




## ABOUT THIS COMPENDIUM

This is a compilation of Railway Board's circulars and instructions on the various aspects of Works Finance covering Surveys, Preparation of Estimates, Tenders, Contracts and Arbitration. The instructions have been arranged based on the subject and hence will not be in strict chronological order. This is basically an updation of a similar Compendium prepared by the office of FA&CAO/CN: Bangalore in 1996. We hope that this Compendium will serve as an useful ready reckoner especially to Construction Officers.

This exhaustive compilation, consisting of around 500 circulars, was possible with the dedicated efforts taken by Shri M.S. Chandrasekaran, Sr. AFA/CN and his team consisting of Shri D. Bhaskar, Sr. SO(A) and Shri R. Murali, Sr. ISA.

September 4, 2006  
Chennai

  
(VIJAYA KANTH)  
FA&CAO/CN  
Southern Railway



<b>Chapter</b>	<b>Subject</b>
<b>SURVEY</b>	
A	Survey estimates
B	Private Sidings
C	Codal life of Assets
<b>ESTIMATES</b>	
A	Sanction of Estimates
B	Excess Over Estimates
C	Break up of D & G charges
D	General
<b>TENDERS</b>	
A	Tenders for Misc. Works
B	Pre-Requisite for calling of Tender
C	Approved List of Contractors
D	Consultancy Contracts
E	Mode of Tendering
F	Guidelines For Certain Specific Type Of Works
G	Constitution Of Tender Committee
H	General Guidelines For Tender Committee
I.	Evaluation Of Offers
(i)	EMD & SD
(ii)	Others
(iii)	Variations
(iv)	Risk
J.	Acceptance Of Offers/Award And Administration Of Contracts
(i)	Award Of Contract
(ii)	Contracts Administration – General Guidelines
(iii)	Negotiations
(iv)	Advances To Contractors
K.	General Guidelines
L.	Amendment To GCC- (Works Contracts)
M.	Sudhir Chandra Committee Report
N.	Bills

<b>ARBITRATION</b>	
A.	A & R Act 1996- Amendment To GCC In The Light Of A&R Act 1996 & Work Shop On A&R Act 1996
B.	Appointment Of Arbitrators
C.	Arbitration Fees
D.	Award & Timely Settlement Of Arbitration
E.	Excepted Matters
F.	Award Of Interest & Pendantlite Interest
G.	SC Judgment On Excepted Matters In Case Against UOI. Vs. Sarvesh Chopra
<b>VIGILANCE</b>	
A.	Improving Vigilance Administration – Tenders. (ii)Vigilance Bulletin Issued By Board
<b>MISC.</b>	Miscellaneous

# I. SURVEY

## A. SURVEY ESTIMATES

SI.NO.	SUBJECT IN BRIEF	Letter Dated
1	Cut off Rate for Determining the Financial Remunerativeness of investment Proposals Revision of	27.07.92
2	Survey Works - Sanctioning of Survey Estimates	16.08.95
3	Survey Estimates: Yard Stick	5.01.97
4	Survey Estimates: Yard Stick	6.07.99
5	Undertaking of Final Location Surveys through Contract Agencies	14.11.02

FA&CAO's Office,  
Madras-600 003,  
Dated: 7.8.1992.

No. W.563/F/O/Vol.3

FA&CAO/CN/MS; FA&CAO/MTP/MS; FA&CAO/WST/PEP  
Sr.DAOs/MAS, TPJ, TVC, MDU, SBC; DAOs/MYS, PGT.

Sub: Cut off rate for determining the financial remunerative-ness  
of investment Proposals revision of.

-----

Copy of Railway Board's letter No. F(X)II/87/FSC/1 of dated 27.7.92 is enclosed  
herewith for information and necessary action.

Sd/-  
for FA&CAO

---

Copy of Railway Board's letter No. F(X)II/87/FSC/1 New Delhi, dated 27.7.92  
addressed to The General Manager, all Indian Railways with copy to FA&CAOs, all  
Indian Railways and others.

Sub:- Cut off rate for determining the financial remunerative-  
ness of investment Proposals revision of.

Ref:- Board's letter No. F(X)II/87/FSC/1(DUP) of 26.11.90

-----

The question of revising the cut-off rate for determining the financial  
remunerativeness of investment proposals has been re-examined. It has been  
decided that taking into account various factors, the cut-off rate may be revised  
from the present level of 12% to 14% (Fourteen percent). The Revised rate of  
14% will be effective from the works programme, 1993-94.

Please acknowledge receipt.

Sd/-  
(G.SUMAN)  
Director Finance (Exp.)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.94/W2/SY/0/5

New Delhi, dated 16.8.95.

The General Manager,  
All Indian Railways

The General Manager(Const.)  
N.F.Railway.  
Guwahati.

The Chief Admn.Officer(c)  
All Indian Railways  
Except N.F.& Eastern Railways

The Chief Engineer (S&C),  
Eastern Railway, Calcutta

Sub: Survey works – Sanctioning of survey Estimates.

-----

As per existing delegation of powers, General Managers are empowered to sanction survey estimates costing upto Rs. 5 lakhs each provided the surveys are included in the sanctioned budget. However, prior administrative approval of the Railway Board is required before sanctioning the survey estimates costing above Rs. 3 Lakhs and below Rs. 5 Lakhs.

Railways have represented that sending all these survey estimates for sanction to Board increases paper work and also leads to avoidable delays.

After careful consideration of the above issue, Board have approved the delegation of powers to General Managers to sanction detailed estimates for survey for New Lines, Gauge conversions and Doublings included in the Budget (Demands for Grants) or sanctioned separately at the rates indicated below or at the cost entered into the Budget document, whichever is less.

- i) Preliminary Engineering cum Traffic survey upto Rs. 6000 per Km.
- ii) Final location Survey upto Rs. 16000 per km.
- iii) Updating of survey within 10 years and Gauge conversion surveys upto Rs. 3000 per Km

For Survey for other than new line, Gauge conversion, and Doublings works the detailed estimates in excess of Rs. 5 lakhs will continue to be sanctioned by the Board as hitherto.

This issues with the concurrence of Finance Directorate of the Ministry of Railways.

(K.P Singh)  
Executive Director / works.  
Railway Board

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.94/W2/SY/0/5

New Delhi, dated 3.1.1997.

The General Manager,  
All Indian Railways

The General Manager(Const.)  
N.F.Railway. Guwahati.

The Chief Admn. Officer(c)  
All Indian Railways  
Except N.F. & Eastern Railways.

The Chief Engineer (S&C),  
Eastern Railway  
Calcutta.

Sub: Survey Estimates.

Following yardsticks were fixed in 1989-90 for conducting various types of surveys:-

1. Reconnaissance Survey @ Rs. 3,000/km.
2. Preliminary Engg-Cum-Traffic survey @ Rs. 6,000/km.
3. Final Location survey @ Rs. 16,000/km.

Some of the railways have represented that the yardsticks fixed for conducting the surveys are inadequate keeping in view the heavy escalations during the last about 6 years, and therefore, desired that the yardsticks may be revised upward.

The matter has been reviewed accordingly and Board have Approved the following revised yardsticks for conducting various types of surveys:-

1. Reconnaissance Survey @ Rs. 4,500/km.
2. Preliminary Engg-Cum-Traffic survey @ Rs. 9,000/km.
3. Final Location survey @ Rs. 24,000/km.
4. Updating of surveys:-
  - i) Less than 10 years Rs. 4,500/km
  - ii) More than 10 years – Recee @ Rs. 4,500/km.  
- PETS @ Rs. 9,000/km
5. Gauge conversion surveys - @ Rs. 4,500/km.

Accordingly, the limits fixed earlier vide Board's letter of even No. dated **16.8.95**, for sanction by General Manager, of the detailed survey estimates pertaining to new lines, Gauge conversions included in the Budget, also get revised as above.

This issues with concurrence of Finance Dte. Of the Railway Board.

(M.C.GAMBIR)  
DEPUTY. DIRECTOR \WORKS-II  
RAILWAY BOARD.



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.94/W2/SY/9/5

New Delhi, dated 6-7-1999.

The General Manager,  
All Indian Railways

The General Manager(Const.)  
N.F.Railway.

The Chief Admn. Officer(c)  
All Indian Railways  
Except N.F. & Eastern Railways.

The Chief Engineer (SC),  
Eastern Railway, Calcutta

Sub: Survey Estimates.

Consequent upon the implementation of the recommendations of the Fifth Pay Commission, requests had been received from some of the Railways that the yardsticks fixed vide Board's letter of even number dated 3-1-97 for conducting the surveys be revised upward.

The matter has been reviewed and Board have approved the following revised yardsticks for conducting the various types of surveys departmentally: -

1. Reconnaissance Survey @ Rs. 6,750/Km.
2. Preliminary Engg.-Cum-Traffic Survey @ Rs.13,500/Km.
3. Final Location Survey @ Rs. 36,000/Km.
4. Updating of Surveys:
  - i. Less than 10 years - @ Rs. 6,750/Km.
  - ii. More than 10 Years - Recce. @ Rs. 6,750 /Km.  
- PETS @ Rs.13,500/Km.
5. Gauge conversion surveys- @ Rs. 6,750/Km.

Accordingly, the limits fixed earlier vide Board's letter of even number dated **16-8-95**, for sanction by General Manager, of the detailed survey estimates pertaining to New Lines, Gauge conversions included in the Budget, also get revised as above.

This issues with concurrence of Finance Dte. of the Railway Board.

Sd/-  
(V. K. DUGGAL)  
JOINT DIRECTOR/WORKS-II  
RAILWAY BOARD

1. FA & CAO(C) All Indian Railways
2. DAI/Railways (45 copies )

Sd/-  
For Financial commissioner/Railways

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.97/W-2/Surveys/CR

New Delhi, dated 14.11.02.

General Managers  
All Indian Railways

Chief Admn. Officers / Con.  
All Indian Railways

Sub: Undertaking of Final Location Surveys through contractual agencies  
-----

The question of permitting the Railways to entrust surveys to private agencies has been under the consideration of the Board for some time. Board have now decided that the work of final location survey may be outsourced to outside agencies based on the following guidelines:-

- (i) It is beyond the capacity of the Railway to complete the survey in a reasonable time frame,
- (ii) The personal approval of General Manager with the concurrence of FA&CAO (Open Line) should be taken.
- (iii) The accepted rates should not exceed the yardsticks circulated by Board.
- (iv) The survey tender should be treated as works contract. The tender committee will be at SAG level with acceptance at the level of CAO/C Irrespective of the value of the contract.

Board desires that a comprehensive review of survey staff may be made and reductions made, wherever necessary as a result of outsourcing.

The Board has also approved the revision in yardstick of final location survey from Rs. 36,000/Km to Rs. 50,000/Km.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Sd/-  
(P.K. Sanghi)  
Executive Director/Works  
Railway Board

# **I. SURVEY**

## **B. PRIVATE SIDING**

Sl.NO.	SUBJECT IN BRIEF	Letter Dated
1	Interest Payable On Private Sidings after Gauge Conversion	9.08.95
2	Empanelment of Consultants for Survey and Construction of Private Sidings	29.12.95
3	Gauge Conversion of Private Sidings	2/6.8.96
4	Liberalisation of Siding Rules	29.09.00
5	Survey & Construction of Private Sidings	7.03.02
6	Survey & Construction of Private Sidings ( Circulated Vide Letter Dated 1.6.06)	26.04.06

## **C. CODAL LIFE OF ASSETS**

Sl.NO.	Subject in Brief	Letter Dated
1	Revised Codal Life of Assets	29.05.06

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

NO.94/CEI/SP/1

New Delhi, dated 09.08.95

Reg: Interests payable on private sidings after gauge conversion.

Ref: Railway Board's letter NO.94/CEI/SP/1 dated 26.4.94 and  
NO.94/CEI/SP/19 dated 10.11.94.

-----

The question of apportioning the cost of gauge conversion of private sidings has been considered by the Board. Decision in this regard has been conveyed to the Railways vide Railway Board's letters referred above. Accordingly, as a one time measure, railways will undertake gauge conversion of private sidings apportioning the cost of conversion on assisted siding terms wherever the traffic offered by the siding so justifies.

Chief Administrative officer (con)/ Southern Railway, Bangalore, has asked clarifications from the Board as to whether interest is payable on the capital cost incurred by the railways for gauge conversion of private sidings. This has been considered by the Board. It has been decided that railways will not levy interest charges on the investment made by the railways towards conversion of private sidings subject to:-

- i) The conversion is done with second-hand P.way Materials.
- ii) The conversion at the cost of railway should be under taken only as independent works to ensure that these are financially justified and should not be carried out as a part of ongoing gauge conversion projects.
- iii) Before executing work, a proper Agreement should be entered into with the siding owners detailing their liabilities responsibilities towards their portion of work and annual repairs and maintenance of the siding after conversion.
- iv) The siding owners should deposit their share of cost in advance.

Suitable clauses should be incorporated in the siding Agreement.

This has the concurrence of associated Finance of Ministry of Railways.

(Ved Prakash)  
Exec.Director , Civil Engg.(G)  
Railway Board.

NO.94/CEI/SP/1

New Delhi, Dated 9.8.95

**GOVERNMENT OF INDIA (BHARAT-SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALYA)  
RAILWAY BOARD**

No.83/W1/SP/12 Pt.I

New Delhi, dated 29.12.1995

The General Manager,  
All Indian Railways,

Sub: Empanelment of Consultants for Survey and  
Construction of private sidings.

Ref: Railway Board's letter No.83/W1/SP/12 (Pt)  
dated 22-3-1993.

-----

The policy regarding survey & construction of private siding has been issued vide Railway Board's cited above where in the Consultants/ Consulting Firms/Consulting Engineers were permitted to be engaged for siding business effectively. It was also laid down therein that each Railway is required to maintain a list of approved consultants who could be engaged by an Applicant for private siding obtaining approval from the Railway (Chief Engineer) on a case-by-case basis. The criteria for approval of the consultants was brought out in para 2 on the above letter.

The necessity of seeking further approval from the Railway (Chief Engineer) on a case-by-case basis has been reviewed by the Board (ME). As the registration of the consultants is scrutinized by a committee of 3 SAG Officers (Including Finance) and approved by Chief Engineer, there is no further need to seek fresh approval by the Applicant for engagement of a consultant from the approved list. It would be adequate if the Applicant intimates the Chief Engineer and other concerned Departments of the Railway of the engagement of the approved consultant for the project and makes the initial deposit of 1% of the estimated cost. This will help to avoid delays.

All other provisions in the said Railway Board's letter of 22-3-1993 shall remain operative.

Sd/-  
(Ved Prakash)  
Executive Director, Civil Engg.(G)  
Railway Board.

Copy of letter No.94/CE-I/SP/19 dated 6/2.8.1996 from Shri S.M. Singla,  
Executive Director, Civil Engg.(G), Rly. Board.

To The General Manager, S. Railway and others.

No.94/CE-1/SP/19

New Delhi, dt.2\_6.8.1996.

Sub: Gauge conversion of Private sidings.

-----  
Policy directives regarding gauge conversion of private sidings were issued  
vide Board's letter No.94/CE-1/SP/1 dated 26.4.94 and No.94/CE-1/SP/19 dated  
10.11.94,

On a reference from one of the Railways for conversion of a private siding,  
it is noticed that Board's letter of even number dated 10.11.94 was not issued in  
consultation with Finance Dte. of Ministry of Railways.

The subject matter has been reviewed in consultation with Finance Dte.  
and Ministry of Railways would like to clarify that as per Board's letter of 26.4.94  
mentioned above it is clearly stated that "the siding should be converted to Broad  
Gauge apportioning the cost of conversion as for assisted sidings wherever the  
traffic offered by the siding so justifies."

The incidence of the cost of assisted sidings between the Railway  
Administration and the applicant is detailed in para 182 of the Engineering Code.  
The provisions therefore contained in para 1826 should be followed while  
apportioning the cost of a private siding on gauge conversion.

This issues in consultation with the Finance Dte. of the Ministry of Railways.

Receipt of this letter may please be acknowledged.

-Sd/-  
(S.M. Singla)  
Executive Director Civil Engg.(G)  
Railway Board.

**GOVERNMENT OF INDIA (BHARAT-SARKAR)**  
**MINISTRY OF RAILWAYS (RAIL MANTRALAYA)**  
**RAILWAY BOARD**

No.99/TC(FM/26/1.

New Delhi, dated 29.9.2000

The General Manager,  
All Indian Railways,

Sub: Liberalisation of Siding Rules.

Operation of Indian Railways has undergone a sea change with block rake, movement along with mechanization of goods handling. In this background, railway sidings, which account for nearly 90% of IR's bulk traffic, have to be paid close attention for giving better service. Siding owners have been representing for some time on the need for liberalization of siding rules. To address these issues, Railway Board had set up a Committee of Executive Directors to review the various rules/procedures governing the setting up and functioning of sidings. After careful consideration of the representations and interaction with the industry representatives and their consultants, a comprehensive set of guidelines has been prepared with the approval of Railway Board.

In partial modification of the extant instructions on some aspects of sidings, the new guidelines to implement the recommendations are as under:-

**2.1 Nodal Agency:** In order to provide a Single Window' service to the customers, Board has decided that Chief Traffic Planning Manager (CTPM) at the zonal level should be nominated as the 'Nodal Officer for all siding matters throughout the construction stage and signing of the agreement. As soon as the siding is notified for commissioning, CCM(FM) will take over as the nodal officer.

In Board's Office, EDCE(G) will be the nodal officer during construction stage. The Executive Director (Freight Marketing) would be the Nodal Officer prior to construction and after the siding is notified for commercial operation.

**2.2 Time Frame:** Complaints have been received from the users that the whole process of survey, approval of Plan and final inspection etc. takes a lot of time. It has been decided that the Railway should observe a time frame for processing the proposals as follows:

(I) Six months to one year depending on the size of the project, where survey is done by the Railway work is executed under Railway's supervision

(ii) When survey is done by empanelled consultants and work is supervised by them, conceptual Plan should be approved within two months and final approval within four months of submission of detailed project report.

**2.3 Reduction in Overhead Charges:** There have been representations from the users that the various fees and charges payable by a party wanting to set up a siding are quite high and may be reduced. Based on a

critical review of these charges by EDs' Committee, the following reduction in these charges has been agreed to :

S.No	Execution Agency	Item	Existing Charges	Charges Now Revised to
1.	Railway	Gen.charges	9-12.5%	10%
	Party	Gen.charges	6%	5%
2.	Railway	Deptt.Charges	12.5%	5%
	Party	Deptt.Charges	6.25%	2.5%
3.	Railway	Contingency	3%	1%
	Party	Contingency	3%	1%
4.	Railway	Supervision of OHE & S&T	10%	5%

### 3. Capital Cost

**3.1 Capital Cost of new siding:** The siding owner shall bear the capital cost of the siding from the take-off point at the serving station including OHE.

**3.2 Capital cost of facilities to be developed at serving station for a new siding:** The linking of the siding to the station shall be done at the cost of the siding owner. If any additional lines are required to be laid the serving station to deal with the traffic offered by the siding or in the region, the same will be borne by the Railways provided the investment remains financially viable with at least 14% ROR. 'Y' connection at serving station should be planned where sectional capacity utilization is 80% or above and where such provision is absolutely inescapable. While the capital cost of 'Y' connection may be borne by the siding owner in these cases, staff should be posted in the cabins at Railway's cost.

**3.2.1 Capital cost of a crossing station necessitated by a siding:** The capital cost of the crossing station should be borne by the siding owner. If the capacity utilization of the section is 80% and above, the staff may be posted at the crossing station at the railways cost, otherwise it should be at party's cost. A review in this regard should be carried out every 3 years and whenever the utilization reaches 80% and above, Railways should take over the staff cost.

**3.2.2 Capital cost for augmenting siding facilities to cater to increased production:** The capital cost for augmenting the facilities within the siding should be borne by the siding owner. The facilities at serving station necessitated by such expansion should be borne by Railways provided ROR on such investment is 14% or above vis-à-vis traffic projected. The cost of 'Y' connection provided on section having capacity utilization of 80% or above and planned only when inescapable, will be borne by party and staff in the cabins will be at Railways cost.



**3.2.3 Cost of Gauge conversion** — Siding owners have been representing that gauge conversion is Railways operational requirement and, therefore, its cost should be borne by the Railways. The matter has been considered and it has been decided that this cost should be shared with the party in terms of paras 1822 – 1826 of the Engineering code, provided the investment made by the Railways is financially viable with a minimum ROR of 14% vis-à-vis traffic offered by the siding in the last 24 months. Where it is not financially justified, the siding owners will bear the full cost or the siding will be closed.

**4. Guidelines for cost sharing for new as well as old sidings:** Some other decisions taken by the Board are indicated below separately for new as well as existing sidings:

#### 4.1 Electrification Cost

New Sidings	Existing Sidings
For a new siding in the electrified territory or the territory approved for electrification, the capital cost of OHE should be borne by the siding owner. This will also apply to the Military sidings.	It has been decided that railways will bear the cost of electrification of existing sidings as per para 1826-E provided the ROR is at least 14% on traffic offered in the previous 24 months. In cases where the project is not financially justified, the siding owner will bear the full cost or arrange a diesel loco to work the loads to his premises.

#### 4.2 Maintenance cost (Civil Engg.)

New Sidings	Existing Sidings
The maintenance shall be got done by the party at his own cost. However, it has been decided that railways would not charge "Inspection charges."	The existing practice of siding owners getting the maintenance done at their own cost shall continue. However, it has been decided that railways would not charge inspection charges. (ii) Wherever track maintenance is being done by railways at the cost of siding owner the party will continue to bear this cost.

For New sidings on EOL or old siding switching over to EOL separate instructions will follow.

### 4.3 OHE Maintenance (Both new & existing)

It has been decided that OHE maintenance cost for existing as well as new siding will be borne by the Railways. Necessary amendment in the existing instructions as well as correction to para 1826-E will be issued separately.

### 4.4. C&W Examination

New Sidings	Existing Sidings
<p>Normally no C&amp;W facility should be developed inside the plant yard. However in exceptional cases, if on operational ground it becomes necessary to develop the facility inside the siding then capital cost on one time basis may be borne by the party. Running repairs and staff cost in all cases should, however, be borne by the Railway.</p> <p>Only in cases of POL &amp; other hazardous materials, some facilities exclusive to those commodities such as permanent catwalks, steam cleaning and flame proof lighting may be developed at party's cost in the Railway Yard.</p>	<p>As per existing instructions regular facilities for C&amp;W examination should be planned only if the level of loading /unloading is expected to be 2 or more rakes per day. The apportionment of the cost should be done as per Board's letter No. 84/W1/SP/24 dated 28.1.85 except for sidings dealing in POL and other hazardous goods. In case of siding other than POL, C&amp;W cost is to be borne by railways as per above mentioned letter. (copy enclosed)</p>

### 4.5 Cost of Railway Staff

New Siding	Existing Siding
<p>(i) Cost of only commercial staff will be borne by the siding owner.</p>	<p>(i) For existing siding not opting for EOL system, the cost of staff will continue to be borne by them. In case, however, system and working can be changed to supply pre-examined empties, review of C&amp;W staff will be undertaken. The Railways must undertake a through review of existing staff requirement including commercial staff posted in the sidings in order to prune the strength. In view of block rake pattern of movement one or two commercial staff in each shift as the case may be, should be sufficient.</p>

## **5. Engine on Load (EOL) Policy:**

**5.1 New Sidings to be EOL Sidings:** It has been decided that as far as possible all new sidings should be on EOL system.

The instructions in this regard will be issued separately.

**6. Revival of Assisted Sidings:** Keeping in view the changed transport economics scenario, declining market share of the railways necessitating aggressive marketing strategies, the Board are considering to revive the earlier system of having assisted sidings.

The policy guidelines in this regard will be issued separately

**7. Modification of the Standard Siding Agreement:** The existing agreement format issued in 1985 needs modification in view of the changes that have taken place in the last few years. It has, therefore, been decided that the present format should be revised to reflect the changes in siding policy.

8. These instructions issue with the concurrence of Finance Mechanical, Civil Engineering and Electrical Directorates of this Ministry.

Please acknowledge receipt.

( P.N. Shukla )  
Executive Director  
Freight Marketing

(Pradeep Kumar)  
Executive Director Civil Engg.(G)

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.2001/E&R/400/6

New Delhi. Dt. 7.3.2002

The General Managers,  
All Indian Railways

Sub: Survey & Construction of private sidings.

\*\*\*\*\*

As per Railway Board's Circulars No. 83/WI/SP/12 (Pt.) Dt 22.3.93 & 83/WI/SP/12 (Pt) dt. 7.6.94, the approved consultants/the siding applicants including M/s. RITES & IRCON are required to deposit 2% of the estimated cost of the project as Survey charges for approval of survey/plans and, estimates for private sidings & further 2% of the cost of the project is to be deposited as Final Inspection charges for final approval of the completed works. **For creation of additional infrastructure, for undertaking the above work various railways are following different criteria for sanction of posts. A uniform guideline has been therefore worked out and is given in paras below:**

1. 51% of the deposit given by the approved consultants/ the siding applicants will be credited to earning of the railways and only 49% of the deposit will be utilised for creation of the additional infrastructure.

The distribution of the above funds for creation of the additional infrastructure among the various departments will be as follows:

(a) Distribution of 49% of Survey charges deposited for approval of plans/estimates:

	Department	Percentage share
i)	Engineering	35
ii)	Operating & comml.	35
iii)	S&T	10
iv)	Electrical	5
v)	Accounts	15

(b) Distribution of 49% of Final Inspection & Passing Charges deposited for approval of completed Works:

Percentage Share

	Department	For Electrified Sdg	For non-electrified Sdg
i)	Engineering	35	35
ii)	Operating & Comml.	20	25
iii)	S&T	15	15
iv)	Electrical	15	10
v)	Accounts	15	15

3. The proposed distribution is being issued on provisional basis for a period of one year. Railways may give their feed back in this regard after a period months in on any changes are desired.

This issues with the concurrence of Finance Directorate of the Ministry of Railway.

Railway Board.

**SOUTHERN RAILWAY**

No.W.450/I/Policy (Siding)/CN/2006

Office of the,  
Chief Administrative Officer.  
Works Construction.  
Egmore. Chennai-600 008.  
Dated: June 1, 2006.

FA&CAO/CN/MS. CSTE/CN/MAS, CEE/CN/MS.  
CE/S&RB, CE/N, CE/MTP, CEJW, CE/TVC, OSD/SA

Sub: Survey and construction of Private Siding — Guidelines for  
utilization of Codal Charges- Req.- reg.

Ref: (I) Railway Board letter No. 2001/E&R/400/6 dated: 26-04-06.  
\*\*\*\*\*

A copy of the letter No. 2001/E&R/400/6 dated 26-04-06 received from Railway Board on the above subject is enclosed here with for your information and guidelines please.

(JOHN THOMAS)  
Dy.CE/Stores & Survey/CN/MS.  
for Chief Administrative Officer.  
Construction/Chennai Egmore.

**Government of India  
Ministry of Railways  
(Railway Board)**

No. 2001/E&R/400/6

New Delhi. Dt. 26.4.2006

The. General Managers  
All Indian Railways

Sub: Survey & Construction of private Sidings.

Ref : Board's Letter of Even no. dt. **7.3.2002**

\*\*\*\*\*

Reference above, guidelines regarding distribution of Survey Charges and Final Inspection & passing charges deposited by the approved consultants / the siding applicants, among the various departments, for creation of additional infrastructure were issued on provisional basis for a period of one year. Thereafter the same provisions were extended further vide Board's letter of even no. dt 13.11.2003 and 28.10.2004

The matter has been reviewed by Board and it has been decided that same provisions will continue on regular basis.

The detailed guidelines are reiterated in paras below:-

1. 51% of the deposit given by the approved consultants/ the siding applicants will be credited to earning of the railways and only 49% of the deposit will be utilised for creation of the additional infrastructure.

2. The distribution of the above funds for creation of the additional infrastructure among various department will be as follows:-

(a) Distribution of 49% of Survey charges deposited for approval of plans / estimates:

S.No	Department	Percentage share
1	Engineering	35
2	Operating & Commercial	35
3	S&T	10
4	Electrical	5
5	Accounts	15

(b) Distribution of 49% of Final Inspection & Passing Charges deposited for approval of completed Works:

S.No	Department	Percentage Share	
		For Electrified Sdg	For non-electrified sdg.
1	Engineering	35	35
2	Operating & Commercial	20	25
3	S&T	15	15
4	Electrical	15	10
5	Accounts	15	15

This issues with the concurrence of Finance Directorate of the Ministry of Railways.

Sd/-  
Ghan Shyam (Singh)  
Executive Director (E&R)  
Railway Board.

No.2001/E&R/400/6

New Delhi, Dated .4.2006

Copy forwarded for information to the FA& CAOs, all Indian Railways.

To: Deputy comptroller and Auditor General of India (Railways).  
224, Rail Bhawan (with 45 Spares)

Sd/-  
For Financial Commissioner / Railways



**Government of India  
Ministry of Railways  
(Railway Board)**

RBA No. 25/ 2006

No.2002/AC-II/1/10

New Delhi, Dated 29/05/06

1. General Managers/FA&CAOs etc.(As per standard list I)
2. All attached offices/subordinate offices (As per standard list II)

Sub:- Revised Codal life of Assets

\* \* \* \*

The matter regarding reassessment of Codal life of assets has been under Board's consideration for quite some time. To reassess the Codal/ service life of assets, a multi-disciplinary Executive Director's Committee was constituted. The recommendations of the committee have since been accepted by Board. Accordingly Advance correction slip No. 62 amending Para 219/F-I detailing normal life of various classes of railway assets is placed below for information and necessary action.

Kindly acknowledge receipt.

DA: As above(9 pages)

Sd/-  
(Shivaji Rakshit)  
Executive Director (Accounts)  
Railway Board.

## **ADVANCE CORRECTION SLIP No.62**

Indian Railway Finance Code Vol.-I (Reprint Edition 1998) Para 219:-

(i) Substitute table below Para 219 showing normal life of the various classes of railway assets with the following:-

### **(i) CIVIL ENGINEERING ASSETS**

S. No.	Class of assets	Average life in years			
		ROUTES			
		A&B	C(Sub)	D	E
<b>1. RAIL &amp; FASTENING etc.</b>					
1.	Rail & Fastenings				
(a).	Rails	20	15	30	*30
(b).	Wooden Sleepers	10	10	10	*10
(c.1).	Metal sleepers (Cast Iron & Steel)	20	20	20	*20
(c.2).	Fittings steel trough	10	10	10	*10
(d).	Concrete sleepers	35	35	40	*40
(e).	Elastic Fastenings				
(i).	Elastic Rail clips	5-8	5-8	8-10	*8-10
(ii).	Rubber Pads/ Liners	2-4	2-4	4	*4-6
(f).	Switches	4	2/3	5	*5
(g).	Crossings	5	4/5	8	*8
<b>2 (A). MAJOR BRIDGES</b>					
(a).	Bridges work-Steel work			60	
(b).	Bridge Masonry			100	
(c).	Structures Steel			60	
(d).	Structure-masonry and cement concrete			65	
(e).	RCC Bridge Works			60	
(f).	Pre-stressed concrete-Bridge work			40	
<b>(B). MINOR BRIDGES</b>					
(a).	Bridges work-Steel work			60	
(b).	Bridge Masonry			100	
(c).	Structures Steel			60	
(d).	Structure-masonry and cement concrete			65	
(e).	RCC Bridge Works			60	
(f).	Pre-stressed concrete-Bridge work			40	
<b>3. FOOT OVER BRIDGES</b>					
(a).	Bridges work-Steel work			60	
(b).	Bridge Masonry			100	
(c).	Structures Steel			60	
(d).	Structure-masonry and cement concrete			65	
(e).	RCC Bridge Works			60	
(f).	Pre-stressed concrete-Bridge work			40	
<b>4. TRACK MACHINE (All Categories)</b>		<b>15</b>			

\* The service life as indicated in the table is general life/service life for track components. However renewal/replacement will be subject to various criteria laid down in IRPWM about its condition.

