



F.No.14-ITPO(8)/E-I/77 Vol-II
India Trade Promotion Organisation
(Administration Division, E-I Section)

Pragati Maidan, New Delhi
24 June, 2013

Circular No. Admn/44/2013

Subject:- Implementation of Court Order dated 13/04/2012, passed by the Hon'ble Delhi High Court in WP(C) No.2092/2012 regarding disclosing the reasons for rejecting/non issuing of tenders where enquiries are made by a contracting party.

A letter No.H-11011/1/2013-E-III(2) Dated 5th June 2013 alongwith copies of OM No.26/5/2013-PPD dated 20th May 2013 and 26/5/2013-PPD dated 25th April 2013 issued by Ministry of Finance, Department of Expenditure received from Department of Commerce is forwarded herewith for information and compliance.

Suresh Kishore

(Suresh Kishore)
Dy. General Manager (Admn)

To:
All HoDs

Copy to:
1. SD&CS Division
2. Vigilance Section

Copy for information to:
1. PS to CMD
2. PA to ED

On Intranet ps.
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By post

H-11011/1/2013-E-III (2)
Government of India
Ministry of Commerce & Industry
Department of Commerce

Udyog Bhawan, New Delhi
Dated the 5th June, 2013

To

- i) Heads of DGS&D, DGFT, DGCI&S, Cochin SEZ, Madras SEZ, KASEZ, VSEZ, FALTA SEZ, SEEPZ SEZ, Indore SEZ, NOIDA SEZ, Pay & Accounts Office (Commerce)
- ii) Heads of Coffee Board, Tea Board, Spices Board, Rubber Board, Tobacco Board, IIP, MPEDA, APEDA, IIFT (New Delhi), EIC of India
- iii) Heads of STC Ltd., MMTC Ltd., ITPO, PEC Ltd., ECGC Ltd., STCL Ltd.

Subject: Implementation of Court Order dated 13.4.2012, passed by the Hon'ble Delhi High Court in WP(C) No. 2092/2012 regarding disclosing the reasons for rejecting/ non issuing of tenders where enquired are made by a contracting party- reg

Madam/ Sir,

I am directed to refer to the subject stated above and to enclose O.M. Nos. 26/5/2013-PPD dated 20th May 2013 and 26/5/2013-PPD dated 25th April 2013 issued by Department of Expenditure for information and compliance.

Yours faithfully,

Philomena Raphael
(Philomena Raphael)
Section Officer

Tele: 011-23062264
E-mail: moc_est3@nic.in

Encl: as above

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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.

S.No. 17 (R)

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

North Block, New Delhi
Dated: 20th May, 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.

Reference is invited to this Department's O.M. of even No. dated 25th April, 2013, (copy enclosed for ready reference) vide which all Ministries/Departments were requested to comply with the Hon'ble High Court of Delhi's Order dated 13th April, 2012 regarding disclosing the reasons for rejecting/non issuing of tenders where enquiries are made by a contracting party.

2. In its Order dated 13th May, 2013 in another WP(C) No.3079/2013, the Hon'ble Delhi High Court has again observed that the petitioner's bid was disqualified without disclosing the reasons, though the petitioner had asked for the same.

3. In the light of above, it is requested that all the procuring authorities in your Ministry/Department may be directed to mandatorily comply with the provisions of Rule 160(ii) of the General Financial Rules, 2005 which 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. The reasons for rejecting a tender or non issuing a tender document to a prospective bidder must be disclosed where enquiries are made.

(Vivek Ashish)

Under Secretary to the Government of India

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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.