries/Departments of the Govt. of India

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 2092/2012 and CM No.4549/2012 (Stay)

M/s AMIT BROTHERS Petitioner

Through: Mr. Sameer Sharma and Mr. Varun
Gupta, Advocates.

versus

CHIEF ENGINEER, R and D AND ANR Respondent

Through: Mr. Sachin Datta, Advocate/Standing

Counsel for UOI.

CORAM:

HON'BLE MR. JUSTICE SANJAY KRISHAN KAIL

HON'BLE MR. JUSTICE RAJIV SHARMA

ORDER

13.04.2012

The grievance of the petitioner is that the tender documents are not being issued to the petitioner though the petitioner is a registered contractor.

We may note that we have repeatedly emphasized in various orders/judgments that whenever a tender is rejected or tender documents are not issued and a party enquires reasons, it is necessary that the reasons be communicated to such a party to avoid unnecessary litigation as otherwise the first round of litigation is to find out the reasons and

3) The second round of litigation is to challenge the reasons. Despite this, the authorities persist in keeping silent over such representations, which we strongly deprecate. We call upon the learned standing counsel for UOI to ensure that all the Government departments are circulated a communication to disclose reasons in such cases where enquiries are made by a contracting party to avoid unnecessary litigation and a compliance report be filed within two weeks. A copy of this order be circulated along with the communication.

WP(C) No.2092/2012 Page 1 of 2

Insofar as the present case is concerned, learned standing counsel for UOI states that the reasons why tender documents have not been issued to the petitioner shall be communicated on or before 16.04.2012 through a written communication with a copy being handed over to learned counsel for the petitioner.

The writ petition stands disposed of with the aforesaid directions with liberty to the petitioner to challenge any adverse decision, if so advised, in accordance with law.

Dasti to learned counsel for the parties under the signatures of the Court Master.

SANJAY KISHAN KAUL, J

RAJIV SHAKDHER, J

APRIL 13, 2012/dm