## **(ii) COMPUTERS AND OTHER IT SYSTEMS**

S. No.	Class of assets	Average life in years
1	Passive Networking equip (viz. Network Cabling)	10
2	Larger Multi-user system(s) & Active Networking Equip (viz. MIS systems including external storage systems and their inter connects)	6
3	PRS systems	4
4	Small Multi-user system(s) and Power Supply equipments (viz. individual office LANs, UPS)	4
5	PCs	3
6	Secondary Systems (viz. Printers, Portable computers, Dumb Terminals)	3

## **(iii) ELECTRICAL ASSETS**

S. No.	Class of assets	Average life in years
1.	Electric Locomotives	35
2.	EMU/Metro Motor Coaches	25
3.	EMU/Metro Trailor Coaches	25
4.	Over Head Power Lines	40
5.	Over Head Traction Line excluding contact wire	60
6.	Electric under ground Cables	30
7(a)	Electric contact wire (Alm.)	25
(b)	Electric contact wire (Copper)	40
8.	Electric Power plant excluded oil engine driven	25
9.	Electric Plant above 25 HP	25
10.	Electric power plant oil engine driven (diesel)	15
11.	Overhead traction lines contact wire	40
12.	Electric Machinery others	30
13.	Electric Sub Station Building	50
14.	Water Cooler, Refrigeration, Air Conditioner, hospital and domestic appliance	5
15.	Internal wiring of building	10
16.	Switch Gear	25
17.	Instruments	25
18.	Electric Pumps	20
19.	Electric Lifts & Hoist	20
20.	Ceiling Fans	20

S. No.	Class of assets	Average life in years
21.	Electric Battery charging set	15
22.	Flood Light Projection	10
23.	Battery lead Acid	4
24.	Coach wiring	12
25.	Carriage Fans	10
26.	Air conditioner Central unit-above 3 tons	10

**B) Equipments required for replacement through DRF/ Sinking Fund.**

S. No.	Class of assets	Average life in years
27	AC EQUIPMENT	
(i)	25 KV Inverter	15
(ii)	AC Control Panel (As per F-I Codal life is 12 yrs.)	15
(iii)	Inverter Panel	15
28	TL Power Equipment	
(i)	4.5/18/22.75/25 KW Alternator (As per F-I codal life of Dynamo is 20 years)	12
(ii)	800 A.H.L.A Battery	4
(iii)	1100 AH VRLA (SMF) Battery	4
(iv)	Diesel Engine for Powers Car	15
(v)	Alternator for Power Car	15
29	Electric Locomotive Equipments	
(i)	All Electric rotating machines up to 25 HP used on Electric Locomotives, EMU's Coaches and for stationary items	12
(ii)	All Electric rotating machines above 25 HP and upto 750 HP used on Electric Locomotives, EMU's Coaches and for stationary items	12
(iii)	Traction Motor	18
(iv)	Traction Converters	18
(v)	Auxiliary Converters	18
(vi)	Control Electronics	18
(vii)	Tap-Changer	35
(viii)	Rectifier Block	18
(ix)	Traction Gears	12
(x)	Motor Suspension	12
(xi)	Bogies with Wheel	18
(xii)	Armature for Traction Motors	15

S. No.	Class of assets	Average life in years
(xiii)	Stator for Traction Motor	18
(xiv)	Commutator for Traction Motor	15
(xv)	Locomotive re-cabing	18
30.	Microprocessor based control and fault diagnostic system	12
31.	Speedometer cum recorder and monitoring system	10
32.	BA Panel	18
33.	VCB	18
34.	DBR(roof mounted)	9
35.	DBR(vertical mounted)	9
36.	Pantograph	12
37.	TRD Equipments	
(i)	Current/Potential/transformer	30
(ii)	Earthing system in sub-station etc.	15
(iii)	Lighting arrestor (Gapless type)	15
(iv)	Lighting arrestor (Convertor type)	15
(v)	Buster & Terminal connection	30
(vi)	Battery charger	15
(vii)	Relay (Electromechanical)	15
(viii)	Relay (Electronic)	15
(ix)	Instruments (Electrical)	30
(x)	Instruments (Electronic)	30
(xi)	Relay testing kit & other testing equipment	15

### **C). Equipments required for replacement through Revenue**

S.No.	Class of assets	Average life in years
<b>1</b>	<b>Electric Loco Equipment</b>	
(i)	Armature for Traction Motor	15
(ii)	Stator for Traction Motor	18
(iii)	Commutator for Traction Motor	15
(iv)	Auxiliary Motor	18
(v)	Arno Converter	18
(vi)	Blower Impeller/Casing	10
(vii)	Locomotive re-cabing	18
(viii)	Power Cables	18
(ix)	Control Cables	18
(x)	Compressor with exhausters complete recondition /replacement	10/15
<b>2</b>	<b>AC Equipment</b>	
(i)	Compressor ACCEL/CARRIER	10
(ii)	Sealed Compressor KCL make	5
(iii)	Sealed Compressor Mancurope make	8

S. No.	Class of assets	Average life in years
(iv)	Compressor Motor DC	10
(v)	Compressor Motor AC	15
(vi)	Condenser Fan Motor (DC)	8
(vii)	Condenser Fan Motor (AC)	10
(viii)	Condenser Fan Motor (RMPU)	10
(ix)	Evaporater Fan Motor (AC)	10
(x)	Evaporater Fan Motor (DC)	10
(xi)	Evaporater Fan Motor (RMPU)	12
(xii)	Condenser Unit	8
(xiii)	Condenser Unit (RMPU)	10
(xiv)	Evaporater unit	10
(xv)	Evaporater unit (RMPU)	10
(xvi)	Mercury in glass thermostat	5
3	TL/Power Equipment	
(i)	4.5/18/22.75/25 KW alternator Regulator	12
(ii)	Emergency 90 AH L.A. Battery	3
(iii)	120 AH VRLA (SMF) Battery	4
(iv)	290 AH starting L.A. Batteries for Power Car	3
(v)	Power Car power panel	15
(vi)	Power panel (AC coaches)	15
(vii)	Pre Cooling cum battery charging transformer rectifier unit	12
(viii)	50 KVA 750/415 V transformer unit	15
(ix)	3 KVA 415/190 V transformer	15
(x)	Water Raising Apparatus (WRA)	5
(xi)	Water Boiler for Pantry	5
(xii)	Hot case for Pantry	5
(xiii)	Bottle Cooler cum deep freezer	5
(xiv)	Ventilation Blower Motor for Power Car	12
(xv)	Radiator for Power car	10
(xvi)	Radiator Motor for Power Car	15

#### (IV) MECHANICAL ASSETS

S.No.	Class of assets	Average life in years
	<b>Machinery &amp; Plant</b>	
1	Machine Tools like Lathes, Planners, Drilling, Boring and Milling machines etc.	15
2	High Precision and special purpose machines like wheel Lathes etc.	15
3	Tool Room and Testing Laboratory equipment	15

S. No.	Class of assets	Average life in years
4	Foundry and Forge Equipment	15
5	Heat Treatment Equipment	15
6	Cranes-EOT	25
7	Power Generation Machinery & Switches	15
8	General purpose light machinery e.g. band saws, floor grinder etc.	10
9	Air Compressors	15
10	Other miscellaneous machines e.g. light cleaning machines, test equipment in diesel sheds, workshops, depots & sick lines	15
11	(i). Construction Machinery	15
	(ii). Track Maintenance equipment	20
12	Station machinery e.g. weighing machines etc.	15
13	Miscellaneous machinery and equipment for hospital, offices etc.	10
14	Mechanical Weigh Bridges	15
15	Electronic in motion Weigh Bridges	08
16	Diesel Pumps	10
17	Welding equipment including diesel welding sets	10
18	Diesel refrigeration equipment	15
19	Material handling equipment like FLT, Lister trucks etc.	10
20	Traversers	25
21	Fuel Station Dispensation Equipment	10
22	Bulldozers and other earth moving equipment	15
23	Motor Boats	10
24	Hydraulic re-railing equipment	15
	<b>ROAD VEHICLES</b>	
25	Staff Cars including Jeeps	07
26	Light Motor Vehicles	10
27	Heavy Motor Vehicles	10
28	Tractors	10
	<b>ROLLING STOCK</b>	
29	Diesel Electric/Hydraulic Locomotives	36
30	Diesel Engine	18
31	Shunting Locomotives	36
32	Steam Locomotives	40
33	Boiler and Tender	20
34	Steam Cranes	30

S. No.	Class of assets	Average life in years
35	Diesel Hydraulic Cranes	25
36	Steel Body Coaches including DMUs/EMUs, Restaurant Cars etc.	25
37	Full Stainless Steel Body Coaches including DMUs/EMUs Restaurant Cars etc.	30
38	Light utilisation categories of coaches (steel body) like inspection carriages etc.	40
39	IRS Coaches	30
40	Open Bogie wagons with air brakes and Casnub bogies	30
41	Bogie tank wagons with air brakes and Casnub bogies	40
42	All other types of Bogie wagons with air brakes and Casnub bogies	35
43	Open wagons with vacuum brakes and UIC bogies	25
44	Other wagons with vacuum brakes and UIC bogies	30
45	4-Wheeler wagons (open and covered)	30
46	4-Wheeler tank wagons (with plain bearings)	35
47	4-Wheeler tank wagons (with roller bearings)	35

## **(V) SIGNAL & TELECOMMUNICATION ASSETS**

### **(A) SIGNALLING SYSTEM**

S.No.	Class of assets	Routes	Average life in years
1.	Electrical/ Mechanical Signalling System	<ul style="list-style-type: none"> <li>• Route-'A'</li> <li>• Route-'C'/Sub Urban section</li> <li>• Big Yards on all Routes</li> </ul>	25 Yrs.
		<ul style="list-style-type: none"> <li>• Routes-'B'</li> <li>• Route 'D'</li> <li>• Route 'D' – Special</li> </ul>	25 to 28 Yrs. depending upon location & condition
		<ul style="list-style-type: none"> <li>• Routes-'E'</li> <li>• Route 'E-Special'</li> </ul>	30 Yrs
2.	Electronic Signalling system like SSI, Axle Counter, AWS, AFTC, IPS etc.		15 years or based on obsolescence.



## (13) SIGNALLING EQUIPMENT

S No	Class of assets	Life in terms of operations	Average life in years				
			Routes				
			A	B	C/Suburban	D & D-Spl	E & E-Spl
1	Cranks and Compensators	50,000	2	2	1	4	4
2	Lock Bar Clips	1,00,000	3	3	3	5	7
3	Facing Point Lock with bolt detection	3,00,000	8	8	8	15	15
4	Mechanical Detectors	5,00,000	-	15	-	20	25
5	Circuit Breakers	5,00,000	15	15	15	25	30
	Lever locks	-	7	7	7	12	15
6	EK Transmitter	-	10	10	10	15	15
7	SM's Slide Frame	-	30	30	30	30	30
8	Electric Point Detector & Reversors	-	15	15	15	20	20
9	Signal Machines	1,50,000	-	10	-	20	20
10	Signal Wire Transmission	-	3	3	3	3	3
11	Point Machine	3,00,000	12	12	7	15	15
12	Plug-in and Shelf type relays	10,00,000	25	28	25	28	30
13	Track Feed battery chargers	-	10	10	10	10	10

S No	Class of assets	Life in terms of operations	Average life in years				
			Routes				
			A	B	C/Suburban	D & D-Spl	E & E-Spl
14	Signal Transformers, Transformers	-	12	12	12	12	12
	Battery Chargers, DG Sets, Inverters	-	10	10	10	10	10
15	Batteries	-	4	4	4	4	4
16	Block Instruments	-	25	25	25	25	25
17	Cable	-	20	20	20	20	20
18	Block Instrument Electro Mechanical	-	20	20	20	20	20

### (C) TELECOMMUNICATION EQUIPMENT

S.No	Class of assets	Average life in years
1	Microwave Equipment	12-15 Years
2	Exchange & accessories including Telephone equipment	12-15 Years
3	Under Ground Cables	Quad}-20 Years PUF}
		OFC – 20 Years
4	Overhead alignment	25 Years
5	All other electronic/ wireless items including OFC equipment	12-15 Years
6	Cell Phones	5-8 Years
7	FAX	10 Years
8	Walkie-Talkie Sets/VHF	5-8 Years
9	Datacomm. Equipment, Routers, Modems, PCs etc.	5-8 Years

\*\*\*\*\*

## **II. ESTIMATES**

### **A. SANCTION OF ESTIMATES**

SI.NO.	SUBJECT IN BRIEF	LETTER DATED
1	Sanction of Estimates	13.04.00
2	Procedure Order for Dealing with Estimates to be sent to Board's office	06.00
3	Sanction of Estimate (Circulated Vide Letter Dated 15.9.00)	2.08.00
4	Sanction of Estimates	27.11.00
5	Sanction of Estimates	10.01.01

NO.90/W1/DL/S/1

NEW DELHI, Dt. 13-4-2000

The Chief Administrative Officer/Con.,  
All Indian Railways.

The General Manager(Con.)  
N.F. Railway,  
Maligaon, Guwahati.

Sub: Sanction of Estimates

-----

While sanctioning the detailed estimate for a construction project recently, the Minister for Railways has expressed serious displeasure over the huge variation in cost in the detailed estimate vis-à-vis the abstract estimate.

While a certain excess over originally sanctioned cost can be attributed to intervening escalation in the cost of labour and material, in several cases the excess is due to increase in the scope of work or material modifications to provide for items not contemplated at the approval stage of the project. Apart from huge excesses in quantities - particularly earthwork - items introduced subsequently include revision of track and signalling standards, provision of OFC, carriage and wagon facilities, yard remodeling, terminal facilities and passenger amenities.

In the circumstances, it is imperative to undertake a rigorous review of the nature and scope of works included under each sub-work in the sub-estimates of various departments, i.e. Civil, Electrical, TRD, S&T and Mechanical. The first detailed estimate would, therefore, have to be examined with reference to the scope of work and standards of construction outlines at the Project Report stage. Any change should be summarily rejected unless extenuating circumstances are established for inclusion of revised facilities/higher standards at the detailed estimate stage.

The tendency to provide facilities in an extravagant and lavish manner needs to be checked. Instructions already exist for provision of need-based general charges. The tendency to load estimates with office equipment, photocopiers and vehicles would have to be discouraged.

Estimates pertaining to service buildings need to be critically examined to ensure that they meet the functional requirements and nothing more. Buildings like offices for inspectorial staff etc should be provided only where absolutely inescapable adopting purely utilitarian standards of construction.

While Board have permitted sanction of part estimates in certain cases, it must be ensured that such estimates cover the requirements of all departments so that various facilities proposed are dovetailed and the cost estimates are prepared in an integrated manner based on the final location survey for that stretch. Such part estimates should reflect a proper sequencing of the works to be undertaken- the intention being that the nation is able to reap the benefit of investment. In the context of acute shortage of resources, it is not advisable to start work from both ends.

While on the subject, attention is also invited to the provisions of Para 710-E which lays down that no work should be commenced unless a detailed estimate for the same has been sanctioned by the competent authority. It may please be strictly borne in mind that allotment of funds against a work in the Budget is no authority for incurrence of the expenditure.

Board desire that these instructions should be immediately brought to the notice of all concerned for strict implementation. In this connection, attention is invited to Board's letter No. F(X) II/99/Estimates/6 dated **4.10.1999**.

This issues with the concurrence of Finance Directorate of the Ministry of Railways.

Please acknowledge receipt.

(V.K. DUGGAL)  
JT. DIRECTOR WORKS-II  
RAILWAY BOARD

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.98/W1/Gen/O/30 Pt.

New Delhi-110 001.  
Dt. 06.2000

To

The General Manager/Con.  
Northeast Frontier Railway,  
Maligaon, Guwahati.

All CAO/C,  
Indian Railways.

Sub: Procedure order for dealing with Estimates to be sent to  
Board's Office.

-----

To ensure timely sanctioning of estimates it is necessary that every possible care is taken by the Railway while processing them. To facilitate examination, it is desired that to each estimate at the time of submission the enclosed check list must be attached duly reporting compliance to each item, signed by the HOD concerned. Further, necessary enclosures such as top sheet of Estimate duly signed by competent executive officer and finance officer along with verbatim comments of Associate Finance and Administrative remarks on this, yard plans, S&T plans, documents in support of rates adopted and variation statement showing increase in cost due to escalation, due to increase in quantities and due to new items, along with remarks on each item and an Executive summary showing deviation in Terms of Reference adopted at the time of survey, details of power line crossings, etc. may be invariably sent along with the Estimate.

The D&G charges are under review by a Committee of Executive Directors' in the Board. Till further orders are issued for revision, D&G and other miscellaneous charges be restricted to the barest minimum.

Please acknowledge receipt.

Encl: As above.

(Rajesh Tripathi)  
Director/Works  
Railway Board

## Annexure

### Check list

1. No over-provision of land.
2. Suitability of track standards in accordance with category of section (type of rails and sleepers, sleeper density, ballast cushions, etc).
3. Corresponding suitability of signalling and electrical standards.
4. Provision of sub-ballast as per traffic anticipated.
5. Acceptability of bridge design (type of foundation, PSC or steel girders etc).
6. Views of associate finance obtained and enclosed.
7. Explanation for cost escalation of various items between the time of sanction of the work and preparation of the detailed estimate.
8. Explanation for cost escalation between the detailed and revised estimate stages.
9. Variations in quantities adequately scrutinized and justified.
10. Changes in track and signalling standards originally proposed elucidated clearly.
11. Introduction of new items and facilities not envisaged at the original proposal stage accounted for, duly supported with the views of associate finance.
12. Material modifications suitably justified.
13. Inclusion of various M&P items and/or off-line facilities not directly related to the work under consideration disallowed.
14. In the case of part estimates requirements of concerned departments included.
15. Provision of various D&G and other miscellaneous charges restricted to the bare minimum.

NB: This check-list is not exhaustive.

## SOUTHERN RAILWAY

FA & CAO's Office,  
Chennai – 600 003,  
Dated: 15-09-2000.

No.W.193/F/Est/Policy/Vol.3

FA & CAO/CN/MS, FA & CAO/MTP/MS; FA & CAO/RE/MS;  
FA & CAO/WST/PER; FA & CAO/CN/BNC,  
CE, CTE, CE/CN/MS; CAO/CN/MS, CSTE/CN, CSTE, CME CCM/PM, COM  
CEE, CMD, COS, Sr. DAOs/ DAOs/ MAS, SBC, PGT, TVC, MYS, MDU, TPJ.

Sub:- Sanction of Estimates.

-----

A copy of Railway Board's letter No.94/W-1/DL/SE/4 dated 2.8.2000 is appended below for information, and strict observance.

(T.S. LATHA)  
AFA/X  
For F.A. & C.A.O.

---

Copy of Railway Board's letter No.94/W-1/DL/SE/4 dated 2.8.2000 addressed to The General Managers, All Indian Railway with copy to Chief Admn. Officers/C, and others.

-----

Sub:- Sanction of Estimates.

\*\*\*\*\*

While sanctioning of the Detailed Estimate for a construction project recently, the Minister for Railways has shown concern over the large variation in cost in the Detailed Estimate vis-à-vis the abstract estimate.

It was observed that the variation on account of reasons 'other than escalation' could have been minimised if initial lump-sum provisions had not been made and earthwork, Plant & machinery items more scientifically assessed.

Minister of Railway has desired qualitative improvement in abstract estimation as the same is essential to give the sanctioning authority a reasonable overview of financial implications of the investment proposal. There should be only minor changes at the Detailed Estimate Stage.

The above instructions should be brought to the notice of all concerned for strict implementation to avoid lapses in future. It has to be ensured that abstract estimates are prepared with due care and planning.

--Sd/--  
(R.D. MALHOTRA)  
Member Engineering  
Railway Board.



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 90/W2/DL/S/1 Pt.

Dt. 27.11.2000

The General Manager  
All Indian Railways.

Sub: Sanction of Estimates

-----

While sanctioning the revised estimate for a doubling project recently, the Minister for Railways has expressed serious displeasure over poor planning at the initial stage of the project formulation which had resulted in even the estimation for land going off the mark by nearly 100%. Similarly, the need for adding new FOBs, platform shelters and new platforms was not visualized at the original stage leading to substantial cost over run.

The Railways may ensure that the planning for works is done more realistically with cost consciousness kept in view so that need for addition of extra items at a later stage can be scrupulously avoided. Additional facilities required if any should be proposed as a fresh work only.

This issues with the concurrence of the Finance Directorate of this office.

(V.K. Duggal)  
Director Works

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 93/W1/GC/NF/1

New Delhi-110 001  
Dt 10.01.2001

The General Managers,  
All Indian Railways.

Sub: Sanction of Estimates-need for improvement in abstract  
estimation.

-----

In the recent past, Minister of Railways, while sanctioning revised estimates, has expressed serious concern and displeasure over the manner in which contracts have been executed. Some of the areas where lacunae have been pointed out and which need to be improved are indicated below:-

Regrading of yards, length of loop lines, platform shelters, junction arrangements, additional pit lines, rebuilding of FOBs, goods sheds, coaching maintenance facilities, standards of interlocking, staff quarters, number of points and crossings, relay room facilities etc.

Material modifications of high value are being executed in a routine manner taking the sanction of the competent authority for granted. This is indicative of lack of discipline and responsibility in such cases should be fixed to avoid recurrence of similar lapses.

While we must take advantage of technological advancements for bringing about better efficiency and cost reduction, initial conceptualisation of the project and forecast of expenditure has to be sound and precise, at least to a reasonable extent. Lumpsum provision for earthwork, machinery and plant items should be avoided and instead assessed more scientifically. There is thus, a need for qualitative improvement in abstract estimation as the same is essential to give the sanctioning authority a reasonable overview of financial implications of the investment proposal.

Suitable instructions may please be issued to all concerned to prepare abstract estimates as realistically as possible so that when the detailed estimate is drawn, the variations, except those on account of escalation, are minimal. For this purpose, before sending proposals for inclusion in the Budget, the railways shall ensure that all items considered essential from operational point of view are catered for. Further, once a detailed estimate has been sanctioned, the scope of the work need to be frozen and barring very urgent requirement, no other items of work should be included during the execution of the project.

This issues with the concurrence of the Finance Directorate.

please acknowledge receipt.

(...Sd...)  
(V.K. Duggal)  
DIRECTOR WORKS -II  
Railway Board

## **II. ESTIMATES**

### **B. EXCESS OVER ESTIMATES**

SI.NO.	SUBJECT IN BRIEF	LETTER DATED
1	Excess Over Estimates (Circulated Vide Letter dated 16.11.99)	4.10.99
2	Excess Over Estimates	7.02.00
3	Framing of Cost Estimates of Projects	8.07.00
4	Project Cost Over-Runs	25.08.00
5	Increase Over Estimates in Projects	16.10.00

## **SOUTHERN RAILWAY.**

FA & CAO'S Office,  
Madras - 600 003,  
Dated: 16-11-1999.

NO.W.193/F/EST/Policy/Vol.13

FA & CAO/CN/MS, FA & CAO/MTP/MS: FA & CAO/WST/PER; FA & CAO/CN/ENC  
CE/ MAS, CE/CN/MS; CSTE/CN; CAO/CN/MS; CSTE  
CEE, CME, COM, COM/PM, CCM;  
Sr.DAOs/DAO/MAS, SLC, PGT, TVC, TPJ, MYS

Sub:- Excess over estimates – Instructions regarding.

-----

A copy of Railway Board's letter No. F(X)II-99/Estimates/6 dated 4.10.99 on the above subject is enclosed for guidance and strict compliance as desired by Board.

Encl: one.

AFA/X  
For F.A. & C.A.O.

---

Copy of Railway Board's letter No. F(X)II-99/Estimate/6, dated 4.10.99 addressed to The General Managers, All Indian Railways and others with copy to FA & CAOs/All Indian Railways.

-----

Sub:- Excess over Estimates.

A review of the first detailed estimates/part estimates/revised estimates submitted to the board for sanction in recent years reveals that in many cases, the excess over the abstract cost is so great that sanction lies within the competence of the Minister personally. Since the existing delegation of powers permits sanction by the GM for an increase over the abstract cost to the extent of 50% on account of escalation and 10% for other reasons this indicates that the increase over abstract cost in such cases is excessive. While a certain excess over originally sanctioned cost can be attributed to intervening escalation in the cost of labour and material, what is more disturbing is that in several cases the excess is due to increase in the scope of work or material modifications to provide for items not contemplated at the approval stage of the project. Apart from huge excesses in quantities - particularly earthwork-items introduced subsequently include revision of track and signalling standards, provision of OFC, yard remodeling terminal facilities and passenger amenities. This huge increase in cost should be viewed in the background of the fact that many of the projects taken up in the recent past have poor Rates of Return and have been approved largely on developmental considerations. Such runaway increases in cost would therefore, affect the ROR even more adversely.

2. In these circumstances, it becomes imperative to undertake a rigorous review of the nature and scope of works included under each sub-work in the sub-estimates of the various departments i.e. Civil, Electrical, TRD, S&T and Mechanical. The first detailed estimate would have to be necessarily examined with reference to the scope of work and standards of construction outlined at the Project Report stage. Any change should be summarily rejected unless extenuating circumstances are established for inclusion of revised facilities/higher standards at the detailed estimate stage the ROR would also have to be reworked to take into account the implications of these increased costs.

3. The provision for land-both in terms of area and rate per hectare-is seen to vary substantially, in some cases, more land than immediately required for the purpose of the project is acquired on the plea that the extra land is to cover future requirements. This practice should be checked.

4. In the case of permanent way, huge variations arise because while the project Report proposes the lowest standard of track (52 Kg second hand rails, lower sleeper density and lesser ballast cushions), the detailed estimate provides for much higher standards. The same is the case in respect of signalling arrangements. In certain cases, a mismatch between the track and signalling standards has been observed. For instance the highest track standards are often provided with very rudimentary signalling. It is necessary to ensure that both track and signalling standards are in accordance with the nature and density of traffic expected to be handled on the line.

5. The inclination to provide facilities in an extravagant and lavish manner should also be restrained. It has been observed that station buildings on new lines are often provided with huge circulating areas not commensurate with the traffic anticipated which results only in an avoidable wastage of precious resources. Similarly the use of granite and expensive stone material should be severely restricted so as to avoid unnecessary expenditure and the provision of items such as lifts and escalators at stations should be related to the passenger traffic projected.

6. Service building estimates would need to be critically examined to ensure that they meet the functional requirements and nothing more. Such building viz. offices for various inspectorial staff should be provided only where inescapable. Needless to add the standards of construction should be purely utilitarian.

7. Instructions already exist regarding provision of need-based general charges. The condition to load estimates with office equipment, PCs, photocopiers and Vehicles would have to be discouraged.

8. While board have permitted the sanction of part estimates in certain cases, it must be ensured that such estimates cover the requirements of all departments so that the various facilities proposed are dovetailed, and the cost estimates are prepared in an integrated manner based on the Final Location Survey for that stretch. Such part detailed estimates should reflect a proper sequencing of the works to be undertaken. For example in the context of an acute shortage of resources, it is not advisable to start work from both ends. It would

be necessary to undertake and commission the work in phases so that concrete results are achieved commensurate with funds spent.

9. Board desire that these instructions be brought to the notice of all concerned and implemented scrupulously.

10. Kindly acknowledge receipt.

Sd/-...  
(AMIT KAUSHIK)  
Joint Director Finance Expenditure)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 94/W-2/GC/N/14

New Delhi dated 07-Feb 2000

The General Managers  
All Indian Railways

The Chief Administrative Officer (Con)  
All Indian Railways

Sub: Excess over estimates

-----

While considering a revised estimate, Minister for Railways has expressed concern at the great increase in the cost of revised estimate vis-à-vis Pink Book cost. It was seen that the increase in cost was due to escalation, variation in quantity and new items, which constitute material modification. The work had already been executed prior to the sanction of revised estimate.

Your attention in this regard is drawn to para 1112-E vide which Railways do not have powers to approve modifications for which revised estimates require sanction of the Railway Board. In this connection attention is also invited to instructions issued vide Board's letter No. F(X)II-99/Estimate/6 dt. **4.10.99** (copy enclosed).

For the guidance of field units, the following instructions are reiterated for strict observance:-

- (i) Execution of projects should be confined strictly to the scope of work as sanctioned and no new items of work should be included. In exceptional cases, where material modifications are considered operationally inescapable, prior sanction of the competent authority should be obtained.
- (ii) Estimates should be prepared carefully and in case there is likely excess in the sanctioned estimate, the revised estimate should be prepared well in time and competent authority's sanction obtained. In no case expenditure beyond 10% over the sanctioned estimate should be permitted till the revised estimates are sanctioned.

This issues with the concurrence of Finance Directorate of the Ministry of Railways.

Please acknowledge receipt.

DA: AS above

(K.P. Singh)  
Executive Director (Works)  
Railway Board

**V K. AGARWAL**

**CHAIRMAN, RAILWAY BOARD  
&  
EX-OFFICIO PRINCIPAL SECRETARY  
GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 97/W2/LCT/N/0/1

July 8, 2000

My dear Krithivasan,

Sub: Framing of cost estimates of projects

In the detailed estimate submitted by the Railway of a new work included in the budget of 1998-99, it has been observed that the percentage increase over the original budget cost of Rs. 17.55 crores was 72% in Civil works, 13% in Mechanical works, 12% for S&T works and 366% for Electrical works.

MR has taken a serious view in the matter and observed that proper estimating must be done while preparing proposals for inclusion in the budget. She has further commented that the cost estimates prepared by the Railway just two years back are now being revised as there are major changes in the scope of the work, under-estimation and increased requirement of funds. This is not a desirable feature and must not be allowed to happen.

It must, therefore, be ensured that estimates are prepared with due care and planning and that these costs are scrutinised and approved at appropriate levels.

With best wishes,

Yours sincerely,

V.K. Agarwal

Shri N. Krithivasan,  
General Manager,  
Southern Railway,  
Chennai.



**V K. AGARWAL**

**CHAIRMAN, RAILWAY BOARD  
&  
EX-OFFICIO PRINCIPAL SECRETARY  
GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.97/W2/LCT/N/0/1

August 25, 2000

My dear Krithivasan,

Sub: Project cost over-runs

In my D.O. letter of even number dated 08.07.2000, I had stressed the importance of preparing proper cost estimates and avoiding cost over-runs, changes in the scope of work and under-estimation in the Projects under execution on the Railways. In one such case, MR had expressed her dissatisfaction and desired the communication of her observations verbatim to the GMs reproduced as under:-

"This is a serious matter. The cost of the work was not carefully vetted by the Works Directorate and the Budget Directorate before its inclusion in the Pink Book 1998-1999 and, therefore, wrong figures found a place in the Budget. Secondly, the cost estimate which was prepared just two years back by the Northern Railway is now being revised, as there are changes in the scope of work, under estimation and increased requirements.

It becomes evident from the above, that no proper scrutiny/monitoring and estimating are being carried out in the Ministry, even while considering proposals for inclusion in the Budget.

Sd/- . MR

Strict financial discipline as indicated by MR in her above note may be ensured in respect of all estimates now to be submitted to Railway Board for sanction. If, however, there is a need for making an exception, such estimates must be accompanied by a brief report of the concerned GM fixing responsibility of defaulting officials.

With best wishes,

Yours sincerely,

V.K. Agarwal

Shri N. Krithivasan,  
General Manager,  
Southern Railway,  
Chennai.

**ASHOK KUMAR**

**CHAIRMAN, RAILWAY BOARD  
&  
EX-OFFICIO PRINCIPAL SECRETARY  
GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 2000/WI/Genl/Estimates/O/77

Dated 16.10.2000

My dear Ajit Kishore,

Sub:- Increase over estimates in Projects.

- Ref:- 1. Letter No. 92/W-2/GC/S/13 dated 27.6.2000.  
2. Letter No. 97/W2/LCT/N/0/1 dated **8/7/2000**.  
3. Letter No. 94/W-1/DL/SE/4 dated 21/8/2000.

-----

Cost overruns in execution of projects mainly due to change in scope items of work, provision of additional facilities etc has been a matter of serious concern. Despite repeated instructions, the Zonal Railways still continue to send large number of cases where MR/Board's sanction is to be processed on account of Railways not following any financial discipline. Apparently the lack of Planning and financial indiscipline in preparation of estimates and execution of works continues unabated and the Board's instructions have not been taken with the seriousness which is called for.

I would like that the message should go down the line that this tendency will no longer be allowed to continue. Any default of these instructions would make senior officials including those in the higher levels of management liable to punitive action. All past cases in which such increase had occurred should be immediately reviewed. As per rules for such cases post facto approval of MR would be required. For any such occurrence in future, either a valid explanation be given, or action taken against the concerned officers may kindly be advised before the cases are processed in the Board's office.

Please acknowledge receipt.

Yours sincerely,

(Ashok Kumar)

Shri Ajit Kishore,  
General Manager,  
Southern Railway,  
Chennai.

## **II. ESTIMATES**

### **C. BREAK UP OF D&G CHARGES**

SI.NO.	SUBJECT IN BRIEF	LETTER DATED
1	Provision of General Charges in Various Estimates	26.06.00
2	Revision in D & G Charges in Various Works Estimates	12.10.00
3	Break - up of D & G Charges for Works of Various Departments	20.12.01

**GOVERNMENT OF INDIA,  
MINISTRY OF RAILWAY,  
(RAILWAY BOARD).**

No.2000/ER/400/2

New Delhi, dt. 26.6.2000

The General Manager; All Indian Railways,  
The General Manager, All Production Units  
including MTP,COFMOW, Railway Electrification.  
GM(Const.)/NFR,DG/ RDSO, Lucknow.

Sub: Provision of General charges in various estimates.  
----

Instructions have been issued from time to time laying down the percentage ceilings for provision of direction and general charges in various estimates to cover the cost of gazetted and non-gazetted staff required for providing supervision and direction in the field as well as headquarters in the execution of work and other expenditure such as plant construction, temporary accommodation instruments etc.

Subsequent to the implementation of Fifth Pay Commission recommendation, it is seen that the establishment charges have gone up considerably and have outpaced the inflation in the cost of materials with the result the railways are facing difficulties in providing adequate level of supervision. The subject has been examined in the Board's office and after careful consideration the following revised percentage ceiling for various types of projects have been fixed:-

Nature of estimate	Establishment Charges	Other than establishment charges	Total
Civil Engg. Constn.	8.7	1.3	10.00
Rly. Electrification	9.3	1.35	10.65
Electrical projects not requiring Traffic/power blocks	9.7	1.45	11.15
Electrical projects requiring Traffic/power blocks	13.45	1.45	14.90
S&T projects not requiring traffic/power blocks	10.60	1.15	11.75
S&T projects requiring traffic/power blocks	15.20	1.15	16.35
Mechanical projects	7.80	1.7	9.50
Rolling stock programme items	5.1	0.4	5.5

For track renewal works, the ceiling would be as under :-

- |                            |            |
|----------------------------|------------|
| 1. Through rail renewal    | -1.50%     |
| 2. Through sleeper renewal | -2.50% and |
| 3. Complete track renewal  | -2.00%     |

Further, for works sanctioned under Plan Head 'Gauge Conversion' and 'Doubling', the present ceiling is 5.5% and the D & G charges for these category of projects shall be limited to 7.0% and the apportionment between establishment charges and other than establishment charges would be 5.7% and 1.3% respectively.

The distribution of enhanced Estt. charges between HQ/Field/Deptts will be in the same proportion as being followed till now.

The ceiling limits now prescribed are the maximum and railways should endeavour to provide for D & G charges at the barest minimum level having regard to the actual conditions so as to maximise the economy in execution of the works.

This issues with the concurrence of Finance Directorate of Ministry of Railways.

(R.K. Tandon)  
Exec. Director (E&R)

- Copy to:-
1. The FA & CAO/All Railways.
  2. The FA & CAO (Constn.)/All Railways.
  3. The FA & CAO, Metro, Calcutta, CORE/Allahabad.

for Financial Commissioner/Railways.

**Government of India  
Ministry of Railway  
(Railway Board)**

No.2000/E&R/400/2

New Delhi, Dt.12.10.2000

The General Manager, All Indian Railways.  
The General Manager, All Production Units  
including MTP, COFMOW, Railway Electrification  
GM(Const.)/NFR, DG/RDSO Lucknow.

Sub: Revision in D&G Charges in various Works estimates.

Ref: Recently revised D&G charges vide order of even number dated  
**26.6.2000** and 28.7.2000.

-----

In view of economy in expenditure, Board has reviewed the revised D&G charges as circulated vide Board's letter No.2000/ER/400/2 dated 26.6.2000 and it has been decided that a cut of 10% should be exercised by the General Managers on the revised D&G charges as circulated by Board's letter referred above until further orders. The revised D&G charges are given in Annexure-I.

General Managers should also ensure that the Establishment Cost on the projects do not exceed the reduced D&G charges as applicable on the outlay for the current year. The position should be reviewed by the General Managers regularly and reported in their MCDO to CRB.

Except for above changes, other contents of the Board's letter dated 26.6.2000 & 28.7.2000 shall remain unaltered.

This issues with the concurrence of Finance Directorate of Ministry of Railways.

Encl: As above.

(R.K. Tandon)  
Exec. Director(E&R)

Copy to:-

1. The FA & CAO/A11 Railways.
2. The FA & CAO (Constn.)/All Railways.
- 3 The FA & CAO, Metro, Calcutta, CORE/Allahabad.

for Financial Commissioner/Railways.

No.2000/ER/400/2 dated 12.10.2000

**D&G Charges now stands modified as follows.**

Nature of estimate	Establishment charges	Other than establishment charges	Total
Civil Engineering CN	7.83	1.3	9.13
Gauge Conversion	5.13	1.3	6.43
Doubling	5.13	1.3	6.43
<u>Rail renewal</u>			
Through rail renewal			1.35
Through sleeper renewal			2.25
Complete track renewal			1.80
Railway Electrification	8.37	1.35	9.72
Electrical projects not requiring traffic/power blocks	8.73	1.45	10.18
Electrical projects requiring traffic/power blocks	12.11	1.45	13.56
S&T projects not requiring traffic/power blocks	9.54	1.15	10.69
S&T projects requiring traffic/power blocks	13.68	1.15	14.83
Mechanical projects (M&P)	4.59	0.40	4.99
Mechanical projects (other than M&P)	7.02	1.70	8.72

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD).**

No.2000/E&R/400/2

New Delhi, Dt. 20-12.2001

The General Managers,  
All Indian Railways including  
PUs & others.

Sub:- Break-up of D&G charges for works of various departments  
i.e. Civil, RE, Elect. & S&T Departments.

- Ref.:-1. (i) Board's letter No.88/W-1/Genl/0/25 dt. 12.5.89.  
(ii) Board's letter No.85/W-3/SG/W/1/34 Vol-II  
dt. 26.4.90.  
(iii) Board's letter No.87/Elec.I/135/0 dt. 7.5.90.
2. Board's letters No.2000/E&R/400/2 dt. **12.10.2000** &  
No. 2000/E&R/400/4 dt. 28.6.2001.

-----

During 1989-90, Board had issued D&G charges for various departments vide letters mentioned under reference above. Thereafter above D&G charges were modified vide Board's letter No. 2000/E&R/400/2 dt. 26.6.2000, which were further tightened by 10% vide letter No. 2000/E&R/400/2 dt. 12.10.2000. Further to this the D&G charges for Traffic Department were also issued vide Board's letter dt. 28.6.2001. The break-up of supporting departments could not be issued at that time, and the Railways were asked that the distribution of revised D&G charges between HQ/field/Departments will be in same proportion as being followed till now.

2. The complete break-up of D&G charges for supporting departments is now worked out and enclosed at Annexure-I. **Railways are advised that these break-ups of D&G charges should be used for calculation of available D&G charges.**

3. The provision for Stores Department should be used by Stores Department only and should not be reallocated to any other Department.

4. While creating work charged posts in Vigilance Department within the stipulated provision, it should be ensured that the overall strength does not increase by more than 20% of the existing strength in Vigilance department.



## 5. General Charges for Traffic Department:-

5.1 As regards the provision of General Charges for Traffic Department in Civil Engineering Projects the following guidelines may be observed:-

- I. The provision for the Traffic Department may be made for both planning and phased working for such of the 'Traffic Facility Works', Gauge Conversions and Doublings which generally include provision of blocks.
- II. For MTP and New Lines, the provision of 0.326% should be made for the portion related to junction arrangements only i.e. 0.326% of the cost of junction arrangements only to be provided and not 0.326% of the total cost of New Lines/MTP project.
- III. No provision should be made for the Traffic; Department under plan head 'Staff Quarters', 'Staff Amenities', 'Workshops and Sheds' and 'Machinery & Plant.
- IV. For Track Renewals, Bridge Renewals other than ROBs etc., in the present system of providing Traffic Department officers/staff on need-basis, case, by case continue.

5.2 As regards the provision, of General Charges for Traffic Department, S&T, Electrical and RE projects involving, traffic block it should be restricted keeping it within the overall limit of D&G charges of the concerned main Department

6. It may please be noted that the above General charges (gives in Annexure), are the maximum limit; and endeavour should be made to restrict the actual percentage to tie barest minimum.

6.1 It may also be noted that with the issuance of this letter, only breakup of the existing D&G Charges are circulated, and no fresh (new) D&G Charges envisaged.

6.2 This supersedes all previous instructions in this regard; and issues concurrence of the Finance Directorate of the Ministry of Railways.

(R.K. Tandon)  
Exec. Director (E&R)

Encl Annexure-I

Copy to:-

1. FE1& CAOs; All Indian Railways and PUs.
2. Ck;s, .CS'TE's, CEEs, COMs, Ail Indian Rlys,
- 3 FA& CAOs(Con.)/ All Indian Railways,
4. FA& CA4s, Metro Calcutta, Delhi & Chennai, CORE, /Allahabad, - ED(Finance)RDSO
5. EDF(E), Railway Board. -

For Financial Commissioner

ANNEXURE-I

(ACCOMPANYING BOARD'S LETTER NO. 2000/E&R/400/2 Dt.20.12.2001)

**Break-Up Of General Charges As issued Vide Letter No. 2000/E&R/400/2 Dt. 12.10.2000 & 2000/E&R/400/4 Dt. 28.6.2001**

Particulars	Civil	Civil	RE	Electrical	Electric al	S&T	S&T
	Constru ction	GC/Doub ling		w/o block	with block	w/o block	with block
1. Establishment							
1.1 Deptt.							
(a) HQ. Org.	0.805	0.528	1.526	1.799	2.506	1.877	2.722
(b) Field Org.	5.144	3.370	4.773	5.280	7.664	6.668	9.674
1.2 Audit & Accounts	0.913	0.598	0.859	0.852	0.846	0.314	0.311
1.3 Store	0.370	0.242	0.644	0.532	0.529	0.419	0.415
1.4 Traffic	0.326**	0.214*	0.300		0.300		0.300
1.5 Personnel	0.109	0.071	0.107	0.107	0.106	0.105	0.103
1.6 Medical	0.109	0.071	0.107	0.107	0.106	0.105	0.103
1.7 Vigilance	0.054	0.036	0.054	0.053	0.053	0.052	0.052
(a) Total							
(Fig. rounded upto 3 <sup>rd</sup> place	7.830	5.130	8.370	8.730	12.110	9.540	13.680
2. Other than Estt.							
2.1 Plant Const.	0.35	0.35	0.55	0.55	0.55	0.20	0.20
2.2 Tempo Accom.,	0.30	0.30	0.20	0.20	0.20	0.20	0.20
2.3 Residential	0.40	0.40	0.35	0.45	0.45	0.45	0.45
2.4 Contingency	0.20	0.20	0.20	0.20	0.20	0.25	0.25
2.5 Instrument	0.04	0.04	0.03	0.03	0.03	0.05	0.05
2.6 Loss of Cash/Store	0.01	0.01	0.02	0.02	0.02		
(b) Total	1.30	1.30	1.36	1.46	1.45	1.15	1.15
Total (a)+(b)	9.13	6.43	9.72	10.18	13.56	10.69	14.83

\* Please : refer to para 5.1(I) of covering letter.

\* \* Please refer to para 5.1(II) of covering letter.

## II. ESTIMATES

### D. GENERAL

Sl.NO.	Subject in Brief	LETTER DATED
1	Sleeper Density for Concrete Sleepers	21.09.95
2	Gauge Conversion Estimates	20.11.95
3	Estimate for Projects Under BOLT Scheme	24.01.96
4	Raising of Platform in G.C Projects	12.09.97
5	Processing of Revised Estimates	12.08.98
6	Construction of ROB/RUB under BOT Basis	30.12.98
7	Incurrence of Expenditure on Works without Sanction of the Detailed Estimate	6.12.99
8	Urgent and Essential need to Plan and Execute Works Judiciously	18.09.00

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD).**

No. 94/CE-II/TS/6.

New Delhi, dt 21.9.95

The Chief Engineers  
All Indian Railways.

The C.A.O's,  
All Indian Railways.

The General Manger (Const.),  
N.F. Railway, Guwahati.

Chief Commissioner of Railway Safety,  
Lucknow.

The Director General,  
R.D.S.C.,

The Director , IRICEN, Pune.

Sub:- Sleeper Density for concrete sleepers.

\*\*\*\*\*

The adoption of a desirable sleeper Density keeping in view the machine maintenance of concrete sleepers has been under consideration.

It has now been decided by the Board that henceforth the maximum spacing for concrete sleepers will be 65 cms. i.e., 1540 Nos. sleepers will be provided per kilometer. In normal terms the number of concrete sleepers to be provided would be M+7 and no works will be proposed/carried out with density of M+4.

The above mentioned instructions have to be kept in view while formulating fresh proposals. It is also desired that in all cases of works in progress where the sleepers spacing has been specified above 65 cms., the same is revised to 65 cms., and arrangements made to carry out the works accordingly.

Please acknowledge receipt.

(B.S.KAFUR)  
Executive Director/ Civil Engg. (F)

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.95/W2/GC/SC/13

New Delhi, dated 20.11.95

The General Managers,  
All Indian Railways.

Sub: Gauge Conversion Estimates.  
-----

It has been noticed by Board that the various gauge conversion estimates being submitted to Board by the Zonal Railways are not being consolidated into one compact detailed estimate and submitted to Board for sanction. Railways are furnishing these estimates department wise, like Civil Engg., Electrical, S & T etc. in the form of part detailed estimates. Besides, the estimates are also being split up into too many parts so much so that sections are being split up into sub-sections and even further to individual stations. In addition, there are several material modifications estimates to contend with. This has led to a some what chaotic situation, with monitoring of project cost being rendered rather difficult.

2. This is not to under estimate the importance attached to project Unigauge and the need to keep to the targets laid down for completion of gauge conversion projects. Nevertheless, it will be appreciated that such proliferation of estimates not only results in avoidable multiplication of work but, more importantly, also renders control/monitoring of projects difficult.

3. Board, therefore, desire that henceforth detailed estimates for gauge conversion projects should be submitted in a consolidated manner and not in the form of part detailed estimates. The same instructions would also be applicable in case of detailed estimates for New Lines, Doublings and Traffic Works.

(Y.P. SINGH )  
DIRECTOR/WORKS  
RAILWAY BOARD

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD).**

No.95/W1/Genl/O/15

New Delhi. dt. 24-1-1996.

The General Managers,  
All Indian Railways

Sub: Estimate for Projects under BOLT Scheme

-----

Part estimates for the portion of works to be done by the Railways and supervision charges on BOLT are being received from the various railways for sanction of Railway Board. The matter has been examined in consultation with the Associated Finance of Board and it has been decided that in the estimate for the works under BOLT Scheme, the following action may be taken:—

1) The complete estimate for the project as a whole should be prepared in two parts:—

part I should cover (a) the cost of the work to be done by Railways and (b) the supervision charges for that portion of work to be done on BOLT adopting percentages already approved by the Board and Part II of the estimate should cover the cost of works which are to be done under BOLT.

2) While framing the estimate it may be ensured that:—

(a) The items being provided in the Railways estimate have also not been provided under BOLT so that the tenderers do not get undue benefit.

(b) For estimating the quantum of D&G charges only the base cost of construction should be taken into account and all other items of expenditure e.g. interest, insurance etc. which do not need any supervision should be excluded.

(c) These estimates must be vetted by the concerned FA&CAOs and should be operated only after the BOLT Scheme has actually commenced.

(d) While seeking sanction for works under BOLT, the complete estimate i.e. Part I & II should be forwarded.

(K.P. Singh)  
Executive Director Works  
Railway Board

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 96/W1/Genl/O/17

New Delhi, dated 12.9.97

The General Managers,  
All Indian Railway

The Chief Administrative Officer(Con)  
All Indian Railways

The Chief Engineers  
All Indian Railways

Sub: Raising of platform in gauge conversion projects

\*\*\*\*\*

There have been representations that MG platforms are not being raised at stations where gauge conversion is carried out. Apart from leading to inconvenience to passengers it is also safety hazard.

Board have decided as under:

- (1) Wherever gauge conversion works have been completed and sections opened for traffic the raising of platforms as needed, be taken up after getting the works sanctioned under plan head 'Passenger amenities'.
- (ii) Wherever gauge conversion works are in progress or proposed, raising of platforms must invariably be done along with the conversion. The standard of platform on BG will, however, be same as that existing before conversion. Provision in the estimate may be made accordingly.

Strict compliance of above instructions be ensured.

(H.K Jaggi)  
Executive Director (GC)  
Railway Board

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.97/W1/DI/R/6

New Delhi dated 12<sup>th</sup> August,1998.

To,

The General Manager(Con),  
N.F.Railway,  
Guwahati.

The Chief Administrative Officer (Con),  
All Indian Railways.

Sub: Processing of Revised Estimates.

\*\*\*\*\*

While Submitting the Revised Estimates to Railway Board for sanction, the same should be submitted along with ROR for the project based on revised cost duly vetted by FA&CAO.

This may please be followed and for Revised Estimates already submitted to Board, ROR duly vetted by finance should be submitted to avoid delays in the Board's office.

(RAJESH TRIPATHI)  
DIRECTOR WORKS-II



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 98/CE-I/Misc./14(BRO)

New Delhi, dt. 30.12.98.

All Chief Engineers,  
INDIAN RAILWAYS.

All Chief Administrative Officers(Con.)  
INDIAN RAILWAYS.

Sub: Construction of Road Over/Under Bridges on Build, Operate &  
Transfer basis (BOT)-Reg.

\*\*\*\*\*

To have uniformity in regard to terms and conditions pertaining to agreement to be entered into with the State Governments/National Highway Authority of India Limited, for construction of Road Over/Under Bridges on Build, Operate and Transfer basis (BOT), a standard agreement format has been approved by the Board separately to be executed with the State Governments/National Highway Authority of India Limited as the case may be. Standard Agreement Format-I is required to be used for entering into agreement with the State Governments for those works which are fully under the control of the State Governments. Standard Agreement Format-II is required to be used for executing agreement with the National Highway Authority of India Limited as second party and State Government(s) as the third party for those works which are executed by the National Highway Authority of India Limited, but for closing of the Level Crossing, consent of the State Government is required. It is further made clear that these standard agreement formats/terms and conditions are applicable only to those Road Over/Under Bridges which are being constructed in lieu of Level Crossings i.e., it is a pre-requisite that Level Crossing is closed on commissioning of the Road Over/Under Bridge.

In case of the other Road Over/Under Bridges which are being taken up by the State Governments/National Highway Authority of India Limited on Build, Operate and Transfer basis (BOT), but not involving closing of the Level Crossing, the case may be dealt as per the existing rules on the subject.

Railways are further requested that copies of these standard agreement formats may be made available to the State Governments/National Highway Authority of India Limited so that they are fully aware of the Railway's policy on the subject and delays in clearing of the proposals are eliminated.

Please acknowledge receipt of this letter.

(B.D. GARG)  
Exe. Dir. Civil Engg.(B&S)  
Dt. 30.12.1998

Encl : Standard Agreement Formats I & II.

Standard Agreement Format for execution with State Govt.

Construction of Road Over Bridges/Under Bridges on B.O.T. basis (Build Operate & Transfer) in lieu of existing level crossing No. ----- on -----section.

\*\*\*\*\*

This agreement entered on.....day of.....(month) Ninety nine between the President of India acting through the General Manager..... Railways, on the first part and the Governor of ..... acting through the Secretary, Public Works Department on the second part.

Whereas there exist various level crossings permitting vehicles and pedestrians to cross the Railway tracks within the State of .....

Whereas many of these Level crossings are unmanned resulting in serious hazards to the persons and vehicles crossing the Railway track.

Whereas even in the case of manned level crossings, the closure of the crossings to enable the railways to pass through the track causes disruption to the road traffic and inconvenience to the public.

Whereas the Ministry of Surface Transport have decided to grant concession to the private Entrepreneurs to construct the Road Over Bridges/Under bridges in lieu of the existing level crossings on BOT basis, to facilitate road traffic.

AND Whereas the Railway Administration has agreed to provide all possible assistance for construction of such Road Over Bridges/Under Bridges.

It has now been agreed between parties as follows:-

(A) The party in the first part shall

(1) on payment of the amounts mentioned here under provide all facilities and assistance for early completion of the project involving construction of Road Over Bridges/Under bridges and their completion within the period stipulated under the Agreement.

(2) provide all assistance to the Entrepreneur for maintenance and management of the Road over bridges/Under bridges during concession period and facilitate realisation of fees as agreed in the Concession Agreement.

(B) The party in the second part agree:-

1) To give an undertaking to Railway before commencement of the work that the level crossing shall be closed permanently on commissioning of the Road Over/Under Bridge. Railway will not permit commissioning of the Road Over/Under Bridge unless the level crossing is closed.

2) To execute a regular agreement and to pay the charges for preparation thereof on an established reciprocal basis or Rs.10/-, whichever is more, and stamping charges subject to recovery being as per Stamp Act, as may be in force at the time of execution.

3) To submit drawings/designs and specifications, including temporary arrangements, if any, by State Govt. for approval of the Railway Administration prior to inclusion in the bid document for entrepreneur appointed for execution. No addition/alteration/modification in the approved plans/drawings, etc., shall be made without prior approval of Railway Administration.

4) To supervision/construction by Railway of all construction work of bridge proper across existing/future Railway tracks and payment of plan and estimate charges, supervision charges as per the codal provision to the Railway in Advance so that necessary work charged organisation can be created in time for supervision of actual construction.

4a) The plan and estimate charges shall be 2% and D&G (Direction & General) charges shall be 6.25% of the estimated cost of the bridge proper, if the bridge is constructed by State Govt./Private Entrepreneur.

4b) If the bridge is constructed by the Railways on behalf of the State Govt./Private Entrepreneur, the charges shall be 2% plan and estimate charges and 12.5% D&G charges (Direction & General charges) of the estimated cost of the bridge.

4c) Cost of bridge as estimated by Railway itself or as approved by Railway if estimated by State Govt/Private Entrepreneur shall not be a matter of dispute. The D&G charges shall be subsequently applicable on final cost of construction of bridge proper. A suitable clause for the purpose of depositing of D&G charges, plan & estimate charges, with Railway shall be included in the Agreement to be executed between the State Govt. and the Entrepreneur.

4d) No work shall be allowed to be started in Railway land unless the necessary payments, as indicated above, are deposited with Railways.

5) To ensure advance payment of the entire cost for preliminary and incidental works that may require to be executed by Railway for the purpose of clearing the site for construction of ROB/RUB. These may include shifting of signalling and electrical installations or P.way or any other structures which the Railway may consider necessary either in the beginning or subsequently during the construction of ROB/RUB. The charges would include cost of such works, the freight charges, D&G charges, etc., as per codal provision. The D&G charges shall be payable at the rates indicated in para 3 above, i.e., 12.5% of the estimated cost of the bridge if the work is done by the Railway.

6) To award work of road over/under bridges to only such contractors, as are technically capable of carrying out bridge works under train running conditions. In case, where the contractor has not carried out the bridge work under train running conditions, he will be asked to employ an engineer having adequate experience to supervise the bridge work under such conditions.

7) To carry out the work under train running conditions with or without speed restrictions/traffic blocks. Railway will make efforts to arrange speed restrictions/traffic blocks as per requirements subject to the availability of engineering time allowance for that route and also prevailing traffic conditions. However, in case of delay on this account due to some exigencies/traffic conditions prevailing, Railway will not be responsible for any loss whatsoever to the State Govt/Private Entrepreneur. No claims shall be entertained by the Railways on this account. Decision of the Railway regarding requirement of speed restrictions/traffic blocks will be final.

8) To ensure compliance, during the construction of ROB/RUB, of all safety norms that may be specified by Railway from time to time for safe running of trains.

9) To pay on demand the cost of all such works including D&G charges at the rate of 12.5% of the estimated cost of the work, in case the work need to be executed by Railway from safety consideration.

10) That Lease/license period shall be ——— years and will not be changed by State Govt. without prior consultation with and the approval of the ——— Railway.

11) That during the lease/license period, bridge proper (over/under the track) shall be maintained by the State Govt/Private Entrepreneur at their cost under the supervision and inspection of the Railways. The State Govt/Private Entrepreneur shall pay to the Railways 6.25% of the maintenance cost as supervision and inspection charges per annum. For the purpose of levy of these charges, the maintenance cost shall be taken as not less than 3% of the completion cost of the bridge proper which may be revised by Railways as per laid down norms. These charges shall be deposited by the State Govt/Private Entrepreneur every year in advance. In case State Govt. wants Railways to carry out the maintenance during lease period, they shall pay 3% of the completion cost as maintenance charges and 12.5% of the maintenance cost as supervision and inspection charges. By maintenance it will be understood that it involves ordinary day-to-day maintenance. However, in case any major repairs are required, the cost of the same, and the supervision charges, shall be borne by the State Govt/Private Entrepreneur. Decision of the Railways regarding maintenance works required shall be final and will not be a matter of dispute.

12) That Rly's liability for maintenance of bridge proper, after lease/licence period is over, will be limited to 2-lane wide ROB/RUB only. The entire bridge proper will be maintained by Railways and State Govt. will pay to the Railways maintenance charge attributable to additional width. These charges shall be 3% per annum (increased by 12.5%) of the completed cost of additional width of ROB/RUB, liable to be revised without further notice. Railway may demand payment of these charges on capitalised basis as per rules.

12a) To ensure maintenance of bridge proper, road surface, including sanitation, lighting, drainage, dewatering during lease/licence period by the State Govt./Entrepreneur to the satisfaction of the Railway Administration.

13) To indemnify the Railway against all claims for compensation under the Workman's Compensation Act, 1983 and any statutory modifications thereto during construction, maintenance, repairs, renewals, etc.

14) To follow Railways specifications, Indian Roads Congress (IRC) Codes, MOST specifications and other Railway instructions, etc., for preparation of drawings and designs of the bridge proper as well as for temporary works. These designs shall be prepared and checked by reputed Consultant/Engg. Institution before the same are submitted to Railway for approval. Railway's decision regarding modifications to the designs/drawings, etc., shall be final and binding on the State Govt./Private Entrepreneur/Consultant and shall not be a matter of dispute.

15) To indemnify and hold the Railway Administration harmless against all damages, losses, costs and charges suffered or incurred by the Railway Administration on account of any injury to the person or property of any person using the road over bridge, however occasioned, unless it is solely due to negligence and misconduct of Railway or its servants.

16) To pay interest at the rate of 10% per annum on all sums payable to the Railway Administration under any of the terms & conditions of these present, if not paid within a month from the date of demand in writing by the Railway Administration.

17) That in metropolitan/urban areas/or other locations, where land is scarce and costly, bridge approaches shall be normally on stilts in Railway land. All other areas where land is not a problem, Railway may consider solid earthfill approaches in Railway land. Decision will be taken by the Railways on case to case basis as per the prevailing site conditions and requirement of the Railways and shall be binding upon the State Govt./Private Entrepreneur.

18) To obtain approval from Railway for any addition or alteration and modification during execution. Certain special works, viz., shifting of cables, signalling posts, OHE structures including catenary/contact wires in electrified section, shifting of gate lodges, gate, closure of level crossing gate for temporary diversion if any, pipeline or any other structure/installation within Railway boundary shall be done normally by Railway themselves. Entrepreneur shall deposit in advance expenditure to be incurred for such work together with D&G charges at the rate of 12.5% with the Railways.

19) That Railway shall have the absolute authority to stop the work if at any point of time it is noticed or considered that execution of work is not progressing as per approved scheme(plan) or as per directives issued from time to time. The decision to permit commencement of the work again after rectification will rest with Railways.

20) To ensure that Entrepreneur shall carry out and complete the maintenance shortfalls as pointed out by Railway during schedule inspection as well as special inspection of bridge carried out from time to time, failing which Railway shall carry out such work at the cost of State Govt/Entrepreneur.

21) To have way leave facilities as an acknowledgement of the ownership of the ---- Railway of the land on which the road over/under bridge proper is constructed. The entrepreneur shall pay a total of Rs. 5000/- per year up to two lane road crossing two tracks and Rs. 10000/- per year in case the bridge is wider than two lane and/or crossing more than two tracks. Railway may demand payment of these charges on capitalised basis taking interest @ 10% per annum.

22) That after the lease/licence period/Agreement period is over, structures/facilities created for commercial exploitation of the space below approaches, if any, falling in the Railway land together with bridge proper, will revert back to the Railways free of the cost and all future earnings will accrue to the Railways and Railways reserve the right to commercially exploit or use for any other purpose, the space/structures below approaches falling in Railway land and State Governments will have no claims on it.

23) To ensure that only that type of traffic, for which the bridge has been designed, would be permitted to move on the bridge. No unilateral change shall be carried out by the entrepreneur such as increase in the thickness of the road surface. Any such change should have the prior approval of the --- Railway.

24) To pay to --- Railway the cost of making good any damage or loss to Railway track or property due to improper drainage, use or for any other reasons attributed to the presence of the road over/under bridge. All necessary precautions would be taken promptly by the Entrepreneur as directed by the Railway Administration from time to time in order to prevent such occurrences.

25) That it would be ensured by the Entrepreneur that the structures are in sound and well maintained condition at the time of handing over to --- Railway.

26) To ensure that Entrepreneur shall carry out the work close to overhead equipments in Electrified section, only during permitted/restricted period granted by Railways on nominated days and stipulated time. Granting of such shut down periods of power/traffic blocks will solely depend upon train traffic and Entrepreneur shall not have any right or claim for such shut down period.

27) To ensure that the Entrepreneur shall carry out and maintain all relevant record including test record required for quality control carried out in the laboratories of I.I.T. or Engineering College at his own cost and such record shall be made available for inspection whenever demanded by Railways.

28) To ensure that Entrepreneur shall carry out load test of PSC girder/girder in Railway portion at his own cost and under Railway's supervision.

29) To pay or ensure payment to --- Railway on demand, all the outstanding dues as stipulated in this agreement, payable by the Entrepreneur/State Govt within 15 days of receiving the intimation in each case. The Government of --- also agree to fulfil, on behalf of the Entrepreneur, all those liabilities towards --- Railway which remain uncomplished by the Entrepreneur.

30) That in case of doubt or difference or disputes that may arise between the State Government and the ---- Railway Administration as to the true intent or meaning of these presents or any Article, Clause or thing herein mentioned, every

such dispute, doubt or difference shall be referred to the Railway Board (Ministry of Railways) and their decision thereon shall be final and conclusive and binding on both parties.

31) That the term ----- Railway shall also include any successor Railway as may be decided by the Ministry of Railways, Railway Board, Government of India.

32) To incorporate in their agreement with the Entrepreneur all those conditions/stipulations concerning Entrepreneur as brought in this agreement.

33) Subject as otherwise provided in this agreement all notices to be given/taken on behalf of the President of Union of India and Railway Administration and all other actions to be taken on its behalf may be given or taken by the Chief Engineer or Chief Administrative Officer (Construction) or Divisional Railway Manager or any other officer nominated by these officers.

34) Subject as otherwise provided in this agreement all notices to be given/taken on behalf of the State Government of ----- and all other actions to be taken will be given or taken by ----- on behalf of this State Government.

Signed by

----- Railway  
For and on behalf of the  
President, Union of India.  
Signed in presence of

1)

2)

Signed by

For and on behalf of  
Governor of .....

Signed in presence of

1)

2)

Standard Agreement Format for execution with N.H.A.I

Construction of Road Over Bridges/Under Bridges on B.O.T. basis (Build  
Operate & Transfer) in lieu of existing  
level crossing No.----- on ----- section  
\*\*\*\*

This agreement entered on .....day of .....(month) Ninety nine between the President of India acting through the General Manager .....Railways, on the first part and,  
National Highways Authority of India (N.H.A.I.), a statutory Corporation acting through..... on the second part and,  
Governor of ..... acting through the Secretary, Public Works Department on the third part.

Whereas there exist various level crossings permitting vehicles and pedestrians to cross the Railway tracks within the State of .....

Whereas many of these Level crossings are unmanned resulting in serious hazards to the persons and vehicles crossing the Railway track.

Whereas even in the case of manned level crossings, the closure of the crossings to enable the railways to pass through the track causes disruption to the road traffic and inconvenience to the public.

Whereas the Ministry of Surface Transport/Party in the third part have decided to grant concession to the private Entrepreneurs to construct the Road Over Bridges/Under bridges in lieu of the existing level crossings on BOT basis, to facilitate road traffic.

AND Whereas the Railway Administration has agreed to provide all possible assistance for construction of such Road Over Bridges/Under Bridges.

It has now been agreed between parties as follows:-

(A) The party in the first part shall

(1) on payment of the amounts mentioned here under provide all facilities and assistance for early completion of the project involving construction of Road Over Bridges/Under bridges and their completion within the period stipulated under the Agreement.

(2) provide all assistance to the Entrepreneur for maintenance and management of the Road over bridges/Under bridges during concession period and facilitate realisation of fees as agreed in the Concession Agreement.

(B) The parties in the second and third part agree to give an undertaking to Railways before commencement of the work that the level crossing shall be closed permanently on commissioning of the Road Over /Under Bridge. Railway will not permit commissioning of the Road Over /Under Bridge unless the level crossing is closed.



(C) The party in the second part agree:-

1) To execute a regular agreement and to pay the charges for preparation thereof on an established reciprocal basis or Rs. 10/-, whichever is more, and stamping charges subject to recovery being as per Stamp Act, as may be in force at the time of execution.

2) To submit drawings/designs and specifications, including temporary arrangements, if any, by State Govt for approval of the Railway Administration prior to inclusion in the bid document for entrepreneur appointed for execution. No addition/alteration/modification in the approved plans/drawings, etc., shall be made without prior approval of Railway Administration.

3) To supervision/construction by Railway of all construction work of bridge proper across existing/future Railway tracks and payment of plan and estimate charges, supervision charges as per the Codal provision to the Railway in advance so that necessary work charged organisation can be created in time for supervision of actual construction.

3a) The plan and estimate charges shall be 2% and D&G (Direction & General) charges shall be 6.25% of the estimated cost of the bridge proper, if the bridge is constructed by N.H.A.I./Private Entrepreneur.

3b) If the bridge is constructed by the Railways on behalf of the N.H.A.I./Private Entrepreneur, the charges shall be 2% plan and estimate charges and 12.5% D&G charges (Direction & General charges) of the estimated cost of the bridge.

3c) Cost of bridge as estimated by Railway itself or as approved by Railway if estimated by N.H.A.I./Private Entrepreneur shall not be a matter of dispute. The D&G charges shall be subsequently applicable on final cost of construction of bridge proper. A suitable clause for the purpose of depositing of D&G charges, plan & estimate charges, with Railway shall be included in the Agreement to be executed between the State Govt and the Entrepreneur.

3d) No work shall be allowed to be started in Railway land unless the necessary payments, as indicated above, are deposited with Railways.

4) To ensure advance payment of the entire cost for preliminary and incidental works that may require to be executed by Railway for the purpose of clearing the site for construction of ROB/RUB. These may include shifting of signalling and electrical installations or P.way or any other structures which the Railway may consider necessary either in the beginning or subsequently during the construction of ROB/RUB. The charges would include cost of such works, the freight charges, D&G charges, etc., as per codal provision. The D&G charges shall be payable at the rates indicated in para 3 above, i.e., 12.5% of the estimated cost of the bridge if the work is done by the Railway.

5) To award work of road over/under bridges to only such contractors, as are technically capable of carrying out bridge works under train running conditions. In case, where the contractor has not carried out the bridge work under train running conditions, he will be asked to employ an engineer having adequate experience to supervise the bridge work under such conditions.

6) To carry out the work under train running conditions with or without speed restrictions/traffic blocks. Railway will make efforts to arrange speed restrictions/traffic blocks as per requirements subject to the availability of engineering time allowance for that route and also prevailing traffic conditions. However, in case of delay on this account due to some exigencies/traffic conditions prevailing, Railway will not be responsible for any loss whatsoever to the N.H.A.I./Private Entrepreneur. No claims shall be entertained by the Railways on this account. Decision of the Railway regarding requirement of speed restrictions/traffic blocks will be final.

7) To ensure compliance, during the construction of ROB/RUB, of all safety norms that may be specified by Railway from time to time for safe running of trains.

8) To pay on demand the cost of all such works including D&G charges at the rate of 12.5% of the estimated cost of the work, in case the work need to be executed by Railway from safety consideration.

9) That Lease/license period shall be ----- years and will not be changed by N.H.A.I without prior consultation with and the approval of the ----- Railway.

10) That during the lease/licence period, bridge proper (over/under the track) shall be maintained by the N.H.A.I/Private Entrepreneur at their cost under the supervision and inspection of the Railways. The N.H.A.I/Private Entrepreneur shall pay to the Railways 6.25% of the maintenance cost as supervision and inspection charges per annum. For the purpose of levy of these charges, the maintenance cost shall be taken as not less than 3% of the completion cost of the bridge which may be revised by Railways as per laid down norms. These charges shall be deposited by the N.H.A.I/Private Entrepreneur every year in advance. In case N.H.A.I wants Railways to carry out the maintenance during lease period, they shall pay 3% of the completion cost as maintenance charges and 12.5% of the maintenance cost as supervision and inspection charges. By maintenance it will be understood that it involves ordinary day-to-day maintenance. However, in case any major repairs are required, the cost of the same, and the supervision charges, shall be borne by the N.H.A.I/Private Entrepreneur. Decision of the Railways regarding maintenance works required shall be final and will not be a matter of dispute.

11) That Rly's liability for maintenance of bridge proper, after lease/licence period is over, will be limited to 2-lane wide ROB/RUB only. The entire bridge proper will be maintained by Railways and N.H.A.I. will pay to the Railways maintenance charge attributable to additional width. These charges shall be 3% per annum (increased by 12.5%) of the completed cost of additional width of ROB/RUB, liable to be revised without further notice. Railway may demand payment of these charges on capitalised basis as per rules.

11a) To ensure maintenance of bridge proper, road surface, including sanitation, lighting, drainage, dewatering during lease/licence period by the N.H.A.I/Entrepreneur to the satisfaction of the Railway Administration.

12) To indemnify the Railway against all claims for compensation under the Workman's Compensation Act, 1983 and any statutory modifications thereto during construction, maintenance, repairs, renewals, etc.

13) To follow Railways specifications, Indian Roads Congress (IRC) Codes, MOST specifications and other Railway instructions, etc., for preparation of drawings and designs of the bridge proper as well as for temporary works. These designs shall be prepared and checked by reputed Consultant/Engg. Institution before the same are submitted to Railway for approval. Railway's decision regarding modifications to the designs/drawings, etc., shall be final and binding on the N.H.A.I/Private Entrepreneur/Consultant and shall not be a matter of dispute.

14) To indemnify and hold the Railway Administration harmless against all damages, losses, costs and charges suffered or incurred by the Railway Administration on account of any injury to the person or property of any person using the road over/under bridge, however occasioned unless it is solely due to negligence and misconduct of Railway or its servants.

15) To pay interest at the rate of 10% per annum on all sums payable to the Railway Administration under any of the terms & conditions of these present if not paid within a month from the date of demand in writing by the Railway Administration.

16) That in metropolitan/urban areas/or other locations, where land is scarce and costly, bridge approaches shall be normally on stilts in Railway land. All other areas where land is not a problem, Railway may consider solid earthfill approaches in Railway land. Decision will be taken by the Railways on case to case basis as per the prevailing site conditions and requirement of the Railways and shall be binding upon the N.H.A.I/Private Entrepreneur.

17) To obtain approval from Railway for any addition or alteration and modification during execution. Certain special works, viz., shifting of cables, signalling posts, OHE structures including catenary/contact wires in electrified section, shifting of gate lodges, gate, closure of level crossing gate for temporary diversion if any, pipeline or any other structure/installation within Railway boundary shall be done normally by Railway themselves. Entrepreneur shall deposit in advance expenditure to be incurred for such work together with D&G charges at the rate of 12.5% with the Railways.

18) That Railway shall have the absolute authority to stop the work if at any point of time it is noticed or considered that execution of work is not progressing as per approved scheme(plan) or as per directives issued from time to time. The decision to permit commencement of the work again after rectification will rest with Railways.

19) To ensure that Entrepreneur shall carry out and complete the maintenance shortfalls as pointed out by Railway during schedule inspection as well as special inspection of bridge carried out from time to time, failing which Railway shall carry out such work at the cost of N.H.A.I/Entrepreneur.

20) To have way leave facilities as an acknowledgement of the ownership of the ——— Railway of the land on which the road over/under bridge proper is constructed. The entrepreneur shall pay a total of Rs. 5000/- per year up to two lane road crossing two tracks and Rs. 10000/- per year in case the bridge is wider than two lane and/or crossing more than two tracks Railway may demand payment of these charges on capitalised basis taking interest @ 10% per annum.

21) That after the lease/licence period/Agreement period is over structures/facilities created for commercial exploitation of the space below approaches, if any, falling in the Railway land together with bridge proper, will revert back to the Railways free of the cost and all future earnings will accrue to the Railways and Railways reserve the right to commercially exploit or use for any other purpose, the space structures below approaches falling in Railway land and State Governments will have no claims on it.

22) To ensure that only that type of traffic, for which the bridge has been designed, would be permitted to move on the bridge. No unilateral change shall be carried out by the entrepreneur such as increase in the thickness of the road surface. Any such change should have the prior approval of the ——— Railway.

23) To pay to ——— Railway the cost of making good any damage or loss to Railway track or property due to improper drainage, use or for any other reasons attributed to the presence of the road over/under bridge. All necessary precautions would be taken promptly by the Entrepreneur as directed by the Railway Administration from time to time in order to prevent such occurrences.

24) That it would be ensured by the Entrepreneur that the structures are in sound and well maintained condition at the time of handing over to ——— Railway.

25) To ensure that Entrepreneur shall carry out the work close to overhead equipments in Electrified section, only during permitted/restricted period granted by Railways on nominated days and stipulated time. Granting of such shut down periods of power/traffic blocks will solely depend upon train traffic and Entrepreneur shall not have any right or claim for such shut down period.

26) To ensure that the Entrepreneur shall carry out and maintain all relevant record including test record required for quality control carried out in the laboratories of I.I.T. or Engineering College at his own cost and such record shall be made available for inspection whenever demanded by Railways.

27) To ensure that Entrepreneur shall carry out load test of PSC girder/girder in Railway portion at his own cost and under Railway's supervision.

28) To pay or ensure payment to ——— Railway on demand, all the outstanding dues as stipulated in this agreement, payable by the Entrepreneur/N.H.A.I within 15 days of receiving the intimation in each case. The Government of ——— also agree to fulfil, on behalf of the Entrepreneur, all those liabilities towards ——— Railway which remain uncomplied by the Entrepreneur.

29) In case of doubt or difference or disputes that may arise between the N.H.A.I and the ————— Railway Administration as to the true intent or meaning

of these presents or any Article, Clause or thing herein mentioned, every such dispute, doubt or difference shall be referred to the Railway Board (Ministry of Railways) and their decision thereon shall be final and conclusive and binding on both parties.

30) The term ----- Railway shall also include any successor Railway as may be decided by the Ministry of Railways, Railway Board, Government of India.

31) To incorporate in their agreement with the Entrepreneur all those conditions/stipulations concerning Entrepreneur as brought in this agreement.

32) Subject as otherwise provided in this agreement, all notices to be given/taken on behalf of the President of Union of India and Railway Administration and all other actions to be taken on its behalf may be given or taken by the Chief Engineer or Chief Administrative Officer (Construction) or Divisional Railway Manager or any other officer nominated by these officers.

33) Subject as otherwise provided in this agreement all notices to be given/taken on behalf of the N.H.A.I ----- and all other actions to be taken will given or taken by ----- on behalf of this N.H.A.I.

Signed by

-----Railway  
For and on behalf of the  
President, Union of India.

Signed by

For and on behalf of  
N.H.A.I.....

Signed in presence of

1)  
2)

Signed in presence of

1)  
2)

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

NO: F(X)II/99/Estimate/6

New Delhi, dt, 6/12/1999

The General Managers, All Indian Railways  
including CLW, DLW, ICF and W&AP

The General Manager (Const.),  
N.F. Railway, Guwahati.  
The Director General, RDSO, Lucknow.  
The General Manager,  
Central Organisation for Rly. Electrification, Allahabad.  
The General Manager, RCF, Kapurthala.  
CAO, MTP/Mumbai, Chennai and Delhi.  
CAO/DCW, Patiala and COFMOW , New Delhi.

Sub: Incurrence of expenditure on works without sanction of the detailed estimate.

-----

In terms of Para 703-E no work can be commenced unless a detailed estimate for the work has been sanctioned by the competent authority. Further, powers for sanction of detailed estimate costing above Rs. 10 crore (Rs. 15 crore in certain cases) lie with the Ministry of Railways. It has come to notice that on one of the Zonal Railways, work had been commenced and substantial expenditure incurred/ committed without sanction of the detailed estimate by the competent authority. In the light of codal provisions referred to above, the action of the Railway in commencing the work without sanction of detailed estimate by the competent authority was highly objectionable. Board have expressed grave concern in the matter.

It is reiterated that no expenditure should be incurred against a work without sanction of the detailed estimate. It may be noted that allotment of funds against a work in the Budget is no authority for incurrence of expenditure. It is desired that the extant instructions for incurrence of expenditure should be strictly followed. Any deviation from these instructions will be viewed seriously.

Please acknowledge receipt.

(Sudhir Mathur )  
Executive Director Finance (Exp.),  
Railway Board

**P.V.VASUDEVAN**

**FINANCIAL COMMISSIONER (RAILWAYS)  
&  
EX-OFFICIO SECRETARY TO GOVT OF INDIA  
MINISTRY OF RAILWAYS**

D.O.No.F(X)II/99/Estimate/6      New Delhi, dated 18.09.2000

My dear (General Managers)

Occasion has arisen for me to remind you about the urgent and essential need to plan and execute works judiciously and economically, from the following Para which appears in the recent Inspection Notes of Member(Traffic):

"At Kazipet, excess facilities have been provided which lead to a lot of cross movement. The movement pattern at Kazipet should be reviewed to decide whether a few points, viz. Nos 109, 120, 144 and 151 may be dismantled without affecting operations".

Again Member (Engineering)'s recent review of works brings out the following:

"At New Delhi, washing line phase-3 is ready but cannot be commissioned as non-interlocking is proposed to be done only along with phase-4 in 2002. The investment planning is obviously not correct".

The foregoing instances bring out serious deficiencies occurring at the conceptual stage and then in the implementation phase. No organisation can afford to fritter away its resources through faulty planning and implementation.

In this connection I would like to apprise you of certain adverse comments made by MR when a detailed estimate was put up for sanction. She commented, inter-alia, as follows "The above situation, noticed by me umpteen times, only proves total lack of serious technical planning and application in project formulation...there is already cost overrun of 69% before commencement of the work. This serious malaise in our project planning and formulation need critical examination...In future no work should ordinarily be included in Works Programme without detailed field assessment, preparation of technical plan, proper layout, realistic assessment of quantity of work etc. This exercise assumes urgency in view of ensuing Works Programme schedule.

Another issue of serious concern is the quality of construction and of the materials employed, and even design defects. You would surely have noticed several instances where this observation is relevant. The following paragraphs appearing in the recent Inspection Notes of Member (Engineering) refer to one aspect of this issue:

"Fittings for bathrooms of prestigious areas like VIP rooms are good looking but not functional. This is so especially for shower roses. This is a widespread malady throughout Indian Railways."

"We should re-introduce the system as per which samples of each sanitary fittings were personally approved by the AENs after testing before installation. We may also introduce this provision in the Indian Railways Works Manual along with provision of passing of samples of finishing materials like Ceramic tiles, polished stone tiles, paints and distempers, etc, personally by the AENs and for prestigious buildings by DENs/Sr. DENs/Dy. CEs before they are put to use."

"Furniture being provided is also not fully functional nor matching with the size and geometry of the rooms where they are provided. For every building plan, a separate furnishing plan should invariably be prepared, indicating the size and shape of furnishing that will be provided, through an Architect, if necessary. Similarly, a separate wiring and electrical plan should invariably be prepared to match with the furnishing plan. A detailed plan should be prepared for each Bathroom and Kitchen indicating the type of furnishing, type of fittings, size and location of fittings, etc."

"This provision should also be made in the Indian Railways Works Manual."

The Minister for Railways has desired that the expenditure on works should be frugal and purposeful. Instructions have been issued separately on the subject of implementation of austerity measures vide Board's letter No. F(X)II-2000/Exp/4(Austerity) dated 27.7.2000, I presume this has been circulated to lower formations with such additional guidelines as the Headquarters may have considered appropriate.

I would like to point out that any and every work should be taken up only after proper scrutiny whether it is essentially needed, planned and designed and then executed correctly and reasonably quickly with utmost economy with the best attention to quality. Kindly impress upon one and all that wasteful expenditure should not occur, for it is as important to avoid waste in works expenditure as it is to control revenue expenditure.

I would like to conclude with a reference to the Zero Base Review which as directed by the Finance Minister, we need to apply to all the works, big or small. For optimal use of scarce resources this has to be done with a view to giving up those works that are not essentially needed and prioritising the rest for adequate funding to derive their benefits soonest, avoiding thin spread of limited outlay over a large number of works. Detailed guidelines have been sent with AM(Budget)'s D.O. letter No. 2000-B-410 dated 27th July, 2000 addressed to you.

Please make sure that the process is carried out efficiently. While the major works would receive attention at the Headquarters level, I would like you to impress upon the DRMs to take personal interest in this review as far as ongoing minor works are concerned, since many Divisions have hundreds of them. Your Sr.DAOs and DAOs should be actively associated in this exercise. In future, the list of approved works should be finalised in consultation with them, with due regard to the justification for the works and availability of funds therefore, if such a procedure has not already been followed on your Railway. This approach would enable the Accounts Officers to vet the estimates expeditiously, if otherwise in



order, without having to examine the justification at that stage and without having to deal with large numbers of them.

Yours sincerely,

(P.V. VASUDEVAN)

copy to:

Ms. V. Vijaylakshmi,  
FA&CAO,  
Southern Railway,  
Chennai.

(P.V. VASUDEVAN)  
FINANCIAL COMMISSONER(RAILWAYS)

# III. TENDERS

## A. TENDERS FOR MISC. WORKS

S. No	Subject in Brief	Letter Date
1	Handling Contracts –Maintenance of Circular Files for Guidance of Tender Committee	22/06/71 17_18/05/71
2	PAC Recommendation SI Nos 1-15 Contained in Paras 1.81 -1.95 of 136th Report (V1 Lok Sabha) On Para 32 of C&AG Report On Railways for 76-77 DLW- Supply of Oxygen and Acetylene Gases	25/08/81
3	Errection of Microwave towers Composite Contracts	14/05/85
4	Tenders for Removal of Rubbish in Workshop	29/07/88
5	Procedure for Procuring Computers Microprocessors	09/06/89
6	Procedure for Procuring Computers Microprocessors	26/08/93
7	Execution of Track Works through Contracts Agencies/Departmental Labour	07/04/88
8	Award of Contracts for Sanitation Work	16/01/92
9	Allotment of Civil Engg Works to Cooperative Labour Contract Societies	27/02/91
10	Co-Operative Labour Contract Societies Award of Handling Contracts of Goods Parcels, Coal Ashes Cinder Picking Ash Pit Cleaning etc., Policy	21/09/73
11	Execution of Civil Engg Works on Railways Costing Up to Rs. 1 Lakh through Associations/ Societies of Unemployed Youth where such Works are not of Sophisticated Nature Requiring Technical Expertise and/ or Costly Equipment	29/02/84
12	Imposing Restriction on Submission of Separate Tenders by Two Or More Firms Owned and Controlled by One Group of Persons	14/05/74

Copy of Headquarters Commercial Branch letter  
No.C.302/VI dt.22nd June 1971/6th July 1971  
addressed to D.Ss.

Sub:- Handling contracts - Maintenance of Circular  
File for guidance of Tender Committee.

\*\*\*\*\*

Board's letter No.71/GIV/6/3/Policy dated 17th / 18th May 1971 on the  
above subject reads as under:-

The Board desire that with immediate effect all Divisions on the Railways  
should maintain a file of circulars containing instructions issued from time to time  
in respect of awarding handling contract for the guidance of Tender Committee.  
The members of the Tender Committee on Railways, at the time of considering  
tenders for any work should invariably go through the circular file and record  
certificate to that effect".

Board's instructions may strictly be adhered to.

\* \* \* \*

Sl. No. 61/81

**Southern Railway**  
Office of the COS/Ayanavaram,  
Madras-23, Dated: 10.9.1981.

P.O. No.S314/P/Vol.5. dt.10.9.1981.

Sub: Award, operation and extension of contracts.  
Ref : Rly. Bd. letter No. 75/RS(G)/779/48 dt. 25.8.81.

=====

Copy of the Rly. Board letter cited above is reproduced for information and guidance.

Sd/-  
for Controller of Stores.

C: All Purchase officers in COS Office.  
FA&CAO/CN/MS.

---

Copy of Rly. Bd. letter No. 75/RS(G)/779/48 dt. 25.8.81 addressed to GM of All Railways.

=====

Sub: PAC recommendation Sl. Nos.1-15 contained in paras 1.81-1.95 of 136th Report (VI Lok Sabha) on para 32 of C&AG's Report on Railways for 1976-77- DLW- Supply of oxygen and acetylene gases.

=====

In a contract placed by a production unit for supply of gases, viz. oxygen and acetylene, certain prescribed procedures were not fully complied with while dealing with the award of contract, its operation and extension. The PAC in paragraphs 1.81 to 1.90 of their 136th Report (VI Lok Sabha) and paragraphs 1.12 to 1.18 of the 20th Report (VII Lok Sabha), which is the action taken report on the 136th report, have brought out a number of points in dealing with the award, operation and extension of the said contract. In view of this, the Board desire to reiterate the following instructions for strict compliance while dealing with matters relating to contracts:

- i. Quotations against tenders received after the prescribed date and time should be treated as late offers and dealt with accordingly.
- ii. Discussions/negotiations with the tenderers/bidders should be conducted by the Tender Committee the same day in accordance with the established procedure as contained in various policy letters issued by the Board from time to time.
- iii. Any facilities such as lease of land, supply of water/electricity, use of roads and any other premises of the Railway by the contractor should be converted into money value and the tender/bid loaded with an equal amount before making comparison of the bid prices.

iv. Railway facilities such as land, premises, electricity, water etc. should not be leased out to the contractor for an unduly long period. The period of lease should be commensurate with the period of contract. The rental amount for these facilities should not be a fixed amount but should carry an escalation clause to take care of the future increases in the rental/changes of such facilities.

v. A tendency has been observed whereby the GMs have been entrusting the commercial work connected with contracts to their FA&CAO'S instead of Controller of Stores/Executive Officer. This practice is not desirable since this leads to dilution of the second check which the FA&CAO is to carry out.

vi. Whenever any dispute arises during the execution of the contract and arbitration has to be resorted to, the Railways must appoint their arbitrator within the schedule time to avoid the case being decided by the sole arbitrator appointed from the contractor's side, if there is provision in the contract for a sole arbitrator.

2. Receipt of this letter may please be acknowledged.

Sd/-

(A.B. Banerjee)

Director, Rly. Stores,  
Railway Board.

Copy of Railway Board letter No.84/W3/Tele/MW/14 of 14.5.1985 to the General Manager (S&T), All Indian Railways and copy to FA & CAO and others.

Sub:- Erection of microwave towers composite contracts.  
-----

Indian Railways are erecting a large number of Microwave towers throughout the country for telecommunication requirements. The need to standardize the fabrication, erection and maintenance of the towers were under consideration of this Ministry. In view of implementation of O.I.S., erection of a large number of towers will become necessary. To cope up with the utmost sophistication required in fabrication, erection and maintenance of the Towers, the Ministry of Railways have decided that:

The erection of microwave and other similar radio towers on Indian Railways should be executed on the basis of a composite contract which would speed up the work and curtail delay.

Henceforth, all such erection of Microwave Towers and other similar radio towers should be done on composite contract basis only.

This issues with the concurrence of the Finance Directorate of this Ministry.

Please acknowledge receipt.

Sd/-.. (R.L . ARORA)  
Jt. Director(S&T) II.Bly.Bd.  
-----

Copy of Railway Board letter No. 84/W3/Tele/MW/14 dated 18 June1985 to The General Manager(S&T), All Indian Railways and copy to FA&CAO and etc.

Sub:- Erection of Microwave towers- Composite contracts.  
-----

Further in reference to this office letter of even number dated 14.5.85 it is advised that the term composite contract as mentioned in; para 1 of the above mentioned letter is defined as covering:-

` tower fabrication, galvanizing, erection, foundation, final painting etc. with the supply of all necessary materials by the contractor'.

Sd/-  
(R.L. ARORA)  
Jt. Director(S&T) Railway Board.

## SOUTHERN RAILWAY

Headquarters Office,  
Works Branch,  
Madras-3.  
Dt: 27-9-88.

No.W/496/P/O

CME, CSTE, CSTE/CN, CEE, CEE/RE, COS  
CTM/MTP/MS, CE/CN/MS, CE/CN/BNC  
DRMS/MAS PGT SBC TVC MYS TPJ & MDU.

Sub:- Tenders for removal of rubbish in Workshops.  
-----

A copy of Railway Board's letter No. 88/CE.I/CT/41 DT.29.7.88, issuing guidelines as to how tenders for the above cited work are to be dealt with and finalised is enclosed for information, guidance and further action.

Receipt may please be acknowledged.

Encl: One

Sd\  
for Chief Engineer.

---

Copy with a copy of Railways Board's letter No.88/CE,I/CT/41  
dt.29.7.88 to:-  
FA&CAO/MAS, FA&CAO/CN/MS&BNC, FA&CAO/MTP/MS, FA&CAO/WST/PER.

Encl: One

Sd\  
for Chief Engineer.

---

Copy of Railway Board's letter NO.88/CE.I/CT/41 DT.29.7.88 from Sri Arimardan Singh, Director, Civil Engineering (G) Railway Board, New Delhi addressed to all the General Managers on Indian Railways etc.

Sub: Tenders for removal of rubbish in workshops.  
-----

A case has come to the notice of the Railway Board, Wherein tenderers were invited for disposal/sale of rubbish from a Railway Mechanical Workshop. The tenderers were required to deposit earnest money at the time of submission of the tender, and Security deposit within one week after the acceptance of the tender. In practice, however, most of the tenderers did not submit their earnest money, and the tender committee/accepting authority on the pattern of the stores tenders, waived it off.

2 Another unusual feature in the dealing of the tender also came to light. Normally, tender committee recommend acceptance of the best offer, or negotiations with all the valid tenderers whose credentials/capability are satisfactory, or cancellation/ discharge of tenders with or without re-invitation of

the same. However, in this particular case, the tender committee recommended acceptance of offer of several parties, in the order of rates offered by them. The contract was first to be offered to the party with the highest rate (for it was a sale contract), and in case he failed to deposit the security deposit in 7 days as per the conditions of tender, the offer was to be withdrawn from him and made to the party next in line and so on. This recommendation of the tender committee was accepted by the accepting authority. As it happened, the first 5 tenderers with highest offers, failed to deposit the security money in time. Eventually, the contract was awarded to the tenderer with sixth highest offer. In the process, the Railway had to suffer a loss of several lakhs of rupees. Obviously, the decision taken by the tender committee and the accepting authority was very much flawed. The tenderers could easily have come to an understanding between them, as per which those who had made higher offers did not deposit the security money in time, and got out of the contractual obligation, totally un-scathed, as even the earnest money had not been paid by them. The Railway would then have to accept a much lower offer with substantial loss of earning. In the case of works stores contract, Railway would similarly have to pay more and suffer loss.

3. To avoid such situation in future, Board desire that following action should be taken by the Railways:-

i) Tenders/contract agreements for the disposal/sale of rubbish portion in workshop, should be dealt on the pattern of works contracts, as is done by the civil Engineering Department for the disposal/sale of coal ashes. Offers not accompanied by earnest money, should be rejected summarily.

ii) A model tender/document/contract agreement for disposal/sale of rubbish from the workshops depots, etc. on the pattern of works tenders/contracts, should be drawn up for adoption on the entire railway. This may be done with the help of the Civil Engineering Department and in consultation with the Finance and the legal cell of the railway.

iii) Tender Committee/accepting authority, should accept the offer of only one tenderer (or negotiate or cancel the tender or re tender if necessary). Offers of more than one party may not be accepted at the same time with the intention of awarding the contract first to one and then to the others in the line as happened in this case.

iv) In case a party to whom the contract is awarded fails to take up the work or pay the security deposit as per the terms of the tender, action may be taken to forfeit his earnest money and also to remove him from the approved list. Suitable entry may also be made in the confidential report of the party regarding his failure to honour the terms of the accepted tender. The Railway could also consider action to recover damages.

v) It may also be examined if for more attractive and better offers, the contractors could be given the option of paying the security deposit in 2-4 installments, instead of single large lump-sum payment, which usually has to cover a long contract period of one year or so. This could be incorporated in the tender conditions, if the Railway consider the suggestion useful.



4. Contents of this letter should be brought to the notice of the Mechanical, S&T and Electrical Departments also.

5. This issues with the concurrence of the Finance Directorate of the Railway Board.

6. Please acknowledge receipt.

**GOVERNMENT OF INDIA (BHARAT SARKAR)**  
**Ministry of Railways (Rail Mantralaya)**  
**(Railway Board)**

No.87/ACII(CC)/37/4.

New Delhi, Dated:9/15-6-1989

The General Managers,  
All Indian Railways including  
GLW DLW, ICE W&AP and  
OSDS, RCF and DCW.

Sub: Procedure for procuring Computers/Microprocessors.

Ref: Board's letter of even no. dated 29.8.88.

\*\*\*\*

In the letter referred to above it had been emphasised that all Computer projects costing more than Rs. 5 lakhs should be forwarded to CRIS for technical scrutiny. Board have now decided to raise this limit to Rs. 10 lakhs. It may be ensured that CRIS are associated with such proposals from the formulation stage itself, and are involved in all aspects including selection of hardware and drawing up software design & specifications.

Railways are however free to experiment and innovate software programme to suit their requirements, and to make minor additions or alterations.

(Sd/-)  
(Smt. Ratna Prakash)  
Joint Director Finance(CCA)  
Railway Board.

## SOUTHERN RAILWAY

Headquarters Office,  
General Branch,  
Madras-3,  
Dt. 06.09.93.

No. G/203/P/VI/Vo1.VII/Misc.Cor.

All PHODs, HODs, Divisional & Extra  
Divisional Officers.

Sub:- Procurement of PCs by Railways.  
\*\*\*\*\*

A copy of Railway Board's letter No.92/C&IS/PCs/Annual Plan/Railway Board dated 24/26.8.93 is sent herewith for your information and guidance.

(R.V.PATHY)  
for General Manager.

---

Copy of Board's letter No.92/C&IS/PCs/Annual Plan/Railway Board dated 24/26.8.93 from Joint Director (Computer service) Railway Board/New Delhi, All Zonal Railways.

-----  
Sub:- Procurement of PCs by Railway Board.  
\*\*\*\*\*

With regard to letter No.91/C&IS/Annual Plan/92-93 dated 10.6.92 wherein restrictions on the number of PCs to be procured by GMs was withdrawn. It is further clarified that PCATs/PCXTs based on DOS operating system may now be procured by the GMs with an overall configuration costing not more than Rs.1.5 lakhs each.

For buying a Laser Printer, special permission of the G.M. should be taken and in case of procurement of a UNIX based machine on any other operating system except DOS based, prior permission of the Board should be taken on a case to case basis.

GMs should review the utilisation of existing PCs before acquiring new PCs. Every such procurement will be subject to the normal scrutiny of Associate Finance.

This issues with the concurrence of the Associate Finance of the Ministry of Railways.

Sd/-

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.87/W6/TK/12

New Delhi, dt: 7-4-88.

General Managers  
All Indian Railways.

Sub: Execution of track works through contract  
agencies/departmental labour.  
-----

In this office letter of even number, dated 2-3-88, the Railways were advised that, where adequate casual labour was available on the live register, normal track maintenance works should not be given to private contractors. A list, specifying the various items to be treated as `normal track maintenance works`, was also circulated therewith.

2. During the CTEs' meeting held in Rail Bhawan on 8-3-88, the practices currently followed by the Zonal Railways in execution of special track works, like through renewals, deep screening of ballast, etc. were also reviewed. This was in the light of complaints received, from time to time, from the organised labour, about such works being increasingly got through contract agencies. The review showed that practices in regard to execution of such works, whether departmentally or through contract agencies, varied from Railway to Railway and even between Divisions on the same Railway, depending on the local conditions. For instance, deep screening work, which was essentially seasonal in nature and involving considerable amount of hard manual labour, was being done successfully through contractors on many Divisions, where efforts made earlier to get it done departmentally had failed to achieve the desired progress. At the same time, there were also certain Divisions where deep screening was being done satisfactorily through departmental labour, who were available in sufficient numbers. The conclusion drawn was that it was neither necessary, nor practicable, to lay down any rigid policy, as regards the mode of execution of such works, and the Zonal Railways should be left free to adopt whichever of the alternatives was in the interest of timely execution of the planned works, economically and efficiently, while at the same time safeguarding the legitimate interests of the available casual labour, including those on the live registers. The following may, however, be adopted as the board guidelines.

- (i) Special track works may be done departmentally, where suitable casual labour are available in adequate numbers and it is clearly understood that, on completion of the works for which they are engaged, they shall be liable for retrenchment.
- (ii) Works may be got done through the agency of contractors, where suitable casual labour are not available in adequate numbers and it is found more expedient and economical to entrust the work to contractors. This in turn, depends on availability of suitable contract agencies who have the capability of ensuring the desired progress and quality of work.
- (iii) While deciding to undertake any special track work through contract, it shall be ensured that it will not lead to retrenchment of serving casual labour.

3. The guide-lines given above should be treated as supplementary to the broad policy indications given earlier, vide Board's letters No. 82/W6/TK/12 dated 7-8-82 and 26-2-86.

(Ashok Kumar)  
Executive Director  
Civil Engineering  
Railway Board.

Copy to: All CEs/Indian Railways.

Copy to: PS/ME, Adviser (S), ED `Track', EDCE,  
EDCE(P), EDE`IR', DE`NG', JDCE`G`.

**SOUTHERN RAILWAY.**

FA&CAO's Office,  
Madras - 600 003,  
Dated : 28-2-1992.

No. W.496/F/O/Vol.14.

To all concerned.

Sub:- Award of contract for sanitation work.  
Ref :- Railway Board's letter No. 91/R/9/1 of 15/16.1.92.

-----

A copy of Railway Board's letter referred to above is enclosed. Please ensure compliance as directed by Board by issue of instructions wherever necessary.

for F.A. & C.A.O.

---

Copy of Railway Board's letter No.91/H/9/1, New Delhi dated 15/16.1.92 to The General Managers, All Indian Railways.

Sub:- Award of contract for sanitation work.

-----

During investigation of a case it has come to the notice of Board Vigilance that on one Railway the sanitation work such as cleaning of drains, washing pits, manholes etc. at a Railway Station was arranged by the Medical Department through a private contractor. The investigation inter-alia brought out that an important item of work which was included in the tender notice was omitted in the contract. Consequently, the Contractor got unintended financial benefit in that he did not execute the item of work even though he received payment for that item as well. One possible reason leading to the above irregularity was that no representative from the Technical Department was associated at any stage, when the matter relating to the award of work was processed.

2. The Vigilance investigation also revealed that proper completion certificate was not obtained before releasing the payment to the contractor.

3. With a view to ensuring that such instances do not recur in future, Board have decided that whenever any tender works is handled by medical Department, it is ensured that the Tender Committee constituted to process the tender invariably comprises of 3 members, namely, one from medical Department, one from the Accounts Department, and the third from Technical Department (Engineering or Mechanical Department).

4. Please acknowledged receipt.

Sd/-..  
Dy. Director Health (Admn)  
Railway Board.

**Government of India  
Ministry of Railways  
(Railway Board)**

No.91/E(Coop)/12/1

New Delhi, dated 27.2.1991.

The General Managers,  
All Indian Railways including CLW, DLW, ICF, RCF  
and MTP Rlys, at Calcutta, Madras and Bombay.

The G.Ms. (Construction),  
N.F. Rly., Maligaon, Guwahati and S.Rly/Madras.

The General Manager,  
W&AP/Bangalore.  
DG/R.D.S.O./Lucknow.  
The CAO/Diesel Component Works, Nabha Road, Patiala.  
The Principal, IRISSET/Secunderabad, IRIATT/Pune & RSC/Baroda.

Sub: Allotment of civil engg. works to Cooperative  
Labour Contract Societies.

-----

The ceiling limit of Rs. 10,000/- as provided in Board's letter No. 69/E(Coop)L/2/4 dt. 8.8.73, has since been reviewed by the Board and raised to Rs. 25,000/- (Twenty Five thousand) only. All other conditions and regulations as stipulated in the said letter and in other letters issued from time to time, remain the same, and also the procedure for determining the rates to be given to Cooperative Labour Contract Societies and other conditions will be as per Board's letters No. 84/E(Coop)/14/14 dt. 15.11.85 and No.76/E(Coop)/L/2/1(PT.) dt. 25.11.85.

2. Please acknowledge receipt.

Sd/-  
Exe. Director, Estt. (G).,  
Railway Board.

No. 91/E(Coop)/12/1

New Delhi, dt. 27.2.1991.

1. Copy with 46 spare copies to ADAI Rlys. New Delhi.
2. Chief Auditors, All Indian Railways.
3. FA&CAO's, All Indian Railways.

Sd/-  
for Financial Commissioner/Rlys.

Copies to: CE I and F(X) Branches  
(with two spare copies).

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.72/E(Co-op)/L/1/5

New Delhi, dated 21-9-1973

The General Managers  
All India Railways.

Sub: Co-operative Labour Contract Societies Award of handling contracts of goods, parcels coal, coal-ashes, cinder picking, ash-pit cleaning etc. - Policy regarding.

Ref: Board's letters No.66/E(Co-op)/L/2/4 dated 27-11-1968, 13-2-1971 and 28-12-1971.

\*\*\*\*\*

In partial modification of the orders contained in their letters cited above, the Board have decided that the handling contracts for goods, parcels, coal, coal-ashes, cinder picking, ash-pit cleaning etc., should be awarded to genuine Co-operative Labour Contract Societies of actual workers, without call of tenders, irrespective of the value of the contracts. Thus, the ceiling limit of Rs. 2 lakhs for allotment of such contracts to co-operative Societies through negotiations shall be removed. Other conditions governing allotment of the contracts will continue as before.

2. The Board have further decided that office accommodation, accommodation for canteen etc. if available, may be allotted to such of the Labour Contract Co-operative Societies, as are awarded handling contracts on the Railways, on a nominal rent of Rs. 20/- per annum, on the same basis as charged from the Railway men's Consumer Co-operative Societies, in terms of Board's letter No.66/E(Co-op)/30/1 dated 23-11-1966. This supersedes Board's orders contained in their letters No. 63/E(Co-op)/40/34 dated 29-7-1964 and No.63/E(Co-op)/40/35 dated 12-5-1964 on this subject.

3. It has further been decided that 90% of the payment of bills wherever provided for in the contract should be made within a week's time, after submission of the bills as per schedules indicated in the contract; thereafter, every attempt should be made to make the balance payment within a month of the receipt of the bills, provided the bills are submitted complete in all respects.

4. This has the sanction of the President.

5. Efforts should be made to organize Co-operative Labour Contract Societies at places, where they do not already exist, to take up the handling contracts on the Railways.

Please acknowledge receipt.

(Sd\ - )  
G.R. Venkataraman  
Joint Director, Establishment (W) Railway Board



## SOUTHERN RAILWAY

### PROFORMA REGARDING ORGANISATION OF LABOUR CONTRACT CO-OPERATIVES.

-----

SL. No.	Name of Station where there are 20 and more workers working	No. of workers actually working at present	Nature of contract	Value of contract	Period and currency of the present contract	Date of expiry of present contract	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

**Government of India  
Ministry of Railways  
(Railway Board)**

No.83/W1/CT/14(Policy)

New Delhi, dt 29-2-1984

The General Managers,  
All Indian Railways

Sub: Execution of Civil Engg. works on Railways costing upto Rs. 1 lakh through Associations/Societies of unemployed youth where such works are not of sophisticated nature requiring technical expertise and/or costly equipment.

-----

With a view to generate employment opportunities amongst unemployed youth in the country, the Board have decided that the Railways should encourage formation of the unemployed Youth Associations/Societies for execution of works of simple nature not requiring technical expertise or costly equipment, such as, earth work, construction of boundary walls or supply of construction materials upto Rs.1 lakh. Contracts in such cases may be awarded to such local Associations/Societies of Unemployed Youth after obtaining quotations from them in the form of Limited Tenders' by Divisional Engineers/Executive Engineers in consultation with the associate Finance. For this purpose, detailed guidelines may be formulated by the Zonal Railway Administrations. Some of the guidelines could, however, be:

(i) Such Associations/Societies should first of all get themselves registered under the Society's Registration Act so as to make the Associations/Societies a legal entity before they are registered with the Railway as contractors for execution of such works of the Railways.

(ii) Such Associations/Societies may be exempted from depositing the requisite earnest money and the initial security money. The security deposit may, however, be built up by making deductions from their running bills for due and faithful fulfillment of the contract agreement as prescribed under the Code Rules.

(iii) Where it is found difficult to fix rates after obtaining the quotations, calling of tenders should be resorted to only to get an idea of the prevailing rates and then such rates may be offered to the Societies/Associations.

(iv) Not more than one contract should be given to one Association/Society at a time till completion of the work, so as to assess the speed and the quality of work done by that Association/Society.

(v) Confidential Reports on each Association/Society should be maintained for guidance of the Railway/Engineer in future dealings with the Association/Society.

(vi) In case the Association/Society, after award of the contract, do not commence the work within the stipulated period without sufficient reasons they should be treated as defaulters and that Association/Society's name may be deleted from the Railway's list of such Associations/Societies at the sole discretion of the Railway. Once the contract is awarded, the Association/Society should be treated at par with other contractors and as such should be fully governed by the General Conditions of Contract and Special Conditions of the contract, if any.

2. In case of works requiring technical expertise and/or costly equipment, the present practice of calling open/limited tenders may continue. The matter is left to the discretion of the chief Engineers, who should decide as to the agency who should do the work and at what rates in consultation with the associate Finance.

3. The Railways should take early steps to implement the aforesaid scheme. A proper monitoring of the performance of the Associations/Societies should be done by each Divisional/Assistant Engineer at site and the data maintained by the zonal railways for the purpose of assessing the success or failure of the scheme with railways comments suggestions thereon may be furnished after a period of one year; so that the position is reviewed for its further continuance. These instruction will be valid for a period of 2 years i.e. upto 31-3-86: and their extension will depend upon the review.

4. This issues with the concurrences of the finance Directorate of the Ministry of Railways (Railway Board).

Receipt of this letter may please be acknowledged.

Sd. M.M. Goyal  
Addl. Director, Civil Engineering,  
Railway Board.

No.83/W1/CT/14 (Policy) New Delhi, dt. 29-2-1984

xx Copy forwarded to the FA&CAOs/All Indian Railways xx xx

Copy of letter No. 72/WI/CT/32 dated 14-5-1974 addressed to the General Managers/All Indian Railways etc., issued by the Ministry of Railways (Railway Board), New Delhi.

Sub: Imposing restrictions on submission of separate tenders by two or more firms owned and controlled by one or same group of persons.

-----

The question of imposing restrictions on submission of separate tenders by contractors/firms in different names but owned and controlled by one or same group of persons had been under consideration of the Board in consultation with the Legal Adviser, as in one case two firms in different names but under the same management enjoyed undue advantage in the absence of any other valid tender. The Board is of the view that it may not be appropriate to impose restrictions on such firms having different names, but under the same management in the matter of submission of tenders for the same work. However, if for any work, a group of persons/firms with different names, but controlled by same management were to be the only valid tenderers, they do get an undue advantage in the absence of any other tenderer in the field. The extant instructions do envisage that credentials, partnership deeds etc., of the tenderers/firms should be examined by the Tender Committee prior to consideration of their tenders. Such an examination, if carried out, will no doubt, reveal whether the various tenderers are different persons or though different in names, controlled/managed by the same group of individuals. In other words, the Tender Committee should ensure that real fair competition exists in response to the tender notices before they recommend acceptance of one of the tenders.

In view of the above, it should be ensured that no undue advantage accrues to a group of persons/firms controlled by the same management, should they alone be in the field of competition in response to open tenders.

Receipt of this letter may please be acknowledged.

\*\*\*\*\*

# III. TENDERS

## B. PRE- REQUISTES FOR CALLING TENDERS

S. No	Subject in Brief	Letter Date
1	Call of Tenders	22/04/77
2	Tender Documents for Works Contracts	04/05/93
3	Tenders for Works Sales of Tender Documents	09/05/94
4	Cost of Tender Documents	5/07/94
5	Cost of Tender Documents	25/07/94
6	Cost of Tender Documents	23/09/94
7	Invitation of Tenders	21/09/72
8	Prior Vetting of Tender Notices and Tender Schedules	01/09/82
9	Revision of Tender forms	23/12/66
10	Sale of Tender Documents for Open Tenders	12/02/01
11	Issue of Repeated Corrigenda to Original Tender Notice	23.06.01
12	Delay in Issue of Tender Papers and Lengthy Tender Notices	17.08.01
13	Regulation of Tenders and Contracts for the Guidance of Engineers and Contractors –Para No 18 Revision of	02/05/85
14	142 <sup>nd</sup> Report of the PAC (1988-89) On MTP Calcutta Need to Update Tender Values	11/08/89
15	Executive instructions Regarding Calling for Tenders and Acceptance of Tenders and the General Procedure to be Observed in connection with Contracts	04/04/61
16	Additional Facilities to Handle Traffic for industries should be framed after Careful Assessment	09/11/89
17	C&Ag Report for 1987-88 Corrective Remedial Action thereon.	29/03/90
18	Recommendations No 2 & 3 of the Report of the Study Team on Elimination of Lacunae and Improvements in Procedure Construction and Supplies	22/02/85
19	Invitation of Tenders Before Finalising the Site Plans	29/08/80
20	Availability of Tender Boxes	13/02/91
21	Facilitating Submission of Tenders	28.10.98
22	Mafia Problem in Works Tenders	25.10.02
23	Report On Mafia Problem in Railway Works Contracts	16.11.03
24	PROCEDURE FOR TENDER OPENING : (Along with Rly Bd's Letter Dated 30.3.1978 )	7.12.04

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS(RAIL MANTRALAYA)  
(RAILWAY BOARD)**

No. 76/WI/CT/55

New Delhi, dated 22-4-1977

The General Managers,  
All Indian Railways etc.

Sub:- Call of Tenders

\*\*\*\*\*

It has come to the notice of the Board that on certain Divisions on Railways approximate quantities/value item-wise are not indicated in the tender paper while calling for the tenders for works. Non inclusion of approximate quantities/value item-wise has a definite vigilance potential in as much as the interse position of the tender can be altered by making adjustments in the quantities in case of item rate tenders. Even in the case of tenders called on percentage basis over the schedule of rates, it would be desirable to indicate the quantities/values of various items of works at least in respect of broad major building activity, earthwork sanitary work, water supply etc. so as to give a better assessment of work to the contractor and to enable him to furnish reasonable and competitive rates. Board, therefore, desire that the Railways should strictly follow the extant instructions in this regard and avoid recurrence of such incidents. In this connection attention is invited to para 339 & 416 of the Indian Railways Code for Stores Department, which is also applicable to works contracts.

Receipt of this letter may please be acknowledged.

Sd/-  
(J.K. Mathur)  
Addl. Director, Civil Engg.  
Railway Board.

.....

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.93/CE-I/CT/11

New Delhi, dated 4.5.93

Addressed to:

As per list attached.

Sub: Tender documents for works contracts.  
-----

During the course of Vigilance investigations in a particular case, it was observed that Price Variation Clause had been included in the Contract Agreement executed by a Division on a certain Railway, even though in the original tender papers submitted by the successful tenderer, this clause was not appearing. The situation such as this, wherein the actual contract executed is at variance with the offer accepted, can lead to serious complications.

To overcome problems of this nature, the tender documents to be issued to a contractor should be properly secured to ensure that loose papers do not fall out and each page should be serially numbered from first to last. One copy of the booklet duly approved by the authority inviting tender should be kept on the tender file each page duly signed by the officer authorised. When the tender documents are issued to any contractor, the documents should be initialed on each page by the section in charge, dealing with the tenders, thereby certifying that the documents being given to the contractor are not at variance with the approved copy.

Before the final contract agreement is executed, the agreement papers should be scrutinised to ensure that they correspond to the papers issued to the tenderer and submitted in the offer by him and there is no omission/addition to the papers which is not authorised by the accepting authority.

This procedure may be brought into effect immediately.

Receipt of the letter may be acknowledged.

(Sd/-)  
(S.M. Singla)  
Exec. Director, Civil Engg.(G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 93/CE.I/CT/85

New Delhi, dated 9.5.94.

Addressed to:

As per list attached.

Sub: Tenders for works - Sale of tender documents.  
-----

During the course of Vigilance investigations, an instance has come to notice where tender papers had been despatched in the nick of time by a short time-gap of 7 days including 2 weekly holidays prior to the opening date of tender, thereby restricting the wider scope of participation by a large number of tenderers.

Instructions exist under Board's letter No.77/W.I/CT/40 dated 24.10.77 that the Railways should ensure availability of tender documents for sale immediately after the tender notices are published in the newspapers. In cases where tender notices are published much in advance, the date from which the documents would be available should be notified. The date since when tender documents should be made available for sale should not be less than 15 days prior to the due date of opening of tenders. Printed SOR should be made available to the fresh entrants on demand.

The procedure may be followed strictly, the intention being to allow sufficient/reasonable time to the prospective bidders to obtain tender papers and submit them in the normal course.

The receipt of the letter may be acknowledged.

-Sd/-  
(VED PRAKASH)  
Exec. Director, Civil Engg.(G)  
Railway Board.

List 'A' of Addresses.

A. General Managers,  
Southern Railway and others.



**Government of India (Bharat Sarkar)  
Ministry of Railways/Rail Mantralaya  
(Railway Board).**

No.94/CE-I/CT/53.

New Delhi, dated 5.7.1994.

To  
General Managers,  
Southern Railway, Madras etc. etc.

Sub: Cost of tender documents.

\*\*\*\*

It has been decided, in consultation with the Finance Dte. of the Ministry of Railways, to revise the cost of tender forms to be applicable on all Railways uniformly as under:-

<u>S.NO.</u>	<u>Tender Value.</u>	<u>Cost of tender documents.</u>
1.	For works costing upto Rs.5 lakhs.	Rs. 300/-
2.	For works costing above Rs. 5 lakhs and upto Rs. 20 lakhs.	Rs.500/-
3.	For works costing above Rs. 20 lakhs and upto Rs. 50 lakhs.	Rs. 600/-
4.	For works costing above Rs. 50 lakhs and upto Rs. 2 Crores.	Rs. 1200/-
5.	For works costing above Rs. 2 crores.	Rs. 2000/-

The above orders are applicable with immediate effect.

Sd/-  
(VED PRAKASH)  
Executive Director, Civil Engg(G)  
Railway Board.

**Advance Correction Slip No. 24 for adding new para 1240(A) to the Indian Railway code for the Engineering Department (1993).**

“1240-A COST OF TENDER FORMS.

The cost of Tender Form shall be as under:-

- |      |   |            |
|------|---|------------|
| i.   | For works costing upto Rs. 5 lakhs.                         | Rs 500/-   |
| ii.  | For works costing above Rs. 5 lakhs. and upto Rs. 20 lakhs  | Rs 1,000/- |
| iii. | For works costing above Rs. 20 lakhs. and upto Rs. 50 lakhs | Rs 1,500/- |
| iv.  | For works costing above Rs. 50 lakhs. and upto Rs. 2 crores | Rs 2,000/- |
| v.   | For works costing above Rs. 2 crores.                       | Rs 3,000/- |

(Authority Board's Letter No 94/CE.I/CT/53 dated 25-7-94)

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 94/CE-I/CT/53

New Delhi, Dated: 23/9/94

Addressed to:

As per list `A' attached.

Sub: Cost of tender documents.

.....

Some Railways have raised certain queries with reference to Board's circular of even number dated 25.7.94 on the subject mentioned above. The following clarifications are given:

- (i) The cost of tender documents stated therein is for works tender only and not for stores contracts or P.way fittings.
  
- (ii) The cost of tender documents does not include postage charges. In case tender documents are to be sent by post, additional postage charges are to be paid by the tenderer.

Please acknowledge receipt of this letter.

(Sd/-)  
(VED PRAKASH)  
Executive Director Civil Engg.(G)  
Railway Board.

**Copy of letter No.72/WI/CT/43, dated 21.9.1972 from the Govt of India, Ministry of Railways (Railway Board), New Delhi to the General Managers, All Indian Railways, including CLW, DLW and IEE and D.G., RDSO, Lucknow.**

-----

Sub: Invitation of tenders

-----

1. A case has come to the notice of the Board in which tenders had been invited by a Zonal Railway without finalising the site plans. Thereafter considerable delay occurred in deciding about the site and when the approval of the site was conveyed to the Contractor, he refused to execute the work, due to the abnormal time lag during which period there had been considerable rise in prices. The Railway Administration had, therefore, been constrained to terminate the contract but could only forfeit the earnest money. In order to obviate recurrence of such cases, Board desire that the Railways should finalise the site plans in advance and call for the tenders only after the plans are finalised.

2. In another case a Railway Administration took a considerable time in handing over the site and furnishing detailed drawings with the result the contractor could not execute the work. When the sites and plans were ultimately handed over, considerable time had lapsed and the contractor backed out from the work due to inordinate delay, thereby necessitating the Railway Administration to go in for fresh tenders and completing the work at a higher cost with consequent delay in creating the new assets. In order to avoid such situations, Board desire to reiterate that the Railway Administrations should foresee all such delays to the extent possible and decide calling of tenders only when they are fully prepared to hand over the sites and supply the plans etc.

3. In yet another case on a Zonal Railway contracts for construction of double storeyed quarters were awarded to two different contractors, namely, one contractor for executing the ground floor units and the other for executing the first floor units. Due to failure of the contractor who had been awarded the ground floor units, the Railway Administration could not hand over the site to the contractor who had been awarded the first floor. Board desire that while inviting tenders and allotting the work for construction of multi-storeyed quarters, it is to be ensured that the entire work is given to one agency rather than having it split up for execution of different floors by different agencies.

4. Receipt of this letter may please be acknowledged.

sd/-  
(Kalicharan)  
Director, Civil Engineering

**Government of India (Bharat Sarkar)  
Ministry of Railways (Rail Mantralaya)  
(Railway Board)**

P. Rajagopalan,  
Jt. Director, Fin (Exp.)

D.O.No.92-B-354(S)

New Delhi 110 001  
Dated 31-8/1-9-1982

Dear Shri Sivaswamy,

Sub:- Prior Finance vetting of tender notices and tender  
Schedule.

-----

The suggestion given by you in your D.O. letter No.W.496/CN/ X/Vol. VII dated 27th January 1982, referred to in para 5 of your D.O. letter No.A.54/CN/MS/R&E/PCDO dated 16th August 1982 had been considered in detail by Board and they had decided that pre-vetting of tender notice/tender schedules by Finance may not be very practicable. The executive should however, exercise reasonable prudence and care as stressed in Board's General Circular No.79-WI/CT/12(P) dated 14-10-1981.

with regards,

Yours sincerely,  
Sd/- P. Rajagopalan

Shri P. Sivaswamy,  
FA&CAO/CN/MS

Copy of letter No. 64/W2/CT/28 of 23-12-66 from Jt. Director, Civil Engg.  
Railway Board New Delhi to the GMs/All Indian Railways etc.

Sub: Revision of Tender Form (first sheet) Annexure II (Page I)

-----

A question recently arose whether the acceptance letter for a tender can constitute a valid contract between the Railway and the Contractor, so that in the event of the Contractor failing to execute the contract agreement or to take up the work, penalty in terms of clause 62 of the General Conditions of Contract can be imposed on the Contractor for non fulfillment of the contract.

This was examined by the Board in consultation with the Ministry of Law and the considered view was that according to the tender documents now in use, it is only the earnest money of the contractor which can be forfeited in such cases. To overcome this difficulty, it has now been decided in consultation with the Ministry of Law, to revise the Tender form (First Sheet) - ANNEXURE II (Page I) of the Standard Regulations for Tenders and Contracts as indicated in the enclosure to this letter. The Board desire that this should be adopted in all future tenders.

The receipt of this letter may please be acknowledged.

## **ANNEXURE I (For Works Contracts)**

### **TENDER**

To  
THE PRESIDENT OF INDIA

Chief Engineer

Acting Through the Chief Engineer (Construction) Southern Railway  
Divisional Superintendent, Executive Engineer (Construction)

I/We.....have read the conditions of tender attached hereto and agree to abide by such conditions. I/We have perused the general conditions of contract and specifications for materials 19 of the Southern Railway and that I/We am/are fully aware that I/We will have to perform the contract if any, our tender is accepted subject to general conditions of contract aforesaid and also subject to any special conditions that have been attached in the tender documents.

I/We offer to do the works for "-----" "at the rates shown in the printed Basic Schedule of Rates 1976 for Senior D.E.N. I/D.E.N.II/city portion of----- Division as corrected by and upto Correction Slip No.-----of-----19-----At Par/ Enhanced / Diminished by-----per cent/in respect of Schedule `A' (Items covered by B.S.R.) and at the rates quoted by me/us in respect of schedules----- (Items not covered by B.S.R) and lump sum rates for the item given in schedules -----and hereby bind myself/ourselves to complete the work in-----months from the date of issue of letter of acceptance of the tender.

2. A sum of Rs.-----is herewith forwarded as earnest money in addition to the sum of Rs.-----as `Security deposit' mentioned above. The full value of the earnest money shall stand forfeited without prejudice to any other rights or remedies if:

- (a) I/We do not execute the contract documents within seven days after receipt of notice issued by the Railways that such documents are ready; or
- (b) I/We do not commence the work within ten days after receipt of orders to that effect.

3. Until a formal agreement is prepared and executed acceptance of this tender shall constitute a binding contract between us subject to modifications as may be mutually agreed to between us and indicated in the letter of acceptance of my/our offer for this work.

4. I/we also undertake to carry out the work in accordance with the said (plans) Specifications and General Conditions of Contract and to find and provide such of the materials (other than those to be supplied by the Railway) for, and to do all such things which in the opinion of the Engineer may be necessary for, or incidental to the construction, completion and maintenance thereof and to complete the whole of the said works in all respects, and hand them over to you or your representatives within the period specified; and to maintain the same for the period and in the manner provided in the Conditions of Contract.

Tenderer

Contractor's address

Tenderer(s)  
Signature of -----

Signature of witness-----

1 . . . . .

2 . . . . .

**ACCEPTANCE OF TENDER**

I accept the Tender and agree to pay the rates as per Basic Schedule of Rates 1976 . . . . . as corrected by and upto Correction Slip No. . . . . of . . . . . enhanced/ diminished by . . . . . per cent/at par in respect of Schedule 'A' and at the rates as entered in the Schedule . . . . . (Items not covered by B.S.R.) and lump rates for the item given in Schedule. . . . .

. . . . .  
Chief Engineer/Divisional Superintendent  
(Construction) on behalf of the  
PRESIDENT OF INDIA

Witness--  
(i) . . . . .  
(ii) . . . . .

Division . . . . .  
Date . . . . .



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.2000/CE.I/CT/42

New Delhi, dated 12.2.2001

Addressed to:

As per list attached.

Sub: Selling of tender documents for open tenders.

\*\*\*\*

In reference to above following clarification is issued in consultation with Finance and Vigilance Directorate of Railway Board.

'The tender documents in the case of open Tenders, are to be issued to all those prospective tenderer who deposit the fee for tender documents irrespective of whether an eligibility clause is prescribed or not. In-case, an eligibility clause is prescribed, it is for tender committee to evaluate whether the tenderer satisfies the prescribed eligibility clauses.'

This also disposes of the MTP(Railways), Mumbai letter No.MT/W/G/375/XI dated 28.9.2000.

(Pradeep Kumar)  
Exec. Director, Civil Engg(G)  
Railway Board

Copy to:

1. PPS/PSs to CRB, FC, ME, ML, MS, MM, MT. Secy.
2. AM/CE, AM(Works), AM(Projects), AM(Plg.), AM(Sig.).
3. EDCE(P), EDCE(B&S), EDTK(M), EDTK(MC), EDTK(P), EDW, EDLM, EDTR, EDFC, EDF(X), EDTT, ED(RE),

**MINISTRY OF RAILWAYS  
(RAILWAY BOARD)  
Railway Bhavan  
New Delhi**

No. 2001/V3/N/Misc./Tender

Dated: 23/6/2001

The Chief Administrative Officers/  
Chief Engineers,  
All Indian Railways.

Sub:- Issue of repeated corrigenda to original Tender Notice.

\*\*\*\*

It has come to the notice of Board's Office that the Construction Organisation of, one of the Zonal Railways has tendered the work of Bridge construction and issued as many as 9 Corrigenda in the Notice for inviting Tender (NIT) obviously to add or delete some items of the original tender notice. The matter has been viewed seriously in Board. To avoid such repeated corrections in the Tender Notice, it is advised that before issue of tender notice, complete preparation is to be insisted upon by senior executives. The preparation may include availability of detailed plans, & design details, completion of Tender documents etc. and its vetting by associated accounts of tender documents as & when required. Unless such items are attended to, the tender notice should not be sent for publication in the newspapers.

Sd/-  
Executive Director, Civil Engineering(G)  
Railway Board

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.2001/CE-I/CT/20.

New Delhi, the 17-8-2001.

The General Managers, All Zonal Railways.  
The GM(Construction), N.F. Railway, Maligaon, Guwahati.  
The CAOs(Construction), All Zonal Railways except N.F. Railway.

Sub: Delay in issue of tender papers and lengthy tender notices.

\*\*\*\*

Instances of delay in preparation and issuing of tender papers after publication of the tender notice in the newspapers etc. keep on coming in the notice of Board. In this regard, your attention is invited to Board's letter No.77/W-I/CT/40 dated 24-10-1977 and also reiterated through Board's letter No.93/CE-I/CT/85 dated 9-5-94 wherein it is stipulated that "the Railway should ensure availability of the tender document for sale immediately after the tender notices are published in the newspapers. In cases where tender notices are published much in advance, the date from which the documents would be available should be notified. The date since when tender documents should be made available for sale should not be less than 15 days prior to the due date of opening of tenders."

It is once again reiterated that the instructions contained in the above-said Board's in this regard should be followed strictly.

There are also cases when the tender inviting authority or his representative (*not*) issue the tender papers to some of the tenderers on the pretext that the particular tender(s) does/do not fulfill the eligibility criteria. For this, your attention is drawn to the clarification issued by the Board in this regard vide letter No.2000/CE-I/CT/42 dated 12.2.2001. It clearly states that "in case of open tender, it is the Tender Committee to evaluate whether the tenderer satisfies the prescribed eligibility clauses."

Further, it is also noted that tender notices appearing in the press are needlessly long. Unnecessary long tender notices, apart from causing loss of revenue to the Railway, also tend to lose the clarity of the subject. It is therefore essential that due care is exercised by the concerned authority who approves the notices for inviting tenders to ensure that the tender notices are crisp and clear, do not have unnecessary repetitions and ambiguity.

Receipt of this letter may please be acknowledged.

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.

Copy of Railway Board's letter No.85/W1/CT/9(P) dated 2-5-1985 to the General (Managers, All Indian Railways, including CLW, DLW, ICF and MTP (Railways) at Calcutta, Madras & Bombay.

Sub: Regulations for Tenders and Contracts for the guidance of Engineers and Contractors-Para No. 18-Revision of.

\*\*\*\*\*

With a view to having uniformity with the provisions contained in the Tender Forms (First sheet), Board have decided that the existing Para 18 of the Regulations for Tenders and Contracts for the guidance of Engineers and Contractors, dealing with execution of contract documents" may be replaced with the revised para as given in Annexure `A' enclosed.

Receipt of this letter may please be acknowledged.

: As above.

Sd/- Ashok Kumar,  
Addl. Director, Civil Engg. Rly. Board.

---

**ANNEXURE `A'**

**CONTRACT DOCUMENTS**

Execution of  
Contract  
documents.

The Tenderers whose tender is accepted shall be required to appear at the office of the General Manager, Chief Engineer, Regional Engineer, or Division/District Engineer, as the case may be in Person, or if a firm or corporation, duly authorized representative shall so appear, and to execute the contract documents within seven days after notice that the contract has been awarded to him. Failure to do so shall constitute a breach of the agreement effected by the acceptance of the tender in which case the full value of the earnest money accompanying the tender shall stand forfeited without prejudice to any other rights or remedies.

In the event of any tenderer whose tender is accepted shall refuse to execute the contract documents as herein before provided, the Railway may determine that such tenderer has abandoned the contract and thereupon his tender and the acceptance thereof shall be treated as cancelled and the Railway shall be entitled to forfeit the full amount of the earnest money and to recover the liquidated damages for such default.

## Southern Railway

Headquarters Office,  
Works Branch,  
Madras-3.

No.W.496/P/O

Dt : 15-9-89.

CAO/C/MS

Sub: 142nd Report of the PAC (1988-89) on metropolitan Transport  
Project, Calcutta- Delays in completion of projects.

-----

A copy of Railway Board's letter No. 85/WI/CT/7 dt. 11.8.89 advising Board's desire that continuity of key personnel at top levels should be maintained in project organisation in order to ensure continuous and close co-ordination with the concerned agencies and that period of execution of various projects should be fixed on a realistic basis after taking into account all the foreseeable factors which could lead to delays in completion is enclosed for information and necessary further action.

Receipt may please be acknowledged.

Encl: One

-----  
for Chief Engineer.

Copy with a copy of Railway Board's letter No. 85/WI/CT/7  
dt. 11.8.89 forwarded to:  
CE/CN/BNC, CAO/MTP/MS, CEE/RE/MS, FA&CAO/MAS,  
FA&CAO/CN/MS, FA&CAO/MTP/MS, FA&CAO/RE/MS  
DGM/G/MAS, CPO/MAS, CME/MAS, CEE/MAS, CSTE/MAS  
COS/PER, FA&CAO/WST/PER,  
DRMS/MAS PGT SBC TVC TPJ & MDU.

Encl: One

-----  
for Chief Engineer.

Copy of Railway Board's letter No.85/WI/CT/7 dt. 11.8.1989 from Shri Ashok Kumar, Exe-Director, Civil Engg (G), Railway Board, New Delhi addressed to the General Managers, All Indian Railways etc. etc.

.....

Sub: 142nd Report of the PAC(1988-89) on Metropolitan Transport Project, Calcutta-Delays in completion of projects.

-----

Public Accounts Committee, in para 3.58 of their 142nd Report on Metropolitan Transport Project Calcutta, have observed that extensions were granted by the Project Administration in a number of contracts because of factors such as delays in the shifting of underground utilities by the concerned local agencies resulting in non-availability of construction sites in time, shortage of cement, steel, power, etc. The PAC have pointed out that proper co-ordination with the concerned authorities should have been kept so that delays on account of such factors could have been kept to the minimum. For this purpose, continuity of key personnel at the top levels in the Project Organisations has been recommended by the PAC. It has also been recommended by them that the periods of execution of various contracts should be realistically fixed after taking into account all the foreseeable factors.

Board have accepted the above recommendations of the PAC and desire that continuity of key personnel at top levels should be maintained in Project Organisation in order to ensure continuous and close co-ordination with the concerned agencies in matters such as availability of construction sites and other basic inputs like cement, steel, power etc. Board further desire that period of execution for various projects should be fixed on a realistic basis after taking into account all the foreseeable factors which can lead to delays in the completion of these projects. In this connection reference is also invited to Board's letter No. 85/WI/CT/7 dated **20.1.87**, wherein it is mentioned that before calling tenders, the approval of an officer not below the rank of SA grade should be obtained who will satisfy himself about the reasonableness of the period provided for completion of the work. These directions must be rigidly adhered to.

Copy of letter No.61/W2/Ct/6 dt. 4.4.61 from the Govt. of India, Ministry of Railway, Railway Board, New Delhi to the GMs of All Indian Railways.

-----

Sub:- Executive instructions regarding calling for and acceptance of tenders and the general procedure to be observed in connection with contracts.

-----

A copy of letter No. Cont. 12(58)/57 dt. 2.8.60 from that Govt. of India, Ministry of Works, Housing & Supply of the Chief Engineer, C.P.W.D. is sent herewith for information and guidance. The Railway Board desire that similar procedure may be adopted on the Railways also.

---

Copy of the letter No. Cont. 12(58)/57 dt. 2nd Aug. 60 from Govt. of India, Ministry of Works, Housing & Supply, New Delhi to the Chief Engineer, Central P.W.D., New Delhi.

-----

Sub:- Executive instructions regarding the calling for acceptance of tenders and the general procedure to be observed in connection with contracts in C.P.W.D.

-----

With reference to the correspondence resting with your U.O.No.15(18)/57-CWAB dated 14th March 1960 and in supersession of all previous orders on the subject, the Government of India have decided that with a view to avoiding the possibility of the original tender documents being tampered with the following procedure should be adopted in connection with the receipt and opening of tenders and their acceptance:-

1. The Officer opening the tenders should invariably date and initial corrections in the schedule of quantities, schedule of materials to be issued and specification and other essential parts of contract documents.
2. The Officer concerned should mark all corrections and over writing and number them in red ink. In case of a number of corrections in any rate, either in word or in figures or in both, the number of corrections, marked should indicate the corrections serially, that is to say, in case of say three corrections in rates of any one item each of these three corrections should be allotted independent numbers serially and not one number to represent all the three corrections. In case of more than one correction where the correction is not legible the rate should be written afresh in the hand of the Officer opening the tenders.

3. The number of such corrections and over writings must be clearly mentioned at the end of the each page of the Schedule attached to the tender paper and properly attested with date. Any omission observed should also be brought out clearly on each page of the schedule.

4. The corrections and over writings should be allotted separate numbers i.e. corrections should start from 1, 2, 3 etc., and over writings should similarly start separately from 1, 2, 3 etc.

5. Any ambiguities in rates quoted by tenderers, in words or figures must be clearly indicated on each page of the schedule attached to the tender to which it concerns.

----



Copy of Railway Board's letter No. 87-BC-SC/14., dt.27/10/ 9.11.89., from Shri S.V.Salekar, Executive Director(Works) Railway Board, New Delhi. addressed to The General Managers, All Indian Railways.

-----

Vide Para 4.6 of comptroller & Auditor General's report on the Railways for the year 1986-87, it has been brought out that additional facilities were planned on a Meter Gauge station of a Railway in connection with a demand for a private siding to serve a Paper Mill Industry. Subsequently, the Paper Mills dropped their demand for the siding, but the Railway went ahead with the work for providing the facilities and incurred expenditure on earthwork and bridges. Later, the facilities proposed were justified on normal traffic considerations and crossing of trains. The initial estimate for inward and outward traffic for the Paper Mills did not materialize as movement on Metre Gauge involved transshipment. Even on adjoining BG station where traffic was handled, the level was much lower than anticipated.

In this connection, it is reiterated that proposals for additional facilities to handle traffic for industries should be framed only after a careful assessment. The operational facilities required to serve private sidings should be planned only after a firm commitment in the form of a deposit to meet the cost of the siding has been made by the party so that there is no chance to their withdrawing from the demand later.

Kindly acknowledge receipt.

Copy of Railway Board's letter No.89/W2/CAG/S/3 of 29.3.90 to The General Managers, All Indian Railways and others.

-----

Sub: C&AGI's Report for 1987-88 Corrective/Remedial action thereon.

-----

The Controller and Auditor General of India Vide para 3.35 of his report for the year 1987-88, has brought out that on a certain Railway, the work of providing traffic facilities at a station was continued in spite of the fact that due to rationalization, the justification for this work had ceased to exist. Although, the decision to rationalize the streams of traffic on the Railway had been taken sometime in 1980, the work for providing the traffic facilities, was allowed to continue beyond this date. The contract for work was awarded and even extensions were sanctioned. Finally, after a period of about 2 years, the work was abandoned. This has resulted in an infructuous expenditure.

2. To avoid recurrence of cases of the above type, it is necessary that a close co-ordination is maintained between the Engineering Department and Operating Department before commencing works on traffic facilities to take into account any new development that might have taken place in the meanwhile. Such reviews could be done periodically to enable appropriate action being taken on works for all traffic facilities being carried out on the Railways.

Please acknowledge receipt.

Sd/-  
(S.V. Salekar)  
Executive Director, Works  
Railway Board.

/copy/

Copy of Railway Board letter No. 85/W1/CT/9 dated 22.2.1985, New Delhi addressed to The General Managers, All Indian Railways and copy to The FA & CAOs, All Indian Railways.

-----  
Sub:- Contract Management on Railways (Works contracts)- Para 15 of the Advance Report of the C&AG of India for the year 1982-83.  
-----

It has been brought to the notice of the Railway Board by the Audit that there have been several cases where due to not finalising the designs and plans for works or not determining the reasonable quantities to be executed prior to calling of tenders, the character and scope of the work had subsequently undergone substantial changes, resulting in undue delays, prolongation of work or abandonment/termination of the contract etc. with consequent escalation and increase in the cost of assets to be created.

In this connection, your attention is invited to the accepted recommendation Nos. 2 and 3 of the report of the Study Team on Elimination of lacuna and Improvement in procedure 'Construction and supplies' communicated vide Railway Board letter No. 65/Vig/I/1/102 dated 19.3.71 (relevant extracts enclosed as Annexure). These instructions enjoin that detailed drawings and estimates should be available with the Executive and that adequate field data should be collected in time and as accurately as possible for the preparation of drawings and plans. For bridge works and accommodation works such as level crossings, road over bridges etc. a close liaison should also be maintained with the concerned local authorities so that there is no cause for subsequent changes which may enhance the cost of the project substantially.

Your attention is also invited to Board's letter No. 72/W1/CT/43 dated [21.9.1972](#) where in instructions were issued to avoid situations like delay in furnishing detailed drawings to the contractor to avoid consequent delays in the execution of the work or abandonment or termination of contracts necessitating calling of fresh tenders for completing the work at higher cost etc. The Board had therefore, desired that the Railway Administration should foresee all such delays to the extent possible and decide calling of tenders only when they are fully prepared to hand over the sites and supply the plans etc.

The need to follow the aforesaid guidelines cannot be over- emphasized. The Board desires that every effort should be made to finalize designs and drawings before calling tenders so that radical changes in the scope of the work in execution remain few and far between.

Please acknowledge receipt.

Sd\  
Director works,  
Railway Board.

**RECOMMENDATIONS NO. 2 & 3 OF THE REPORT OF THE STUDY TEAM ON  
ELIMINATION OF LACUNAE AND IMPROVEMENT IN PROCEDURE  
"CONSTRUCTION & SUPPLIES".**

-----  
Recommendation  
No. 2

"Planning of works and stores:- It is a salutary principle to follow that detailed drawings and detailed estimates should be available with the Executive before tenders are called for the work".

Recommendation  
No. 3

"Adequate field data for the preparation of plans should be collected in time and as Accurately as possible. In the case of Bridge work, Accommodation works, such as provision of level crossings, road over-bridges and diversion of existing roads, a close liaison should be maintained with the Municipal/Civil Authorities etc., so that there is no cause for subsequent changes which may increase the cost of the project enormously and also enhance considerably the values of the contracts entered into".

-----  
FA & CAO'S Office,  
Madras -600 003,  
No.W.496/FO/Vol.13.

Dated: 4.3.1985.

Copy forwarded to: FA & CAC/CN/MS(with 5 spare);  
Sr.DAOs/MAS, SEC, TPJ, MYS  
DAOs/MDU, PGT, TVC & AAO/XC/MAS : AAO/SW(2  
copies  
DY.FA&CAO/SW/PEE(with 4 spare)  
DY.CAO/G, T for information.

for F.A. & C.A.O.

**Government of India (Bharat Sarkar)**  
**Ministry of Railways (Rail Mantralaya)**  
**(Railway Board)**

No.30/W2/3/33 New Delhi

29.8.1980.

The General Managers,  
All Indian Railways  
(including CLW, DLW and ICF)

D.G., RDSO,  
Lucknow.

Sub: Invitation of tenders before finalising the site plans.

-----

An instance has come to the notice of the Railway Board where a zonal Railway invited tenders and awarded contract for a station building before completing the following the necessary preliminaries/ formalities.

1. Approval of site and detailed plans by competent authority.
2. Though the building was in Tarai area, soil tests for safe bearing capacity were not conducted to determine the type of foundation that would be suitable for the local soil condition which were poor.

2. Due to these deviations from normal rules and practice there was considerable delay in the execution and complete the work by the Contractor. This was adversely commented upon by the Audit in view of the claims the Railway had to face from the Contractor.

3. Instructions have been issued by the Board from time to time enjoining upon the Railways to take up works for execution only after site investigations have been completed, detailed drawings and plans have been approved and detailed estimate/urgency certificate sanctioned by the competent authority. Attention is also invited to para 1002 of the Indian Railways Code for the Engineering Department as also to Board's letter No.72/WI/CT/43 dated [21.9.1972](#) (copy enclosed). Board desire to reiterate that contracts for works should not be awarded unless soil test, site investigation have been completed, all plans, drawings and estimates duly approved/sanctioned by competent authority and that there is no hitch in handing over the site to the contractor. Board desire that suitable instructions may be issued to all concerned.

Please acknowledge receipt.

DA: As above

(J.K. KAUL)  
Addl. Director, Civil Engg.  
Railway Board

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAY  
(RAILWAY BOARD)**

Rail Bhavan, Raisina Road  
New Delhi - 110001  
dated 13th Feb. 1991

CE-I/CT/1

Addressed: As per list attached.

Sub: Availability of Tender Boxes.

-----  
Cases have been reported where snatching of tender papers and intimidation of tenderer has taken place by some unsocial elements when the tender papers were to be deposited on the last date of receipt of tenders. "Clause 12 of Conditions of "Tenders" provides for depositing the tenders in the special boxes allotted for the purpose.

Para No.1239(iv) of Engg. Code provides that Railways shall give at least one month's time for submission of tenders and also state the place where the tenders are to be submitted. In order to over-come the problems created by the activities of such unsocial elements as stated above, it is desired that boxes should be provided well in advance and in any case at least ten days before the last date of receipt of the tenders so that tenderers feel free to deposit the tenders at their convenience rather than facing intimidation of unsocial element on the last date of receipt of tenders. Needless to say that safe custody of the tender boxes during all this period is to be ensured.

Please confirm the receipt of this letter.

(S.M. Singla)  
Exec. Director, Civil Engg. (G)  
Railway Board.

New Delhi, dated 13.2.1991

ADAI/Railways, New Delhi (with 40 spares) for  
information.

(S.M. Singla)  
Exec. Director, Civil Engg.(G)  
Railway Board.

**Government of India (Bharat Sarkar)**  
**Ministry of Railways (Rail Mantralaya)**  
**(Railway Board)**

No.90/CE-I/CT/1

New Delhi, the 28-10-98.

The General Manager,  
North Eastern Railway,  
GORAKHPUR.

Reg: Facilitating submission of tender.

-----

In some cases it has been observed that some anti-social elements obstruct the tenderers in dropping the tenders in the tender box at nominated place. Enquiries have been made with various Railways and it has been ascertained that on Northeast Frontier Railway and in some cases even on Eastern Railway, under such circumstances a methodology has been adopted whereby tender boxes are kept at more than one place. In case a tender is to be dropped in the Division/Construction Division, the tender box is also kept at Headquarters in Open Line/Construction. The sealed tender boxes are then carried under escort at the location where tender opening is scheduled. This arrangement involves delay of one day in the tender opening and submission of tender. But this has not posed any problem on these Railways. Therefore, it is recommended that this practice may be adopted wherever such problem are being faced on your Railway.

This has the approval of Board (M.E.).

(V.K. Bahmani)  
Executive Director Civil Engg. (G)  
Railway Board .

Copy for information to :-

- (1) The General Managers, all Indian Railways  
except N.E. Railway.
- (2) AM (Vig.)/Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

/CE-I/CT/I.

New Delhi dated 25.10.2002.

The CAO(Construction),  
E.C.R.,  
Hajipur.

Sub: Mafia problem in works tenders.

-----

It has come to notice of the Board that there is serious mafia problem in tenders in some of the areas of ECR. This evil do exist to some extent in other parts of Indian Railways so. Hon'ble M.R. has drawn attention towards this menace and showed his concern to handle this effectively. Board from time to time have issued various instructions directly or indirectly which could be quite effective if implemented suitably. These are :-

- 1) Receiving the tender papers at more than one place and then bringing the tender boxes at a pre-assigned place for opening. (Board's letter No.90/CE-I/CT/1 dated [28-10-1998](#)).
- 2) Alternatively, the tenders may be opened simultaneously at more than one place. However, this needs meticulous planning and monitoring to ensure opening of the tenders at the pre-assigned time simultaneously.
- 3) Placing the tender papers on a website (internet). Instructions issued by vide ESO No. 29/10/5 issued vide Board's letter No.2002/CE-I/CT/5 dated 29.7.2002 may please be connected.
- 4) Receiving the tender papers through post/courier etc.
- 5) Preparation of tender papers well in advance, at least 15 days, before the due date of opening of tender. (Board's letter No. 93/CE-I/CT/85 dated [9.5.1994](#)).
- 6) Black-listing/de-listing of such contractors who have been found indulging in the mal-practices or whose performance has not been satisfactory. In this connection, instructions issued recently on "Appointment of Works Contractors" based on recommendation of a Committee headed by Shri Sudhir Chandra and etel vide Board's letter No.94/CE-I/CT/4 dated [17-10-2002](#) may also be connected.

It is desired that the above instructions may be followed judiciously to safeguard against such an eventuality.

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.



**Policy letter No. RB/CE/13/2003**

**GOVERNMENT OF INDIA(BHARAT SARKAR)  
MINISTRY OF RAILWAYS(RAIL MANTRALAYA)  
(RAILWAY BOARD)**

No.2002/CE-I/CT/38/Policy

New Delhi, the 16-11-2003

The General Manager(s)  
All Indian Railways and others  
(as per list attached)

Sub: Report on Mafia problems in a Works Contracts  
-----

Board vide their letter No. ERB-I/2002/23/67 dated 12-12-2002 appointed a Committee consisting of CAO(Con.), ECR, EDF(X)-I and EDCE(G) to go into the problems of mafia in Works Contracts and to make suggestions for overcoming/mitigating these problems.

A copy of the recommendations is enclosed herewith for your information and necessary action please. Board have already issued instructions for item(i) to ECR for implementing complete e-tendering for Five (5)Tenders on an experimental basis. After obtaining results from ECR, further instructions shall be issued to other Railways. Similarly recommendation no.(v) is being examined in Board's office and further instructions to zonal railways will follow. Meanwhile, Railways may take action on items (ii), (iii), (iv) & (vi) forthwith.

This issues with the concurrence of Finance Directorate of the Board.

The receipt the letter may please be acknowledged.

Encl: as above

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.

Recommendation of the Committee on Mafia Interference in Works Contracts.

Based on the above deliberations, the Committee makes the following recommendations :-

- (i) To go in for complete e-tendering immediately. To begin with, the system can be adopted on experimental basis in one or two Railways. This will eliminate Mafia interference completely at the first stage i.e. tendering process.
- (ii) To go for high value tenders, say in the range of Rs.40 crores for which Railway Board have already delegated the powers to GMs.
- (iii) In the areas which are severely affected by Mafia activities, the tendering process can be centralized and can even be done in the Headquarters of other Zonal Railways where there is no threat perception of Mafia elements or is almost minimal, as is being done by NHAI.
- (iv) In the areas where there is acute problem of Mafia at execution stage also, police protection through RPSF/State Governments would be necessary. If necessary, provision of funds in the project estimates for security purpose can be made.
- (v) Railway Protection Force (RPF) be given civil police powers to deal with Mafia elements interfering in Railway works based on the specific complaints.
- (vi) Intending contractors should be encouraged to avoid dropping of tender on the last day.

Sd/  
(Shyam Kumar)  
CAO(C)  
East Central  
Railway.

Sd/  
(Parmod Kumar)  
EDCE(G)  
Railway Board

Sd/  
(Sudhir Mathur)  
EDF(X)  
Railway Board

**Government of India  
Ministry of Railways  
(Railway Board)**

No.99/RS(G)/779/2

New Delhi, dated: 7.12.2004

General Managers,  
All Indian Railways & Pus.  
Metro Railway, Kolkata.  
Rly. Electrification, Allahabad.  
The General Manager (Const.), N.F. Railway, Guwahati.  
CAO/Diesel Loco Modernisation Works, Patiala.  
CAO,COFMOW, Rly. Offices Complex, Tilak Bridge, New Delhi.  
CAO/MTP, Mumbai, Chennai, Kolkata & Delhi.  
The Managing Director, Mumbai Rail Vikas Corporation,  
2<sup>nd</sup> Floor, Churchgate Station Building, Mumbai- 400 020.  
The Managing Director, Konkan Railway Corpn. Ltd., Raigad Bhawan, 8th Floor,  
Sector-11, CBD, Belapur, Navi Mumbai-400614.  
The Director General, RDSO, Lucknow.

Sub:- Procedure for Tender opening

-----

Instances of not complying with the stipulated guidelines while opening the Tenders by the Railways have come to the notice of Railway Board. In one such case, it has been found that in one of the Railway organization while opening tenders, a correction in the basic price with white fluid was neither initialled nor correction recorded by the tender opening officials at the time of tender opening.

As per the instructions contained in sub para V of Board's letter No.78/RS(G)/779/5 dated 30.3.78 all corrections in the quotations should be noted, recorded and initialled by the tender opening clerk, stores and accounts representatives. The number of corrections should be noted in the tender at the bottom.

Strict compliance of the above instructions may please be ensured so that such lapses are not repeated in the future. A copy of Board's letter No.78/RS(G)/779/5 dated [30.3.78](#) is enclosed for ready reference.

(P.S. Meena)  
Dy. Director, Rly. Stores(G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.78/RS(G)77/ 9/5

New Delhi, dated 30<sup>th</sup> March, 1978

The General Manager(S)  
All Indian Railways and Production Units and M.T.P (Calcutta).

Sub: Procedure for tender opening—Discussions in the C.O.S.  
Conference held on 13<sup>th</sup> and 14<sup>th</sup> September 1977.

---

The procedure adopted on Railways is regard to opening the bulletin/limited tenders the estimated value of which is below Rs 50,000. before consideration was discussed in detail in the last C.O.Ss conference held in September 1977 Para 11.8.0 of the minutes of the meeting circulated under letter No.77/RS(G)/509/4 dated 18<sup>th</sup> October 1977 and Board's letter No.68/RS(G)/779/29 dated 26<sup>th</sup> September 1968 and 78/RS(G)/779/4 dated 27<sup>th</sup> January 1975 are relevant. Based on the conclusions arrived at in the meeting, Ministry of Railways have decided that the following procedure should be adopted uniformly by all Railways and Production Units.

- (1) Opening of the tenders at the prescribed time should be done in the presence of Accounts and Stores Representatives
- (2) Immediately after opening, the tenders should be machine numbered with four digit number and date stamped. This number may start from unit every day. The tenders should be initialed and dated by the Stores and Accounts Representatives, who would also certify the number of tenders opened each day. If a cover opened contained forward tenders, these should be put in separate envelope sealed/cover initialed by Accounts/Stores Representatives and redropped into the box. Late tenders, if any, will be also machine numbered and accounted separately in the register showing the serial number.
- (3) The rates as quoted should be circled. Where the rates are not quoted in 'words' the same should be written in 'words', Circled and initialled. Where more than one offer is received against the tender, the number of offers should be indicated on the top and initialled.
- (4) The clause involving financial implications viz., sales Tax, Duties, Discounts etc, wherever separately mentioned in the quotation should be circled.
- (5) All corrections in the quotations should be noted, recorded and initialled by the tender opening clerk, stores and Accounts Representatives. The number of corrections should also be noted in the tender at the bottom.
- (6) After the above steps are completed the tenders should be sorted according to the cases. The total number of tenders received and placed on cases for the day should be counted, tallied and accounted.

(7) The tenders should be arranged in each case in the ascending order of rates generally and marked 1/9 and 2/9 3/9 etc., where 9 tenders are received and similarly in other cases. The tenders will again be machine numbered case wise with a 6 digit number and the specify of tenders placed in each case indicated on the flap with other relevant details such as corrections etc.

(8) The case duly completed as above should be handed over to the purchase officers, concerned as far as possible on the same day in the evening. The number of tenders as per the four digit machine number should be reconciled with the 6 digit number machine number everyday.

(9) A late tender should be also be sent to purchase section for promptly putting them up on the case so that the purchase officer is aware of such late offers for further necessary action.

(10) Reference of the tender cases to the consuming department should be reduced to the minimum and where such a reference is made a proper record of these cases should be maintained and the cases should be sent in sealed covers addressed by name to the officers concerned.

(11) In all references to other departments the validity of the offer should be boldly indicated in the note and the Department should be requested for furnish their comments expeditiously. The officer to whom they are referred should be reminded as frequently as necessary till their receipt.

(12) A confidential tender processing section with nominated staff of each purchase section should be organized who should deal with tender cases completely till final acceptance by the purchase officer and then only pass on the case to the purchase Section for further processing. This section should be responsible for speedy finalisation and furnishing of statistical information on tenders to purchase officers.

(13) In the case of limited tenders estimated value over Rs. 50,000 the case should be processed similar to an open tender.

Sd/-  
(S.B.J. RAJIAH)  
Director, Railway Stores,  
Railway Board.

# III. TENDERS

## C. APPROVED LIST OF CONTRACTORS

S. No	Subject in Brief	Letter Date
1	Revised Standardised Code for Registration Suspension Removal of and Banning of Business etc with Building Contractors	22/08/77
2	Automatic Re-Registration of Contractors as Approved Contractors at the End of the Ban Period	29/02/88
3	Banning Business Dealing with Contractors/ Suppliers' ( in Reply to CGE's Letter Dated 13.9.02 )	21.10.02
4	Banning of Business with wife of Railway Employee Living in Railway Premises	.05.00 19.6.00
5	List of Approved Contractors in the Railways	06/01/91
6	Limited Tender and Registration of Contractors	17/11/92
7	Approved List of Contractors	30/04/93
8	Approved List of Contractors Additions and Deletions of Names	16/12/93
9	Approved List of Contractors Constitution by Senior Scale Due to Non Availability of JA Grade Post	21/01/94
10	Approved List of Contractors	17.09.97
11	Procedure for inviting and Awarding Works Contracts	17.09.97
12	Processing of Tenders	17.01.01

Copy of letter received from Railway Board No. 77/Vig.I/ Banning/Works/2 dated 22-8-1977 (SECRET)

Sub: Revised Standardised Code for Registration Suspension, removal of and banning of business etc. with building contractors.

-----

Keeping in view the recent Supreme Court Judgement, has having bearing on the Standardized Code, the Ministry of Work & Housing has since revised the Standardised Code for registration, suspension, removal of and banning of business etc. With building contractors. A copy of the Revised Code along with explanatory notes and administrative instructions of the Ministry of Railways thereon (ANNEXURE) are enclosed herewith for information and guidance. In order to have uniformity in similar situations, two proforma (Form I & II) for the Memorandum for the show cause notice have also been prepared and enclosed herewith.

Board desire that the instructions contained in the Revised Code should however be followed by all the Railways/Production units, etc. under the Ministry of Railways. No reference to the revised Code shall be made in any circumstances in any communication to any party outside the Government of India in any pleading or affidavit filed in a Court.

Kindly acknowledged receipt.

DA As above.

Sd/-  
DEVINDER SINGH  
Joint Director, Vigilance (E)  
Railway Board

Copy of Ministry of Work & Housing letter No. 77/Vig.I/Banning/ Works/2 dated 20-9-1976.

**OFFICE MEMORANDUM**

Sub: Standardised Code for registration, suspension, removal of  
and banning of business etc. with building contractors.

-----

The undersigned is directed to say that keeping in view the recent Supreme Court judgment having bearing on the Standardised Code a revised Code has since been prepared in place of the one circulated vide this Ministry's O.M. No.13011/3/68-W dt. 23-4-68 and a copy thereof is enclosed for information and guidance.

2. In the Standardized Code no proforma of the show cause notice has been prescribed. In order to have uniformity in similar situation as to how they should act while initiating any action for removal from registration/suspension/banning of business etc. with the contractors provided under clauses 6.1. and 7.5 of the Code certain guidelines have been prescribed. These may please be seen in Appendix I of the Code.

3. It is requested that this Code may now be followed by all Ministries/ Department of the Government of India.

4. The Receipt of this letter may please be acknowledge.

Sd/-  
R.L. Ahlawalla



# **STANDARDIZED CODE FOR REGISTRATION, DEMOTION, REMOVAL, SUSPENSION OF BUSINESS & BANNING OF BUSINESS ETC. OF BUILDING CONTRACTORS.**

## **1. STANDARDIZED CODE FOR BUILDING CONTRACTORS**

1.1 This Code is for dealing with building contractors. All Ministries, Departments and offices of the Central Govt. shall follow this Code and shall not maintain any separate code of their own. This code enunciates the broad guiding principles governing registration, promotion, demotion, removal, suspension of business and banning of business of contractors.

1.2. No reference to this code shall be made in any circumstances in any communication to any party outside the Govt. of in any pleading or affidavit filed in a Court.

## **2. REGISTRATION**

2.1 Every Engineering Dept. which is required to undertake construction work, should maintain lists of approved contractors of various categories and classes, and normally works for execution should be entrusted to contractors on approved lists only. For this purpose, every Engineering Deptt. should have a system of registration of contractors of different categories and classes based on the financial resources, technical capability past performance, and dependability of each contractor.

2.2 It is also desirable that lists of registered contractors in different categories and classes should be periodically reviewed by registering authorities for weeding out from the approved lists such contractors as have not secured any work during a period of three consecutive years.

## **3. DEMOTION TO A LOWER CLASS**

The registering authority may demote a contractor to a lower class if he:-

- i) fails to execute a contract or executes it unsatisfactorily or is proved to be responsible for constructional defects, or
- ii) has no longer adequate equipment, technical personnel or financial resources  
or
- iii) Litigious by nature
- iv) violates any important conditions of contract, or
- v) is responsible for a conduct which may justify his demotion to a lower class.

#### **4. SUSPENSION OF BUSINESS**

4.1 Suspension of business with a contractor may be ordered by the registering authority for an indefinite period where, pending full inquiry into the allegations, the registering authority is prima facie of the view that the contractor is guilty of an offence in relation to business dealings which established would result in his removal/banning business and it is not considered desirable to entrust new or continue business with the contractor.

4.2. Where a contractor is suspected to be disloyal to the State, the Ministry of Home Affairs may, pending investigation into the allegations, require Govt. departments to suspend business with the contractor for an indefinite period. In such a case, the registering authority will issue orders to suspend business with the contractor in so far as it is feasible under the existing terms and conditions of the contract.

4.3 Suspension of business with a contractor for a specified period may be ordered by the registering authority when the contractor is responsible for some minor technical offence(s) or when he fails to furnish the required Income-tax Clearance Certificate. In such a case, the fact of suspension should be communicated to the contractor giving reasons for the same. This action need not be communicated to Ministry of Works, Housing & Supply and other Ministries.

#### **5. REMOVAL FROM THE APPROVED LIST**

The registering authority may remove the name of a contractor from the approved list of the contractor:

- a) has, on more than one occasion, failed to execute a contract or has executed it unsatisfactorily; or
- b) is proved to be responsible for constructional defects in a number of cases; or
- c) persistently violates any important conditions of the contract; or
- d) fails to abide by the conditions of registration or is found to have given false particulars at the time of registration; or
- e) is found to have given false information at the time of registration; or
- f) is declared or is in the process of being declared bankrupt, insolvent, wound up, dissolved or partitioned; or
- g) persistently violates the labor regulations and rules.

6.1 The decision regarding removal from registration/suspension of business/ removal from approved list taken after the issue of a Show Cause Notice and consideration of representation, if any, in reply thereto should be communicated to the firm concerned. (Kindly see Appendix I).

6.2 Copies of the orders of demotion/suspension of business/removal from the approved list, with a memorandum of reasons therefor shall be sent by the concerned Department, through its administrative Ministry, to the other Ministries responsible for major construction works for such action as they may deem necessary.

6.3 In respect of a contractor registered for various category of works viz. Building and Roads, furniture, electrical, sanitary and water supply, orders regarding removal would apply only to one category unless otherwise specified.

6.4 The Ministries of Defence Railways Works & Housing Irrigation on & Power, Shipping & Transport, Information and Broadcasting are the Ministries concerned with major construction works.

## **7. BANNING**

7.1 Banning of business dealings with a firm/contractor shall be of two types:-

- i) Banning by one Ministry including its attached and subordinate offices.
- ii) Banning by all Ministries of the Govt. of India including their attached and subordinate offices.

7.2 The Head of the Deptt., may do business with a firm/contractor where an offence is not considered serious enough to merit a banning order of the second types, but at the same time, an order removing the name of the contractor from the approved list of contractors is not considered adequate. It shall not be circulated to other Ministries/Departments but shall cover all the attached/subordinate offices of the Ministry issuing the order. It shall be extended to the allied firms and partners also. No contract of any kind whatsoever shall be placed with a banned firm including its allied firms or partners by the Ministry/Department issuing the order and its attached and subordinate offices after the issue of a banning order.

### **7.3 BANNING BY ALL MINISTRIES:**

An order of the second type for banning business dealings with a contractor implies that all Ministries/Departments/ Offices of the Govt. of India are forbidden from dealing with that contractor. Banning of this and revocation thereon Housing. It shall be extended to all its allied firms and partners, and the banning order should specify the names of such allied firms and partners. No contract of any kind whatsoever shall be placed with a banned firm including its allied firms by any Ministry/Department/Office of the Govt. of India after the issue of a banning order.

#### **7.4 Banning of business by all Ministries may be ordered where:-**

a) there are sufficient and strong evidence on record to believe that the contractor or his employee has been guilty of malpractice(s) such as bribery, corruption, fraud including substitution and interpolation in tenders, preferring or unauthorized use of disposal of Govt. materials x issued for a specific work, obtaining income-tax clearance certificate by underhand means, obtaining official information or copies of official documents by adopting questionable methods etc., or

b) a contractor continuously refuses to pay Government dues without showing adequate reasons and where the Head of Deptt. IS SATISFIED, that no reasonable dispute attracting reference to arbitration or court of law, exist for the contractor's action; or

c) a contractor or his partner or his representative has been convicted by a court of law for offences involving moral turpitude in relation to business dealings: or

d) security considerations including suspected disloyalty to the state so warrant.

7.5 The decision regarding removal from registration/suspension banning of business dealings taken after the issue of a Show Cause Notice and consideration of representation, if any, in reply there should be communicated to the firm concerned, but reasons may not be disclosed in such communication (kindly see Appendix).

7.6 Fifty copies of such orders together with reasons for the action taken as also names of partners and list of allied concerned coming within the effective influence of the contractor, will be forwarded by the administrative Ministry concerned to the Ministry of Works Housing and Supply for transmission to the other Ministries of Central Government responsible for major construction works and to State Govt. who will issue necessary instructions to the departments under their control for immediate cessation of all future business with the contractor.

7.7 Action for banning business with a contractor should be taken only where it is established that the offence was committed in order to secure advantage to the contractor and not where the object may be to secure advantage to any employee or representative of the contractor personally.

7.8 Care should be taken to see that the banned contractor does not transact business with Government under a different name or title or through a benamdar.

7.9 Once the banning orders are issued they should ordinarily not be revoked unless:-

(a) on a review, the administrative Ministry concerned is of the opinion that the punishment already undergone is adequate in the circumstances of the case; or

(b) in respect of the same offence the accused has been honourably acquitted by a Court of Law.

## **8. MAINTAINS OF UPTO DATE LIST:-**

The Engineer-in-Chief General PWD shall be responsible for keeping an updated list of contractors with whom business has been banned and circulates the list periodically to all the Ministries of the Govt. of India concerned. The Engineer-in-Chief, C.P.W.D. will also circulate every quarter a list of additions and revocations during the previous quarter.

**9. RESTORATION:-** Upgrading a demoted contractor, lifting the ban on business, restoring registration, withdrawal of business may be considered at an appropriate time on the merits of each case by the authority who had passed the original orders. Copies of restoration orders should also be furnished by the administrative Ministry concerned to the Ministry of Works & Housing.

\*\*\*\*\*

**THE GUIDELINES ABOUT THE CONTENTS AND PROCEDURE  
TO SHOW CAUSE NOTICE REFERRED TO IN CLAUSE 6.1  
AND 7.5 OF THE STANDARDISED CODE.**

---

(a) Which Officer should give the show cause notice	The registering authority is competent to issue show cause notice.
(b) Period of notice	The period of notice should be 30 days
(c) Manner of service	Notice should be served by Registered post.
(d) Persons to be served with the	Notice to be served on notice the contractor concerned.
(e) Brief ground for giving the show cause notice	Be indicated enumerating instances of bad workmanship and other specific allegations for action proposed.
(f) Manner of considering the reply.	The registering authority should consider the replies and take decision in consultation with the authorities mentioned in the code.
(g) How and to what extent decision is to be communicated	The decision be the communicated indicated to the concerned party by the registering authority by Registered A.D.

---

**SECRET**

Explanatory Notes and administrative instruction of the Ministry of Railways on the Revised Standardised Code for registration, suspension, removal of and banning of business etc. with building contractors, circulated vide Ministry of Works & Housing O.M. No. 13011/1/72-W.4 dated 20-9-1976.

The salient features of this Code are as under:-

### **1.1 Registration:-**

Every Engineering Department should maintain a list of approved contractors to whom the works should normally be entrusted and these lists should be reviewed periodically to weed out those who have not secured works for three consecutive years.

1.2 Demotion to lower class/suspension of business/removal from the approved list.

1.2.1 The registering authority can demote a Contractor to a lower class suspend business with a Contractor for an indefinite period pending full inquiry into the allegations or remove from the approved list, a contractor, who has failed to execute a contract or executed unsatisfactorily, mis-conducted himself, violates any important condition of contract, is litigious by nature, persistently violates the Labour Regulations and rules etc., provided such action is taken (except in case of demotion to a lower class for which no show cause notice is indicated in the code) after serving upon the contractor/firm is a show cause notice and after considering the representation of the contractor/firm thereof.

### **1.3 Banning:-**

1-3.1 Banning of business dealings with a firm/contractor so far the Ministry of Railways including its attached and subordinate offices is concerned it can be done only by this Ministry. If the banning of business is to be extended to all Ministries/Departments, prior approval of the Ministry of Works Housing & Supply is necessary.

1.3.2 However, before banning order is issued by the Ministry procedure as indicated in para 1.2.1 is to be followed.

1.3.3 Banning of business with a contractor by all Ministries may be ordered where there are sufficient and strong evidence record to believe that the contractor/firm or his employee has been guilty of malpractice(s), such as bribery, corruption, fraud, pilfering or unauthorised use or disposal of Govt. Materials issued for a specific work etc. Action for banning business should be taken only where it is established that the offence was committed in order to secure advantage to the contractor and not where the object may be to source advantage to any employee or representative of the contractor personally.

### **1.4 Suspension as a prelude to banning:**

1.4.1 Wherever banning is contemplated, the registering authority may suspend business dealings with the firm as a pre to banning after following the procedure as indicated in para .1.2.1.

## **1.5 Communication to the firm**

1.5.1 The decision regarding removal from Registration/suspension of business/banning of business dealings taken after the issue of a show cause notice and considering the representation if any, in reply thereto, should be communicated to the firm concerned, but reasons may not be disclosed in such communications. However, the fact that the representation has been considered should invariably be mentioned in the communication.

1.5.2 A reasonable time of 30 days for representation should be given. If no reply is received, the decision may be taken exparte. However, the fact that no reply was received to the show cause notice, should invariably be indicated in the final communication to the firm.

2.0 Procedure to be followed by the Railways/Production Units etc.

### **2.1 For demotion to lower class/suspension/removal from approved list.**

2.1.1 As demotion to lower class, removal from the approved list or suspension of business is within the competence of the registering authority, the action shall be taken by the Rlys. Production Units, etc. at their level, provided such action is taken (except in case of demotion to a lower class) after serving upon the contractor/firm a show cause notice and after considering the representation, if any, submitted by the contractor/firm thereto. Vigilance should initiate the proposal for action by the concerned administrative (registering authority of the railway/ production units etc. The communication to the firm shall, however, be addressed by the registering authority.

2.1.2 Copies of the orders of demotion/suspension of business removal from the list, with a memorandum of reasons therefore shall be sent by the concerned Department to its Subordinate Units and other contiguous railways/units.

2.1.3 For the purpose of this Code the powers of the registering authority as referred to above shall be exercised by the Chief Engineer (Open line) for Open line contractors and Chief Engineer (Construction) for the Const. Contractors on the Railways and in the production and other units by HOD concerned/nominated.

### **2.2 For Banning of business with a contractor/firm**

2.2.1 All cases of banning of business with building contractors will be dealt with by the Ministry of Railways. The Railways Production units, etc. therefore, should send their proposals with a self-contained note which should also contain particulars of all the partners and allied firms, including their addressed a draft show cause notice in form No. II with a statement of charge(s)/Mis-conduct, to the Secretary (Vigilance) Railway Board, through their vigilance branch for further action. The communications to and from the contractor/firm shall, however, be routed through the railway concerned.

2.2.2 Banning order when issued shall be applicable to all railways/production units under Ministry of Railways to whom copies of the orders shall be sent.



2.2.3 For banning business by all Ministries with a contractor/firm the same procedure as referred to in para 2.2.1 above shall apply, except that prior approval of Ministry of Works & Housing would be necessary before serving the show cause notice upon the firm concerned also before issuing final order of banning of business with the contractor/firm.

2.2.4 Where banning is contemplated/ordered, separate action for removal from the list of approved contractors is not called for. It should be automatic, once the banning orders is issued.

### **2.3 Restoration:**

2.3.1 Upgrading a demoted contractor, lifting the ban on business, restoration of registration, withdrawal of suspension of business etc. may be considered at an appropriate time on merits of each case by the authority, which had passed the original orders. Copies of the restoration orders shall be sent to all those offices including the Ministry of Works & Housing where copies of penal orders had earlier been sent.

**SOUTHERN RAILWAY.**

FA & CAO'S Office  
Madras - 600 003,  
Dated: 9.5.1988.

No.W.496/F/O

FA&CAO/WST/PER; FA&CAO/CN/MS; FA&CAO/MTP/MS  
FA&CAO/RE/MS; Dy.FA&CAO/CN/BNC; SAO/CN/ERS  
Sr/DAOS/MAS, TPJ, SBC & MYS; DAOS/MDU, PGT & TVC  
SAO/W&S/GOC; MYS & PTJ; JAO/XC/MAS.

Sub:- Automatic re-registration of Contractors as approved  
Contractors at the end of the ban period.  
-----

A copy of Railway Board's letter No. 88/CE1/CT/14 dated 29.2.88 is forwarded  
herewith for information and guidance.

Encl: One.

Sd/-  
for F.A. & C.A.O.

-----  
Copy of Railway Board's letter No.88/CE-I/CT/14 dated 29.2.88 to The General  
Manager All Indian Railways and others with copy to the FA&CAO, All Indian  
Railways and others.  
----

Sub:- Automatic re-registration of Contractors as approved  
Contractors at the end of the ban periods.  
-----

During the course of vigilance investigations it has been noticed that Contractors  
placed on the banned list are automatically re-registered as approved Contractors  
at the end of the ban period, which is not a good practice.

The Board have taken serious view of the matter and have desired that Railways  
make it necessary that a fresh check of the credentials, capacity and competence  
of a banned contractor after their ban period is over, be made before they are re-  
registered on the Railway.

The receipt of this letter may please, be acknowledged.

Sd/-..  
(ARIMARDHAN SINGH)  
Jt.Director Civil Engg.(G),

Railway Board.

## **SOUTHERN RAILWAY**

Headquarters Office,  
Works Branch,  
Chennai-3.

No.W.165/G/1/Vol .III

Dated: 13.9.2002.

The Executive Director,  
Civil Engineering (Genl.)  
Railway Board,  
New Delhi.

Sub: Banning of business dealings with the  
Contractors/Suppliers - Reg.

-----

Railway Board have been advising all Railways periodically regarding banning of business dealings with Contractors/Suppliers due to sub-standard work done, irregularities etc.

Board advises, many times, that business dealings with the firms and also their sister concerns and partners should be banned. However, such advices do not include any details on the constitution of the firm, partnership etc of the firm or the sister concerns. Though this Railway is taking action promptly in circulating the Board's orders to all concerned, in the absence of details of constitution of the banned firm and their sister concerns, difficulty is being experienced in implementation of the banning orders.

As the issue is common for all the Railways, Board may consider giving full details about the banned firms and about their sister concerns so that the purpose of ban is achieved. In this connection, it is also suggested that the list of such banned firm can be displayed in the Railway Board's website at an appropriate location so that consolidated details are readily available for verifications/scrutiny.

Board are also requested to issue guidelines in dealing with such ban cases to enable proper defence in Courts if the matter is taken to court by the banned firms.

(S. Vijayakumaran)  
Chief General Engineer.  
for General Manager.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.2002/CE.I/CBL/2

New Delhi, dated 21.10.2002

The Chief General Engineer,  
Southern Railway (Headquarters office),  
Works Branch,  
Chennai -3

Sub: Banning of business dealings with the  
Contractors/suppliers - Reg.

Ref: Your letter No. W.165/G/1/Vol.III Dated 13.9.2002.

-----

The details of the allied/sister concerns/partners may be asked from the contractors/contract -firms while registering them. In case of open tenders, such information may be asked from the new bidders (unregistered) while submitting their tenders.

The suggestion made in para 3 of your letter is being examined.

(PARMOD KUMAR)  
Exec. Director, Civil Engineering (G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

NO.2000/CE.I/CT/28

New Delhi, dated. 5.2000/ 19.6.2000

Addressed to:

As per list attached.

Sub: Banning of business with the wife of Railway  
employees living in the railway premises.

-----

In the course of investigation of a case, it has been noticed that a Railway employee had informed the administration that his wife was doing business with the Railway administration living in railway premises. This is against the rules.

To avoid recurrence of such things in future, it is suggested that tender issuing officials and tender Committee members may look into the aspect of official address of the firm and their power of attorney etc. to avoid such lapses.

The above instructions should be strictly adhered to. Receipt of this letter may please be acknowledged.

Sd/-  
(V.K. Bahmani)  
Exec. Director.. Civil Engg.I (Spl)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BROAD)**

No.90/CE-1/CT/I New Delhi,

dated 6 Jan 1991

Addresses as per list attached.

Sub: List of approved Contractors in the Railways.

-----

Para No.1216-E of Engg. Code envisages that the list of approved contractors in the Railways shall be considered a Confidential record.

2. Doubts have been expressed whether intimation to a Contractor about inclusion of his name in the said list would tantamount to the violation of the confidentiality of the record. In order to set such doubts at rest, it is clarified that

- (a) the list as a whole be continue to be a "Confidential record" and
- (b) the intimation to contractor of inclusion of his name in the said list be given to him without divulging the names of other contractors already borne in the list.

3. This issues in consultation with Finance Directorate of the Ministry of Railways.

4. Receipt of this letter may be acknowledged.

(S. M. Singla)  
Exe. Director, Civil Engg.(G)  
Railway Board.

No.90/CE-I/CT/I New Delhi, dated 6.2.1991

Copy forward to.

1. FA & CAOs all Railways including Production Units/Construction Organisations.
2. ADAI(Rlys.) New Delhi (with 45 spares).

(S.M. Singla)  
Exe. Director, Civil Engg. (GY/RLY. Board)

Copy to.

1. F(X)I/F(X)II/Vig(I)-Rly. Board (with 15 spares)
2. EDV(R), EDLM, EDW, EDW(RE), ED Track (M), ED(MC), ED(TRACK), EDCE(B&S),EDCE(PL), Railway Board.
3. ADV(CE), Adv(Works), Adv(S&T), Adv(Comml), Adv(MS), Adv(B), Adv(Elec), Adv(Mech.) Adv(Stores) - Railways Board.
4. PS/CRB, PS/FC, PS/M.E, PS/M.Elec, PS/M.M., PS/MT, PS/M.S., PS/Secy.

Copy of Railway Board's letter BNo.88/CE-I/CI/74 dt. 17.11.92., from Shri S.M.Singla, Exec. Director, Civil Engg(G).,Railway Board, New Delhi., addressed to the General Managers, All Indian Railways and copied to etc, etc.

Sub: Limited Tenders and registration of contractors.  
-----

Note below Para 1214-E of Engineering Code provides for circumstances under which tenders falling under the category of `Limited Tenders' may be invited by way of `Open Tenders'. Instructions were issued under Board's letter of even number dated 4.4.89 and 12.6.89 where in modus-operandi for inviting limited tenders was specified and also stated that there is no restriction on calling of open tenders even in the case of works costing less than Rs. 20 lakhs and that calling of open tenders for such works from time to time would be advantageous to test the market and to hold the rates in check. The limit of awarding tenders on the basis of `Limited Tenders' was raised to Rs. 20 lakhs vide Board's letter No.83/WI/CT/14 (policy) dated 30.3.87 and correction Slip No. 46 to Para 1214-E issued to that effect under Board's letter No. 83/CT/1 (Policy) dated 4.4.89.

The direction to call for open tenders for works falling under the category of `Limited Tenders' from time to time to test the market rates periodically, however, escaped amendment to the code. Accordingly Ministry of Railways have decided that existing Para-1214-E of Indian Railway Code for the Engineering Department (Revised Edition 1989) may be amended as given in the enclosed correction Slip No.8-E.

Receipt of this letter may be acknowledged.

**Advance Correction Slip to Indian Railways Code for Engineering Department (1989 Edition)**

Correction Slip No.8-E

Following Sub-Para(iii) and (iv) be added to Para.1214-E of Limited Tender System:-

- (iii) some percentage of the tenders which would normally be finalised by calling limited tenders, be finalised by calling open tenders so as to test the market rates periodically.
- (iv) Notice for ` Limited Tenders' be sent to all eligible contractors borne on the approved list.

(Authority Board's letter No.88/CE-I/CT/74 dt. 17-11-1992)



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.--/CC..I/CT/74"

New Delhi, dt. 30.4.93

Addressed to:

As per list `A' attached.

Sub: Approved list of Contractors.

Ref : Board's letter No. 85/W1/CT/23-GCC dt: [31.1.86](#).

-----

The existing system of preparation of "Approved list of Contractors" as contained in the Engg. Code para No.1215 and 1216 has been reviewed by Board.

2. It is decided that a "list of approved contractors" be prepared and maintained in Headquarter and Divisional offices of Railway, where the intending contractors would undertake to execute Railway works, by observing the under-noted procedure.

(i) Once a year, by giving wide publicity through advertisements etc, intending contractors may be invited to register themselves for different classes. Contractors already on the "Approved List" and those who have executed/done satisfactory work on the railways, thereby qualifying themselves to be relied upon for allotment of works/ assignments in future, should also be invited to get themselves registered.

(ii) The basic requirements for registration as circulated vide Board's letter No.85/W..I/CT/23-GCC dated 31.1.1986 should be spelt out and made well known in order to reduce discretion and arbitrariness in the selection for registration.

(iii) Where required, capacity of the intending contractors to execute works satisfactorily as an independent and competent agency; their financial capability for satisfactory execution of railway works, field of specialisation, past experience ,ability to supervise the works personally or through competent and qualified/authorised engineers/ supervisors, be examined and investigated expeditiously prior to their enlistment.

(iv) An annual fee of Rs.1000/- should be charged from such registered contractors to cover the cost of sending notices to them and clerage for tenders etc.

(v) The selection of Contractors for enlistment in the "Approved List" should be done by a committee for different value slabs. The composition of the Committee will be as follows:-

Class of Contractors  
as defined in Board's  
Letter No.W1 CT/23  
dt. 31.1.86

Selection  
Committee

Accepting  
Authority

A&B

One SA Grade Officer  
each of Executive Dept.  
and Finance Dept.

Executive Dept  
P.H.O.D.

Upto and  
inclusive  
of class `C'

One J.A. grade officer  
each of Executive Deptt.  
and Finance Deptt.

D.R.M./S grade  
officer  
Executive Deptt

(vi) The "list of Approved Contractors" be treated as confidential office record and individual names of contractors on the list should not be made known to other contractors. It should be maintained upto date in a neat and unambiguous manner.

3. This is issued with the concurrence of Associate Finance in the Ministry of Railways.

4. Correction slip to Engg. Code paras No. 1215 and --.6 will follow separately.

5. Receipt may be acknowledged.

(Sd/-)  
(S.M.Singla)  
Exec. Director, Civil  
Engg.(G)  
Railway Board.  
No.88/CE-I/CT/74 New Delhi, dt 30-4-93

Copy forwarded to the Directors of Audit of all Railways as per list `A' attached.

(Sd/-)  
(S.M. Singla)  
Exec. Director, Civil Engg.(G)/Rly. Board.

Copy forwarded to officers/branches of Railway Board as per List `B' attached.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

NO. 88/CE.I/CT/74

New Delhi, dated 16.12.93

Addressed to :

As per list `A' attached.

Sub: Approved list of Contractors.

Ref : Board's letter of even Number dt. [30.4.93](#).

-----

The procedure to be adopted for preparation of "Approved List of Contractors" was circulated vide Board's letter mentioned above. Once the lists are prepared need is felt to either add names or delete the name of a defaulting contractor during the course of the year.

It has, therefore, been decided that:

- i) During the year, after the lists are finalised names can be added to or
- ii) In case a Contractor is found to have de-faulted in adhering to the contract conditions or for some other reason for which it is considered necessary to either down grade his name or delete from the approved list, the same can be done.

The additions/deletions to or from the Approved list of Contractors should be considered and recommended by the committee on the same lines as is applicable to preparation of original List of Approved Contractors and approved by the Competent authority.

This issues in consultation with the Finance Directorate of Ministry of Railways.

Receipt of this may please be acknowledged.

(Sd/-)  
(S.M. Singla)  
Exec. Director, Civil Engg.(G)  
Railway Board.

Hindi version follows.

**Government of India (Bharat Sarkar)  
Ministry of Railways (Rail Mantralaya)  
(Railway Board)**

No. 88/CE-1/CT/74

New Delhi, the 21-1-94.

Addressed to As per list `A' attached.

Sub: Approved list of contractors.  
-----

Instructions regarding preparation of approved list of contractors were issued vide Board's letter of even number dated [30-4-93](#) and [16-12-93](#).

It has been represented to the Board that on certain Divisions JA Grade Officer of the Finance Department is not available since the post is in senior scale; hence it is not possible to have a JA Grade Officer of the Finance Department on the Committee to enlist contractors in categories upto and inclusive of class `C'

In view of the difficulties brought out, Ministry of Railways agree to permit the senior scale officer to be on the Committee in place of the JA Grade officer of the Finance Department. This issues in consultation with the Finance Directorate of the Ministry of Railways.

This disposes of GM(W)/ N.F. Railway's letter No. W/68-1/0/SS/Pt. IV dated 22-11-1993.

(Sd/-)  
(S.M. Singla)  
Executive Director Civil Engg.(G)  
Railway Board.

Hindi version follows.

**Govt. of India (Bharat Sarkar)**  
**Ministry of Railways (Rail Mantralaya)**  
**(Railway Board)**

Annexure -I

No. 88, 'CE-I/CT/74.  
Addressed to,  
As per list attached.

New Delhi, the 17-9-97.

Reg: Approved List of Contractors.

-----

1. The criteria laid down for considering the enrolment of contractors has been reviewed by the Board and it has been decided that henceforth the criteria for enlistment of contractors and keeping the approved list of contractor would be as under.

2. It has been decided that list of approved contractors be prepared and maintained in Headquarters and Divisional offices of the Railway where the intending contractors would undertake to execute Railway works by observing the under noted procedure:-

(i) Once a year by giving wide publicity through advertisements etc, the intending contractors may be invited to register themselves for different classes Contractors already on the approved list will continue to be on the approved list if they have paid an annual fee at the rate of Rs. 1000/- till a decision is communicated to them by the competent authority for not continuing them on approved list or 3 years whichever is earlier. After 3 years, such contractors have to apply for registration.

(ii) During the year after the lists are finalised, name can be added to or in case the contractor is found to have defaulted in adhering to the contract conditions or for some other reasons for which it is not considered necessary to either downgrade his name or delete from the approved list, the same can be done. The addition/deletion to or from the approved list of contractors should be considered and recommended by the Committee on the same lines as is applicable to the preparation of original approved list of contractors and approved by the competent authority.

(iii) The basic requirements for registration, as circulated vide Board's letter No.85/W-I/CT/23/GCC dated 31-1-86 and further amended by Railway Board's letter No.85/W-I/CT dated 16-8-89, should be strictly followed.

(iv) Where required capacity of the intending contractors to execute works satisfactorily as an independent and competent agency, their financial capability for satisfactory execution of Railway works, field of specialization, past experience, ability to supervise the works personally or through competent and qualified/authorised Engineers/ Supervisors be examined and investigated expeditiously prior to the enlistment.

(v) An annual fee of Rs. 1000/- should be charged from such registered contractors to cover the cost of sending notices to them and clerkage for tenders etc.

(vi) The selection of contractors for enlistment in the "Approved List should be done by a Committee for different value slabs. The composition of the Committee will be as follows:

"As defined in Board's letter No.85/W-I/CT/23-GCC dt.31-1-86	Class of Contractors	Selection committee	Accepting Authority.
	A & B	One SA Grade Officer each of Executive Deptt. and Finance Department.	Executive Department P.H.O.D.
	Upto and inclusive of Class 'C'	One J.A. Grade Officer each of Executive Dep and Finance Deptt.	DRM/SA Grade Officer of Executive Deptt.

(vii) The "List of Approved Contractors" be treated a confidential office record and individual names of contractors on the list should not be made known to other contractors. It should be maintained upto-date in a neat and unambiguous manner.

3. This is issued with the concurrence of Associate Finance in the Ministry of Railways.

4. Correction Slip to Engineering Code Paras No. 1215 and 1216 will follow separately.

5. Please acknowledge receipt.

Sd/-  
(V. Bahmani)  
Executive Director Civil Engg.(G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.94 /CE. I/CT/4

New Delhi, dated 17.9.97

Addressed to:

As per list: attached

Sub: Procedure for inviting tenders and Awarding works  
Contracts.

-----

Central Vigilance commission have pointed out common defects in execution of works by the Railways. They have given a list of such defects which are commonly prevalent in execution of works on the Railways. Accordingly, a Committee of 4 SAG Officers have gone through in detail and submitted its recommendations which have been considered by Board. A copy of the recommendations is enclosed for necessary action.

Sd/-  
(V.K. Bahmani)  
Executive Director, Civil (C)  
Railway Board

Instructions regarding procedure for inviting tenders and calling of work contracts.

**(i) CALLING OF LIMITED TENDERS:**

Open tenders are to be the established practice. However, limited tenders, as per Para 1214(ii) can also be invited from the approved list of contractors subject to the ceiling and other conditions prescribed therein.

Further in terms of Para 1214(i), special Limited tenders may be invited under certain conditions with the prior concurrence of the FA&CAO and approval of GM. The reasons for inviting special Limited tenders should be kept on record while approaching Finance for concurrence. While the firms to be so approached need not be confined to the contractors borne on the approved list, they should all the same fulfill the criteria laid down by Board from time to time for being borne on the approved list for the specific category of work. However, all the tenderers on the approved list for that category should invariably be included in the special limited tender, where it is proposed to exclude any contractor, detailed reasons for the same should be recorded while approaching Finance for concurrence. The limit of calling of limited tender is increased to Rs.40 lakhs instead of Rs.20 lakhs as was fixed vide Board letter No.83/W.I/14/policy dt. [4.4.89](#).

**2) CALLING OF SINGLE TENDERS:**

Single Tender should be invited in rare or emergent situation with the concurrence of FA&CAO and administrative approval of General Manager/CAO(con). The procedure laid down in Railway Board's letters No.93/W2/PQR/SC/4 part dt. [27.9.96](#) and No.97/CE.I/CT/32 dt [27.8.97](#) should be strictly followed. In case of single tenders, tender committee and the accepting authority should be one step higher than in case of open tenders limited tenders excepting where GM is the accepting authority.

**3) PROCESSING OF TENDER:**

Processing of offers received in a tender should be dealt promptly at every stage. As far as possible, it should be finalised by the competent authority well before expiry of the validity. Whenever delays take place, it should be suitably explained by Tender committee in the minutes.

**4. APPROVED LIST OF CONTRACTORS:**

Executive orders as per Annexure-I should be strictly followed.

**5. ELIGIBILITY CRITERIA FOR AWARDING WORKS:**

In case of Open Tender a minimum eligibility criteria keeping in the view the nature of each work should be specified in the tender documents preferably in the Tender Notices also Two Packet System should be adopted for larger value works as per Board's guidelines issued vide Board's letter No 90/CE.I/CT/27 dt



**17.8.95**, However for smaller works, the Tender Committee should ascertain the credentials.

#### **6. HOLDING OF NEGOTIATIONS:**

Negotiations should be scarcely resorted to. However when negotiations have to be held, the tender should be properly briefed by the Tender Committee about various aspects for which, negotiations have been called After such briefing the tenderers should be given some time to make their revised offer.

#### **7. ASSESSING THE REASONABILITY OF RATES:**

Assessing the reasonability of rates should be gone into detail by the tender committee. When making a comparison instead of last accepted rate, the average of last accepted rates for similar type to of works under similar conditions a geographical proximity should be worked out. Where only one case of accepted rates is available, analysed rate based on market survey should be derived for ascertaining the reasonability of rates

#### **8. INVITATION OF TENDER DETAILS:**

In exceptional cases where tenders have to be invited in view of extreme urgency before sanction of the detailed estimate, it should be done with the personal approval of DRM up to tender value of Rs. 50 lakhs, PHOD upto Rs. 1.0 crores & GM above Rs. One crore with prior concurrence of associate Finance. However, award of contract will only be after sanction of detailed estimate and specific allotment of funds.

#### **9. ESTIMATED COST FOR CALLING OF TENDERS:**

Estimated cost should be worked out on the basis of average of a number of last accepted rates on the Division/ Railway duly catering for any special features of the work, e.g., site conditions, type of work weather conditions, completion period, law and order, availability of labour and materials etc. Enhancement of estimated rates should be based on building cost index/RBI indices for the period elapsed between the preparation of estimate and the date when last accepted rates were received.

#### **10. RATES OF NON SCHEDULE ITEMS IN THE CONTRACTS:**

Wherever operation of Non-Schedule ITEMS, IS INESCAPABLE, rate should be derived from the items included in the Standard SOR where new items vary marginally from standard SOR item/items, market rate should be used only to the extent of variation to work out new rate.

#### **11. APPROVAL/SALE/CORRECTION OF TENDER DOCUMENTS:**

(i) It should be ensured that the Tender documents should be approved by the competent authority before issuing the tender papers.

(ii) The Sale of tender documents should be stopped 4 hours before opening of tenders.

(iii) Corrections and over-writings in rates should be numbered and attested by the tender opening officer.

## **12. REVISION OF SOR AND QUOTATION OF RATES:**

(i) SOR should be periodically revised within 3 years. zonal Railways should set up a Cell for doing this work with the help of computers. In case of Zonal contracts the Contractors should be asked to quote percentages above/below the basic rates given in SOR for various Chapters by grouping them suitably, including the money value.

(ii) All Railways should update their SORS to include items with contractors cement and steel in addition to item with Railways cement and steel supplied free of cost. Instructions have already been issued vide Board letter No.94/CE.I/30 dated [7-7-1994](#) permitting calling of tenders with contractor cement and steel.

## **(13) CALLING OF TENDERS ON LUMP SUM BASIS : (COMBINED DESIGN AND CONSTRUCTION CONTRACTS)**

(i) The concept of inviting combined, design and construction contracts should be avoided as far as possible. However, in unavoidable circumstances combined, design and construction contracts should only be awarded on lumpsum basis and not on item rate 'basis. RDSO should be appointed as proof consultants to check the design and drawings submitted by the contractors at various stages of the work. To facilitate interim payment to the contractors, the schedule of payment should be decided before entering into the contract Agreement, it should be ensured that the Schedule of Payments takes care that the portion of the work planned to be executed at the end is priced adequately so is to avoid the contractor abandoning the work at the later stage. In these contractors on lumpsum basis, the tenderers should be asked to indicate quantities along with design. It should also be mentioned in the documents that any excess in the quantities indicated by him at the time of tendering due to changes in the design at the approval stage by the Railways would not be paid extra. However, if there is a reduction in the quantities, actually executed, there would be a proportionate reduction in payment.

(ii) In the exceptional circumstances where combined design and construction contracts are to be invited Cement and Steel should be supplied by contractors. However in Case the Railway is to supply cement/steel to the contractor, free of cost its quantity should be fixed at the time of tendering. In the Tender Documents, the rate of recovery for variation in quantities should also be incorporated.

#### **14. EVALUATION OF TENDERS:**

Tender Committee should evaluate financial implications of conditions given by tenderers to decide the relative positions of tenderers.

#### **15. SUBMITTING OF TENDERS BY MORE THAN ONE CONTRACTING AGENCIES UNDER THE SAME MANAGEMENT**

In case, there are more than one contracting Agencies under the same management, there seems to be no harm in their tendering. Moreover, Railway cannot discard such tenderers. However, when such offers are evaluated, norms of adequate and fair competition must be ensured.

#### **16. INCOME TAX CLEARANCE CERTIFICATE:**

Income Tax Clearance Certificate should be insisted upon from the successful tenderer before making any payment.

#### **17. TENDER DOCUMENTS:**

- (i) Board's instructions issued vide letter No. 93/ CE.I/CT/11 dated 04.05.93 should be strictly followed.
- (ii) Reference to complete specifications/drawings should be mentioned in the tender documents.
- (iii) Wherever a mention is made in the tender documents for supply of material by the Railways, specific mention of the place/office be made in the tender documents. It should not be left vague.

#### **18. MATERIALS ISSUED TO BE CONTRACTORS:**

- (a) Provisions of Para 1269 of Engineering code should be strictly followed.
- (b) The recovery rate for excess material supplied by the Railways should be 1.5 times the cost of procurement which is inclusive of freight.
- (c) Maximum percentage of cut-pieces which can be returned by the contractors without any deduction should be specified in the tender documents when full length bars are supplied. It should be mentioned in the tender documents that for any excess over this quantity, deduction at the rate of 50% of the cost of material worked out as per Para (b) above would be deducted.
- (d) Hire charges of equipment/machinery should be specified in the tender documents itself. Such hire charges should be periodically revised.
- (e) Proper record of daily consumption of cement should be maintained at site. This register should be initialled by supervisory staff and periodically test checked by the officers.

(f) Day to day consumption record of chemicals such as water proofing, anti-termite used at site should be maintained properly. Actual consumption of cement and these chemicals should be checked with theoretical requirement to ensure quality of work.

#### **19. SITE ORDER BOOK:**

It should be insisted upon the contractors to indicate the action taken to the observation/instructions given by the supervisory staff/officers in the Site order Book.

#### **20. TESTING OF BUILDING MATERIAL:**

(i) Regular testing of building materials such as bricks, sand, aggregates, tiles, water-proofing compounds, doors and windows etc. should be done.

(ii) Day-to-stay quality control, simple testing facilities must be available at large sites. It should be incorporated in the tender documents that the contractor would set up such testing facilities including their maintenance. Separate item should be provided in the tender schedule for making payment to the contractors for setting up of these facilities.

(iii) Test Cubes for the concrete should be made and tested as per IS Specifications.

(iv) Concrete mix as specified in the tender documents should be followed at work site. In case of design mix, IS specifications for designing, producing, using, testing and accepting/rejecting must be followed.

(v) Cement should be used by weight only in case of design mix concrete.

(vi) In case of cement, steel, HTS, wires, besides obtaining test certificates, from the contractors, regular independent tests to check the quality as per IS Specifications should be done.

(vii) Railways should procure materials from IS approved firms. Independent tests should also be conducted to ensure that the materials conform to IS specifications.

#### **21) Recording of Measurements:**

(i) Measurements must be recorded directly in the Measurements Books by authorised officials.

(ii) Prescribed checks on measurements should be carried out by Senior Officers and reference made in the Measurement Books as well as in relevant bills.

(iii) Payments at full rate must not be made for an item unless the item has been completed as per the specifications and accepted by the competent authority.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

New Delhi 110 001.

No.2000/W-I/NE/NL/10

Dated 17.01.2001

The General Managers,  
All Indian Railways/PUs etc.

Sub: Processing of Tenders.  
-----

Recently while dealing with a tender case, It was observed by MSR(OR) that the manner in which the case had been dealt with suffered from certain deficiencies.

i) Firstly, there was huge gap in the cost estimate prepared by the Railway and the offers quoted by the tenderers. This could be either due to an incorrect and unrealistic cost estimate or due to not laying down exact specifications of the work leading to a considerable scope for speculation.

ii) Secondly, the advertisements for the tender had been released in the newspapers most of which did not cater to the business/commercial world. This resulted in poor response to the tender invitation. While the role of the local/regional newspapers cannot be undermined an unnecessary bias towards these newspapers seemed to be an important reason for poor participation by the prospective tenderers.

As a result of these shortcomings, the tender had to be ultimately discharged leading to a wastage of time and resources.

With a view to guarding against such wastage, it is essential that before inviting the tenders, the cost estimates are prepared realistically based on duly approved plans and drawings, properly defined specifications and taking into account realistic market rates so as to eliminate any scope for speculation. Further, it should be ensured that the tender notice is given maximum publicity. While releasing the advertisement for tenders depending upon the important of work has, care should also be taken to have a judicious mix of local national or financial dailies in order to generate adequate competition.

This issues in consultation with the Finance Directorate of the Ministry of Railways.

(K.P. SINGH)  
Executive Director/Works  
Railway Board

Copy to all concerned.

### **III. TENDERS**

#### **D. CONSULTANCY CONTRACTS.**

S. No	Subject in Brief	Letter Date
1	Pre-Qualification of Contracts Consultancy of Contracts etc.,	31/01/86
2	Pre-Qualification of Contracts and Consultancy of Contracts etc.,	10/02/87
3	Pre-Qualification of Contractors and Consultancy Contracts etc.,	31/08/88
4	Pre-Qualification of Contracts and Consultancy Contract etc.,	16/08/89
5	Pre-Qualification of Contracts and Consultancy Contract etc., Maintenance of List of Approved Contractors	16/08/89
6	Procedure for Registering the Outside Consultant for Zonal Railway	09/06/92
7	Delegation of Powers to General Managers for Obtaining Consultancy Services of Outside Firms and institutions and incurring Expenditure thereof	10/01/83
8	Works of Specialised Nature	5.08.99

**GOVERNMENT OF INDIA  
MINISTRY OF TRANSPORT  
DEPARTMENT OF RAILWAYS**

No. 85/W1/CT/23-GCC

NEW DELHI Dt. 31.1.1986

The General Managers  
All Indian Railways

Sub:- Pre-qualification of contracts and Consultancy of  
Contracts etc.

----

With a view to improving the administration of contracts and quality of works executed through the agency of contractors, the Board had appointed a Committee of

- i) Shri Virendra Kumar, Executive Director (Works) Rly. Board
- ii) Shri R. Sarangarajan, the then FA&CAO(Con) S. Rly
- iii) Shri E. Sreedharan CE(Con) S. Rly.
- iv) Shri M.K. Kumar, CEE/RE Nagpur
- v) Shri T.N. Subramanian, CSTE/RE, Nagpur

to look into the items noted below:-

- a) Pre-qualification of tenderers;
- b) Engagement of Consultancy services
- c) Approved list of contractors;
- d) Two packet system of tendering; and
- e) Advance to contractors.

The Committee has since submitted its recommendations which have been considered by the Board and a copy of summary of recommendations together with Board's orders thereon is enclosed, for necessary action. It may, however, be noted that these decision will not apply to tenders already called/contracts already entered into.

Kindly acknowledge receipt.

Sd/-  
(ASHOK KUMAR)  
Executive Additional Director  
Civil Engineering, Railway Board.

## **ANNEXURE-I**

Ref: No.85/W1/CT/23-GCC of 31.1.1986.

Statement of recommendation of the committee on administration of contracts:

Committee's recommendations

Rly. Boards' orders

### 1. Prequalification of Tenderers:

1.1 In respect of works of large value and magnitude, works calling for special expertise, specialised equipment or works of complex nature only reliable and resourceful contractor should be chosen. (Para 1.1 page 4) Accepted

1.2 For the following works, it is desirable to pre-qualify tenders for Indian Railways: (Para 3) (Page 8) Accepted

#### i) Earthwork involving

a) mechanical compaction where the contract value is likely to exceed/ Rs. 50 lakhs;

b) soil stabilization e.g. sand piling, vibro flotation, chemical treatment of soils, etc. irrespective of the value of the contract;

c) heavy and deep rock cutting requiring deployment of heavy plant and machinery or expensive blasting operation irrespective of the value of the contract;

ii) Tunnelling where the contract value is likely to exceed Rs. 50 lakhs.

iii) Cut and cover construction where the contract value is likely to exceed Rs. 50 lakhs.

#### iv) Bridge works involving--

a) Pile foundation of large diameter;

b) Caisson or deep well foundations for important bridges;

c) Long-span pre-stressed concrete bridges;

d) Cable-stayed bridges;

e) Continuous girder bridges;



- f) Fabrication and launching of girders exceeding 60 M spans;
- v) Building and structural works where the contract value is likely to exceed Rs. 50 lakhs and /or involving-
  - a) Pile foundation;
  - b) Construction of important multi-storeyed buildings, auditoriums, etc. requiring superior workmanship;
  - c) Shall and folded plate construction;
  - d) special architectural features;
- vi) Electrification works involving-
  - a) design and installation of over-heat equipment;
  - b) design, supply and erection of traction substation;
  - c) design, supply and erection of supervisory remote control equipment;
- vii) Miscellaneous works such as-
  - a) construction of diaphragm walls;
  - b) water and sewerage treatment walls costing over Rs. 50 lakhs;
  - c) heavy sheet piling works;
  - d) other major construction works involving an element of specialization and/or complexity;
  - e) construction works requiring large mobilisation of plant and machinery;
- viii) S&T works such as--
  - a) route relay interlocking;
  - b) provision of automatic warning system;
  - c) provisions of centralized traffic control;
  - d) mechanisation in yards with provision of retarders;
  - e) microwave installation including provision of towers

1.3 The need for prequalification bids in a particular case should be decided by the Head of Department concerned with the concurrence of Associate Finance. The pre-qualification bid should be invited by advertisement in the most open public manner possible (para 4.2 page 10)

Accepted

1.4 The number of contractors in the short list for pre-qualification bids should range between 3 and 6 (page 4.5 page 11)

The number of contractors on the short list to be qualified should be about

5 and the upper limit may be around 10. However, the min. number should not be less than 3.

1.5 A non-refundable fee of say Rs. 2000 should be charged from the intending bidders (Para 4.6 page 11)

Accepted

1.6 All the tenderers who were pre-qualified should be invited to bid for the regular contract (para 4.7 page 11)

Accepted

## **2. ENGAGEMENT OF CONSULTANCY SERVICES**

2.1 It may be necessary to have consultancy contracts which may range from Advisory service to highly specialised technical assistance. The services of Consultants could be grouped into the following categories : (Para 2,2, page 14)

Accepted

- i) Pre-investment studies;
- ii) Preparation service;
- iii) Implementation service; and
- iv) technical assistance and counsel service.

2.2 Quality consideration should be overriding factor in the selection of consultants. The selection by ability i.e. by considering the technical competence, managerial ability, professional independence and integrity appears to be the best method. (para 5.3, page 19)

Accepted

2.3 For selection of consultants, proposals may be invited 3-6 qualified and experienced firms and through limited quotation process the most competent firm selected (para 6.1 page 19)

Accepted

2.4 Technical evaluation of the proposals should particularly take into consideration the following aspects

Accepted

- i) general experience of the firm in the field of assignment
- ii) the adequacy of the proposed work plan and approach in responding to the terms of reference;
- iii) the qualification and competence of the personnel for the assignment. (para 5.4 page 21)

2.5 Where price is taken into account, the technical evaluation needs to be undertaken independently and free from the influence of price. A two stage procedure involving submission of technical and financial proposals in separate sealed envelopes is necessary in such cases. The technical evaluation is to precede the consideration of price proposed. (Para 6.7 page 21)

Accepted

## **2.6 CONSULTATION PRODUCTS ON RAILWAYS**

To keep pace with the modern developments, advances in technology and computerisation, it is desirable to engage consultants for planning and designing some of the following types of important structures. (Para 8.3, Page 28)

Accepted

- i) Specialised works and structures involving use of computers, modern advanced theories for design and use of latest mechanized constructions methods;
- ii) important and prestigious buildings and structures, industrial units, etc. including framed structures and multistoreyed buildings;
- iii) Special type of roof structures and coverings (e.g. for large concourses or industrial units), basements and similar constructions involving water proofing, subways, underpasses, insulation of buildings against heat and sound, etc.

- iv) Design and construction of structures involving advance and complicating technology e.g.
  - a) long/span pre-stressed concrete bridges
  - b) continuous girder bridges
  - c) cable stayed with bridges
  - d) longspan arch bridges
  - e) shells and folded plate constructions
  - f) earthquake resistant structures.
  
- v) Important projects involving foundation problems or where geological formations have an important bearing in formulation and execution of the scheme.
  
- vi) Auditoria involving satisfactory acoustics, requiring specialised advice;
  
- vii) Design of location and distribution system for proper modern and sophisticated lighting in industrial units, offices and yards;
  
- viii) Architectural and aesthetic features in design of important and prestigious, buildings and landscaping around new buildings, station terminals, industrial units, railway colonies, etc;
  
- ix) Mechanisation and modernisation of erection techniques for overhead equipment;
  
- x) Planning and design of power supply system, current collection arrangement, ventilation and air-conditioning of metro construction projects;
  
- xi) Industrial Engineering and layout of manufacturing and repair shops for electrical equipment;
  
- xii) Establishment of narrow-bank long-haul microwave links/communication links of very high reliability suitable for data transmission;
  
- xiii) Establishment of modern signaling systems and telecommunication links on lines where thyristor/controlled/controlled traction/breaking is to be used; and

- xiv) Centralised air-conditioning of large buildings  
Accordingly following schedules of powers are recommended:-  
G.Ms may be authorised to enter into consultancy contract upto a value not exceeding Rs. 5 lakhs. Chief Engineers may be delegated powers to accept consultancy contracts upto Rs. 2 lakhs.
- Powers to accept consultancy contracts in the first instance is delegated to G.M only, upto Rs.5 lakhs in each case. This will be subject to Rs. 20 lakhs only P.S. The selection of consultants to be at the level of HODs Committee.

### 3. APPROVED LIST OF CONTRACTORS

#### 3.1 Approved List of Contractors

A separate list of approved contractors be maintained for the following 5 slabs of estimated value of the contract according to their capacity to take up such works (para 4.3 Page 43).

Accepted

1. Class A for works over Rs. 50 lakhs.
2. Class B for works up to Rs. 50 lakhs
3. Class C for works up to Rs. 20 lakhs
4. Class D for works up to Rs. 5 lakhs
5. Class E for works up to Rs. 1 lakh.

- 3.2 Selection of contractors (para 4.3, page 44) Selection of contractors should be carried out by a selection committee consisting of the following officers:

Accepted

Committee consisting of the following officers:

Class	Selection Committee	Accepting authority
A	SA Grade Office	CE/CAO/(Con)/CE(C)
B	Sr. DEN/Sr. XEN/Dy. CE & Dy.FA&CAO (JA Grade Officers)	SA Grade Officers of Engg. Department
C	DEN/XEN & DAO/SAO (Sr. Scale Officers)	--do--
D&E	--do-- (No.35/W-1/CT/23 GCC (Part I) of 8.1989.	Sr.DEN/Sr.XEN/DY.CE(C)

3.3 For considering the enrollment of contractors in various categories, the following criteria may be followed: (Para 4.4, Page 44-45)

a) Class A

- i) They should have a permanent engineering organisation and should maintain a minimum of transport equipment and construction tools and plants required for the works.
- ii) At the time of enlistment, they should have satisfactorily executed at least two works, each individually costing not less than Rs. 25 lakhs.

b) Class-B

- i) They should have permanent engineering organisation and should have a minimum of transport equipment and construction tools and plants required for the works;
- ii) At the time of enlistment, they should have satisfactorily executed at least two works, each individually costing not less than Rs. 10 lakhs.

c) Class-C

- i) They should have an engineering organisation or one of the partners should be a Graduate Engineer with at least 10 years' experience.
- ii) At the time of enlistment, they should have satisfactorily executed at least two works, each individually costing not less than Rs.3 Lakhs.

d) Class- D

At the time of enlistment, they should have satisfactorily executed at least two works, each individually costing not less than Rs. 50000.

e) Class-E

No specific minimum requirement need be insisted upon.

### **3.4 Confidential Reports:**

There should be a standard proforma for recording C.Rs of contractors. The standard proforma is appended as Annexure-I (Para 4.5, page 45)

Accepted. The Confidential Reports of contractors in standard proforma given as Annexure-I. These should be done Annually and maintained properly in record.

3.5 In department like CPWD, etc. even open tenders are invited from amongst registered contractors only. It is, therefore, recommended that even on the Railways tenderers should be picked up from the approved list only. Indenting tenderers should be advised at the Tender Notice stage itself to get themselves registered if they have not already done by furnishing all the necessary information and credentials, so that their application for registration can be considered and settled before finalising the acceptance of the tender.

This is under consideration and separate orders will follow.

### **3.6 Limited Tenders**

Presently limited tenders are invited for contracts up to a value of Rs. 10 lakhs. This value may be enhanced to Rs. 20 lakhs. (para 5.2, page 47)

This is under consideration and separate orders will follow.

### **3.7 Earnest money**

As regards earnest money for the purpose of registration of contractors in A, B and C classes, standing earnest money of Rs. 25,000 need not be insisted upon. Contractors may be given the choice of either depositing earnest money with each and every tender as per tender condition or alternatively depositing a standing earnest money. (Para 6, Page 47).

Accepted.

3.8 Variation in the list of approved Contractors:

Accepted

The list of approved contractors should be dynamic list and should be subjected to annual review on the basis of confidential reports. Even during the course of the year new contractors may be added or existing contractors may be upgraded on the basis of their performance. Likewise there could be down-gradation in the classification of contractor or his name deleted from the approved list in case of adverse report based on the performance or based on vigilance enquiry. (Para 7, page 43)

**4. Two packet system of tendering.**

4.1 With a view to assess the tenders technically without influenced by the bids, "Two packet system of tendering" may be adopted. In this system, the tenderers are advised to submit their quotations in two sealed envelopes with one cover containing the technical and commercial offers and the other cover containing financial bids. The technical commercial conditions are read out before the tenderers or their representatives and the same are evaluated Tender by the Committee. If they are found acceptable by the competent authority, the second packet is opened and the tenders are processed for acceptance in the normal manner. However, if on the basis of information of the first packet, the Tender Committee needs clarification regarding designs and specifications, discussion are held with each individual party after obtaining approval of the competent authority (Para 1,3, 1.4. & 2.5, Page 50-52)

Accepted  
However this system should be used the details and restrictively and with the concurrence of FA&CAO.

**5. Payment of advance to contractors**

(Para 4.2 page 64)



- 5.1 In tender for works which are capital intensive and of a specialised nature, if the estimated value of a tender exceeds Rs. 50 lakhs and if the work warrants grant of advance, suitable provision may be included in the special conditions and the tender for: Accepted
- a) grant of mobilisation advance immediately on signing of the contract; and
- b) grant of an advance on the security of machinery and equipment brought to site.
- Both these advances should be reckoned as per contract (not as per contractor)
- 5.2 MOBILISATION ADVANCE (Para 4.6, Page 65). Accepted.  
The advance should be limited to 10% of the contract value and should be payable in 3 stages as under: Subject to advance being given in two stages as follows:
- Stage :1  
5% of contract value as irrevocable bank guarantee from a Nationalised bank in India or the State Bank of India in a form acceptable to the Railways immediately contract. after signing the contract documents Stage-1-5% of contract value etc. on signing of
- Stage -II  
21/2% of the contract value, against an irrevocable bank guarantee from a Nationalised bank in India or the State Bank of India in a form acceptable to the Railways at the time of mobilisation of site establishment, setting up offices and bringing equipment. Stage-II, 5% on mobilisation at site of establishment and actual commencement of work, the advance shall carry rate of interest of 10% per annum.
- Stage III  
2% of the contract value, against an irrevocable bank guarantee from a Nationalised bank of India or the State Bank of India in a form acceptable to the Railways, after physically commencing work. This may be recovered through on account bills in instalments, the recovery commencing when the finalisation of the work executed and paid for reaches 15% of the provisional value of the contract and shall be completed when the value of the work executed reaches 85% of the original value of the contract. The instalments in each on account bills will be on pro-rata basis.

**5.3. Advance against machinery and plant** (Para 4.7, Page 66)

Advance on the security of machinery and equipment brought to site should be limited only to new machinery and equipment which are essentially required for the work and involve a substantial outlay. The advance should not exceed 75% of the purchase price of such equipment. The extent of this advance should be limited to a maximum of 10% of the contract Value and the advance should be payable only if the plant and equipment have been brought to site and hypothecated to President of India by a suitable bond or hypothecated to a Bank . The plant and equipment should also be insured for the full value and for the entire period they are required for the work. The advance should be interest-free. The advance shall be recovered in installments through on account bills. The recovery shall commence when the value of the contract executed reaches 15% of the original value of the contract and be completed when the value of work executed reaches 85% of the original value of contract. The installment on each on account bill will be on pro-rate basis.

Accepted, except that advance will not be interest free  
Rate of Interest to be levied will be 10% per annum.

Note:- The advance granted to the Contractor should be recovered in full from the on Account bills by the time, the value of the works reaches 75% of the original value of the contract.

(85/WI/CI/23/GCC of [31.8.88](#))

5.4 Advance for accelerating the progress of work may be granted during the course of execution of the contract. Each case should be dealt with on merit. Any lying within the powers of G.M. contract (Rs.2 crores and less), he should be empowered to sanction such advance on the basis of recommendation of the Chief Engineer in charge with the concurrence of Associate Finance. The advance should not exceed 10% of the value of the contract. (Para 4.9, Page 66)

Accepted subject to a maximum of 5% of the contract values or Rs. 5 lakhs whichever is less. The rate of interest to be levied will be 20% per annum. Normally no advance should be given after the contract is signed.

5.5 No advance should ordinarily be granted in case of works costing less than Rs. 50 lakhs even for specialised or capital intensive work. G.Ms may, however, be delegated powers to grant in exceptional cases an advance upto a maximum of Rs. 5 lakhs in respect of contract value of less than Rs. 50 lakhs if the tenderer insists on payment of such advance. As a part of his offer. The powers should be exercised only on the basis of recommendation of the Chief Engineer duly concurred by Associate Finance. No interest should be charged for the advance recovery of the advance should be made from the contractor through on account bills on pro-rata basis commencing from the stage at which 15% of the work has been completed and entire amount recovered before 85% of the work has been completed.

(Para 4.10, Page 67)

Accepted, except that advance will not be interest free. Rate of interest to be levied will be 10% per Annum.

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS(RAIL MANTRALAYA)  
RAILWAY BOARD.**

No.85/W1/CT/23-GCC.

NEW DELHI, dated:10-2-1987.

The General Managers,  
All Indian Railways, including CLW, DLW, ICF and  
MTP (Railways) at Calcutta, Madras and Bombay.

The General Manager(Construction)  
N.F.Rly./Maligaon, Guwahati and S.Rly./Bangalore.  
The General Manager, Wheel & Axle Plant, Bangalore.  
The Director General, R.D.S.O., Lucknow.  
The C.A.O./Diesel Component Works, Nabha Raod, Patiala.  
The Chief Engineer, Railway Electrification, Allahabad.  
The Principal, IRSET/S.C.Rly., IRIATT/PUNE & RSC/BARODA.

Sub: Pre-qualification of contracts and consultancy  
of contracts etc.

Ref : Board's Letter No.35/W1/CT/23-GCC dt.31-1-86  
and 3/6-3-1986.

----

Some of the Railways have raised certain points on the provision contained in the above letter and have sought clarifications from the Board's Office. The matter was considered in this Office and the decisions on the various suggestions/proposals made by the Railways are as under:-

Suggestions/ Proposals.

Decision of the Board.

1. Whether powers delegated 1&2: under Board's letter dated 1-86 regarding grant of advances to contractors can be implemented straightaway by the Railways pending their Codal inclusion;

The power as delegated in Board's circular No.85/W1/CT/23 31-1-86 i.e., grant of separate advances towards mobilisation, plant machinery & for accelerating progress of work at mid-stream, limited to extent of 10% each of the contract

2. Whether the restrictions imposed in Board's subsequent letter No.F(X)II/79 PW/4 dt.13-2-1986 conflict with the earlier delegation and meant to restrict the the power of GMs regarding grant of advance as envisaged in earlier instructions.

value for first two items and 5% or contract value or 5 lakhs whichever is less holds good and the Railways may implement them even if necessary changes in the codal provisions have not been effected yet. The restrictions imposed under existing delegation of power

(item 48)  
contained in Board's Letter  
No.F(X)II/79/PW/4 dt.13-2-86  
stands superceded.

The above provisions for grant  
advances towards mobilisation  
against plant & machinery etc.  
should be included in the contract  
condition by GM in consultation with  
the FA & CAO where considered  
necessary for smooth  
implementation of this provision.

3. The rider attached to  
clause 5.4 of Board's circu-  
lar dt.31-1-86. i.e.,  
"Normally no advance should be given  
after the contract is signed" is  
anomalous as advance is necessary  
to be granted after the contractor  
enters the field either at the outset  
or in the midstream of execution of  
work. This para, therefore,  
needs deletion.

The rider attached to clause  
5.4 of the Board's circular  
dt:31.1.86 may be deleted.

4. DRM instead of ACE should be  
the accepting authority for class  
'C' category of contractors whose  
selection is recommended by the  
Divisional Authorities, so as to  
enable the Division to implement  
the system of awarding the contract  
upto Rs.10 Lakhs independently.

No change is contemplated  
in the Board's decision  
already conveyed.

5. (i) Requisite safeguards  
in the form of acceptable Bank  
Guarantee being taken against  
the advances granted to the  
Contractors.

For any advance granted to  
the contractors, suitable safeguards  
in the form of acceptable Bank  
Guarantee etc. is required to be  
taken The Railway while granting  
such advance(s) may, in each case  
ask for the same.

(ii) Metro Railway has suggested increase in the interest rate from 10% to 20% in case of advance to be granted for accelerating the work. Since maximum limit for advance is restricted to 5% of contract value or 5 Lakhs whichever is less, it is not considered necessary to enhance the interest rate. There is also no need to enhance the limit of sanction as suggested by the Metro Rly.

(iii) The Central Railway have suggested introduction of two stage system as against two packet system of tendering, as recommended by the Board. The Board does not consider it necessary to make any change in two packet system, and therefore, desire that this should be adopted uniformly by all the Railways.

4. This issues in consultation with the Finance Directorate of the Ministry of Railways.

5. Please acknowledge receipt of this letter.

Sd/-  
(Arimardan Singh)  
Joint Director, Civil Engineering (G),  
Rly. Board.

No.35/W1/CT/23-GCC.

New Delhi, dated: 10th February, 1987.

Copy to: FA&CAO, All Indian Railways.

Sd/-  
(Arimardan Singh)  
Joint Director, Civil Engineering (G),  
Rly. Board.

Copy to: ADAI(Railways, New Delhi(with 45 spare copies) for information.

Sd/-  
for Financial Commissioner, Rlys.

Copy to: BD(W), EAD(W),JDF(X)I, F(X)II, Vigilance-3 Branch (with 5 spare copies).

ru/28.4.87.

Copy of Board's letter No.85/WI/CT/23-GCC., dated 31.8.88., from Arimardan Singh, Director, Civil Engineering(G), Railway Board, addressed to The General Managers, All Indian Railways.

-----

Sub:- Pre-qualification of Contractors and consultancy Contracts etc.

-----

The following sentence may also be added at page 6 in the column 'Railway Board's orders', issued under Board's letter of even number dt. 31.1.86 on the above subject.

Item No.5.3-Advance against Machinery and Plant

'Railway Board's orders.'

"The Advance granted to the Contractors should be recovered in full from the on account bills by the time the value of the works reaches 75% of the original value of the Contract."

Tender conditions may be modified accordingly.

Kindly acknowledge receipt.

-----

**Government of India  
Ministry of Railways  
(Railway Board)**

No. 85/W-1/CT/23 GCC.

New Delhi dt. 16.8.89.

The General Managers,  
All Indian Railways, including CLW, DLW, ICF and  
MTP (Railways) at Calcutta, Madras and Bombay.

The General Managers (Construction)  
N.F.Rly./ Maligaon, Guwahati and S.Rly./Bangalore.

The General Manager, Wheel & Axle plant, Bangalore.

The Director General, R.D.S.O. Lucknow.

The C.A.O./Diesel Component Works, Nabha Road, Patiala.

The Chief Engineer, Railway Electrification, Allahabad.

The Principal, IRSET/SC Rly. IRIAT /Pune & RSC/Baroda.

Sub: Pre-qualification of contracts and  
consultancy of contracts etc.

Ref: Board's letter of even number dt.  
[31.1.86](#).

-----

The criteria laid down for considering the enrollment of contractors in various categories has been reviewed by the Board and it has been decided that the existing criteria as contained in recommendation No.3.3 for enlistment of contractors of categories (A) to (C) may be modified as given in the enclosed statement.

The receipt of this letter may be acknowledged.

Sd/-----

(Ashok Kumar)  
Executive Director/Civil Engg.(G),  
Railway Board.

DA: One.

No.85/W-1/CT/23 GCC.

New Delhi dt. 16.8.89.

Copy to ADAI (Rlys.), New Delhi (with 45 spare copies) for

Sd/--  
for Financial Commissioner, Rlys.



## **CRITERIA REGARDING ENROLLMENT OF CONTRACTORS IN CLASS `A' TO `C'**

### Criteria as per Committee's Report

- (i) They should have a permanent engineering organisation and maintain a minimum of transport equipments and construction tools and plants required for the works.
  
- (ii) At the time of enlistment, they should have satisfactorily executed at least two works, each individually costing not less than Rs.25 lakhs.

### Modified Criteria

- (i) They should have an engineering organisation with at least a graduate engineer having 10 years experience plus an engineering diploma holder having 5 years' experience of relevant discipline, and maintain & minimum complement of transport equipments and construction tools and plant commensurate with the nature of works being done by them.
  
  - (ii) Same as existing.
- 
- `B' (i) They should have a permanent engineering organisation and should have a minimum of transport equipments and construction tools and plants required for the works.
- (i) They should have an engineering organisation with at least a graduate engineer having 5 years' experience of relevant discipline and maintain a minimum complement of transport equipments and construction tools and plant commensurate with the nature of works being done by them.

(ii) At the time of enlistment, they should have satisfactorily executed at least two works, each individually costing not less than Rs.10 lakhs.

(ii) Same as existing.

Class

Criteria as per Committee's Report.

MODIFIED CRITERIA

`C'

(i) They should have an Engineering organisation or one of the partners should be a graduate engineer with at least 10 years, experience.

(i) They should have a Engineering organisation with an engineering diploma holder having at least 3 years experience of relevant discipline.

(ii) At the time of Enlistment they should have satisfactorily executed at least two works, each individually costing not less than Rs. 3 lakhs.

(ii) Same as existing.

No.85/W-1/CT/23 GCC (Part-I)

New Delhi, dt. 16.8.89

The General Managers,  
All Indian Railways including  
CLW, DLW, ICW & MTP(Railways),  
Calcutta.

The General Manager,  
Central Organisation,  
Railway Electrification,  
Allahabad.

The Chief Admn. Officer,  
MTP/Railways, at Bombay & Madras.

The Director, IRICEN, Pune,  
IRISET, Secunderabad,  
IRMSE, Jamalpur.

The Chief Project Officer,  
MTP/Railways, Delhi.

IRIEEN, Nasik.

The Chief Admn. Officer(Con.),  
Southern Railway,  
18, Millers Road, Bangalore.

The Chief Admn. Officer(C),  
N.F. Railway, Guwahati.

The Chief Admn. Officer(Con.),  
South Eastern Railway, Waltair.

The Principal,  
Railway Staff College,  
Baroda, IRICEN, Pune.

The Director General,  
R.D.S.O., Lucknow.

The F.A. & C.A.O.,  
All Indian Railways.

The General Manager,  
Wheel & Axle Plant, Bangalore.

The General Manager(Con.),  
N.F. Railway, Guwahati.

The Officer on Special Duty,  
Rail Coach Factory, Kapurthala.

The Chief Admn. Officer,  
DCW, Patiala and COFMOW,  
New Delhi.

Sub:- Pre-qualification of contract and consultancy of contracts  
etc. maintenance of list of approved contractors.

Ref:- Board's letter No. 85/W-1/CT/23 GCC dated 31.1.86.

----

It has been brought to the notice of this Ministry that the constitution of existing Selection Committee and accepting authority as contained in the above letter needs to be revised consequent on up-gradation of the post of Additional HODs to that of Senior Administrative Grade.

2. The matter has been considered in the Ministry and it has been decided that the Selection Committee, which shall consist of one officer of the Engineering Department and an officer of the Accounts Department and the Accepting Authority for selecting contractors in `A', `B', & `C' categories may be revised as under:-

<u>CLASS</u>	<u>SELECTION COMMITTEE</u>	<u>ACCEPTING AUTHORITY</u>
(A)	SA grade officers	C.E./CAO(Con.) C.E.(C)
(B)	Sr. DEN/Sr.XEN/Dy.CE and Dy. FA&CAO (JA Grade Officers)	SA grade officer of Engg. Deptt.
(C)	DEN/XEN & DAO/SAO (Senior Scale Officers)	SA grade officers of Engg. Deptt.

This issue with the concurrence of Finance Directorate of this Ministry.

Receipt of this letter may please be acknowledged.

(Ashok Kumar)  
Executive Director, Civil Engg.(G),  
Railway Board.

No. 85/W-1/CT/23-GCC

New Delhi, dt. 16.8.89

Copy forwarded for information and necessary action to :-

1. The A.D.A.I.(Railways), New Delhi(with 40 spares).
2. The Director of Audit, All Indian Railways.

(Ashok Kumar)  
Executive Director, Civil Engg.(G),  
Railway Board.

**Government of India  
Ministry of Railways  
Research Designs & Standards Organisation**

No. RS/F/57 Vo1.II.

Manak Nagar, Lucknow-226011  
Dated: 9-6-1992.

General Manager/Chief Engineer (Con.)  
Chief Engineer/Open lines

All Indian Railways

Reg: Procedure for registering the outside  
consultants for Zonal Railways.

Ref: ME's D.O. No.88/CE-II/SF/1 dated -8-89

-----

Vide reference above, ME has directed that if any technical Institute/Consulting Firm is to be appointed for design of embankment/formation rehabilitation, RDSO's concurrence should normally be obtained by Zonal Railways before awarding the assignment. To streamline procedure for this purpose, it is desirable that the consultancy should be awarded to the registered consultants approved by RDSO. For this following procedure is to be adopted :

- i) Zonal Railways should short-list the reputed consultants who can render the consultancy services in Geotechnical Engineering.
- ii) Having short-listed in the firms, details should be sent to RDSO in enclosed proforma No. GE 41 & 42.
- iii) RDSO will scrutinize the Bio-Data of consultants recommended by the Zonal Railways, after which RDSO shall register the firm, if considered competent.

2. For the consultants already/currently engaged by Railways, their details on enclosed Proforma may please be sent to RDSO for immediate scrutiny.

DA: Proforma  
No. GE-41 & 42.

(S.R. Ujlayan)  
Director/Geotech. Engg.

Copy of Board's letter No. F(X)II-77-PW/5 dt. 10-1-1983 to the General Managers, All Indian Railways etc.

Sub: Delegation of Powers to General Managers for obtaining consultancy services of outside firms and institutions and incurring expenditure therefore.

-----

In terms of Railway Ministry's letter No.F(X)II/77/PW/5 dated 15-12-1978, General Managers have no powers to engage/obtain consultancy services from outside firms and institutions. Each and every such case irrespective of value is, therefore, required to be referred to the Railway Board for their consideration.

2. Despite these clear instructions, it has come to notice that some railway administrations have incurred expenditure in obtaining consultancy services from outside bodies, under the mistaken impression that the total value of the work being within their powers of finalising tender etc., obtaining consultancy services for such works would be within their powers. It has also come to notice that in certain cases consultancy services were obtained based on informal orders from the superior authorities. These informal orders were not, however, followed by formal sanction.

3. The entire matter has been carefully considered. The Board have desired that the existing instructions dated 15-12-78 laying down that General Managers have no powers to obtain consultancy services from outside firms and institutions should be reiterated for compliance by the Railways. The Board have also observed that where verbal orders or on the spot instructions issued by superior officers during inspections or at meetings have financial implications, such orders/decisions should be covered by formal financial sanction of the competent authority before implementation.

Sd/-  
A. Prasad,  
Jt. Director, Finance (Exp.)I  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No. 99/CE-I/CT/43

New Delhi, dated: 5.8.99

Addressed to:

As per list attached.

Sub: Works of specialized nature.

----

Two tenders involving execution of highly specialized work were called for at the division level of the zonal railway. Since the work was of a highly specialized nature, the eligibility criteria should have been clearly laid down in the tender, to avoid participation of firms who had no background to similar types of jobs. However, this was not done in the instant case, which resulted in a situation which called for comparing two unequal offers.

Board have observed that instructions already exist that before calling the tenders involving the highly specialized work the special conditions for carrying out the special works should invariably be got approved from the Headquarters office, These instructions should be strictly followed so as to avoid such type of complications in future:

Kindly acknowledge the receipt.

(V K. Bahmani)  
Exec. Director, Civil Engg.(G)  
Railway Board.

### **III. TENDERS**

#### **E. MODE OF TENDERING.**

S. No	Subject in Brief	Letter Date
1	Decentralisation of Powers in Regard to Award of Works on the basis of Limited Tenders	13/03/84
2	Decentralisation of Powers in Regard to Award of Works on the basis of Limited Tenders	17/01/85
3	Powers for Acceptance of Limited Tenders	03/04/86
4	Decentralisation of Powers in regard to Works Contract on the basis of Limited Tenders	30/03/87
5	Decentralisation of Powers in regard to Works Contract on the basis of Limited Tenders	08/04/88
6	Decentralisation of Powers in regard to Works Contract on the basis of Limited Tenders	04/04/89
7	Limited Tenders	12/06/89
8	Draft Para for C&AG's Report On Railways for the Year 1982-83 Southern Railway Avoidable Expenditure due to Execution of Works Through Special Contracts instead of Zonal Contracts	05/08/85
9	Consideration of Tenders Powers to Dispense with Calling of Tenders	23/06/79
10	Consideration of Tenders Powers to Dispense with Tenders	05/03/81
11	Consideration of Tenders Powers to Dispense with Tenders	02/06/83
12	Consideration of Tenders Powers to Dispense with the Calling of Tenders for Works Contract	30/01/86
13	Consideration of Tenders Powers to Dispense with the Calling of Tenders for Works Contract	02/11/88
14	Consideration of Tenders-Powers to Dispense with Calling of Tenders	22/12/89
15	Consideration of Tenders-Powers to Dispense with Calling of Tenders	14/12/90
16	Powers to Dispense with Calling of Tenders – Finalisation of Quotations	2.04.92
17	Consideration of Tenders-Powers to Dispense with Calling of Tenders for Works Contracts	24.04.96
18	Procedure with Regard to Tenders / Award of Contracts on Zonal Railways	27.09.96
19	Procedure with regard to Tenders / Award of Contracts on Zonal Railways	27.08.97
20	Calling Of Limited Tenders- Issue of Correction Slip to Engg. Code	19.01.00
21	Appointment of Works Contractors- Finalisation of Tenders- Eligibility Criteria for Enlistment of Contractors in A to D Category	8.02.02



Copy of Board's Letter No.83/W1/CT/14(Policy)dated 13.3.1984 from Addl. Director, Civil Engineering addressed to the General Managers (Construction), Southern Railway, Bangalore and others.

Sub: Decentralisation of powers in regard to award of works on the basis of "Limited tenders".

----

In accordance with the Engineering Code para 1214 revised vide letter No.75/W1/CT/17 dated 3.12.83, Railways have been delegated powers for calling limited tenders from amongst the contractors borne on the approved list for works costing upto Rs. 5 lakhs in case of Open Line Railway only. This limit of Rs. 5 lakhs was initially fixed under Board's letter No.66/W6/DK/1 dated 21/12/1966, with a view to achieving reduction in paper work by enhancing the powers of the Railways for expeditious working of the Engineering Department. Keeping in view the escalation in prices since then, there is a case for raising the limit upward. It is also felt that this system of calling limited tenders from amongst contractors borne on the approved list should also be extended to construction projects.

2. After careful consideration, Board, have, therefore, decided that Civil Engineering works upto Rs. 10 Lakhs in each case may be awarded on the basis of limited tenders. For this purpose, a list of approved contractors should be maintained on Railways and tenders called only from amongst the contractors borne on the approved list. To generate reasonable competition and to avoid the formation of rings, the Railways should keep a sufficiently large number of contractors on the approved list (not less than ten). The Railways, may, however, continue to invite open tenders in the following circumstances.

- (i) In the event of insufficient response to the tenders from the contractors borne on the approved list
- (ii) When the work is of a special nature and contractors with requisite experience are not available on the approved list; and
- (iii) When ring formation is suspected.

3. The powers for awarding contracts on the basis of Limited tenders from amongst the contractors borne on the approved List, may be exercised by the officers as under:-

Senior scale officers- Executive Engr./Divl.Engr.	Upto Rs. 1 lakh.
Dy. Head of the Dept. Dy. Chief Engineer/Sr. DENs.	Above Rs. 1 lakh and upto Rs. 5 lakhs.
Head of the Dept.CE/CN/CN/DRMS.	Above Rs. 5 lakhs and upto Rs. 10 lakhs.

4. This issues with the concurrence of Finance Directorate of the Ministry of Railways(Railway Board). These instruction will be valid upto 31.3.1986, and further extension will depend on the results of Railways experience and review by the Board.

5. Receipt of this letter may please be acknowledged.

(BB):

Sd-  
Add1. Director, Civil Engg.  
Rly. Board.

Copy of Railway Board's letter No. 83/W1/CT/14 (Policy) dated 17.1.1985, New Delhi addressed to The General Managers, All

Indian Railways and others and copy to The FA&CAO, all Indian Railways and etc.

Sub:- Decentralisation of powers in regard to award of works on the basis of `Limited Tenders'.  
Ref:- Board's letter No.81/W1/CT/ 14 (Policy) dated 13.3.1984.

----

On a reference from one of the Railways seeking clarification in regard to delegation of powers to HODs (Level-II) for awarding contracts valuing above Rs. 5 lakhs and upto Rs. 10 lakhs on the basis of `Limited Tenders' to contractors borne on the approval list, the position has been reviewed by the Ministry of Railways, Railway Board. It is clarified that HODs (Level-II) on Railways may also be allowed to exercise powers delegated vide Board's circular letter of even No. dated **13.3.84** addressed to all Indian Railways etc. Accordingly, para 3 of Board's above mentioned circular letter has been revised as under which may please be substituted:

Para-3:

The powers for awarding contracts on the basis of 'limited tenders' from amongst the contractors borne on the approved list, may be exercised by the officers as under:

- |   |  |
|---|--|
| i. Senior Scale Officers<br>Executive Engineers/Divl.<br>Engineers..... | : Upto Rs. 1 lakh                              |
| ii. Dy. Head of the Deptt.<br>Dy. Chief Engineers/Sr.DENs               | : Above Rs. 1 lakh and<br>: upto Rs. 5 lakhs   |
| iii. HODs (both Level I &<br>Level-II) including DRM                    | : Above Rs. 5 lakhs and<br>: upto Rs. 10 lakhs |

This issues with the concurrence of the Finance Directorate of the Ministry of Railways (Railway Board.)

Receipt of this letter may please be acknowledged

Sd/-..  
(ASHOK KUMAR)  
Addl. Director, Civil Engg.  
Railway Board.

---

No.W.496/FO/Vol. 13.

---

FA & CAO's Office,  
Madras-3 Dt; 18.2.85.

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF TRANSPORT  
DEPARTMENT OF RAILWAYS (RAIL VIBAGH)  
RAILWAY BOARD**

No. 83/W1/CT/14 (Policy)

New Delhi, dated 3.4.86

The General Managers,  
All Indian Railways, including CLW, DLW, ICF and  
MTP (Railways) at Calcutta, Madras and Bombay.

The General Managers (Construction)  
N.F. Railway/Maligaon, Guwahati and S.Rly./Bangalore.

Sub : Powers for acceptance of  
limited tenders.

-----

A Railway has sought clarification as to whether in terms of Board's letter No. 83/W1/CT/14 (Policy) dated 13-3-84, the powers of acceptance of limited tenders for HODS is limited to Rs. 10.0 lakhs only or whether the powers as already delegated on the Railways will continue to apply. The matter has been examined. In this connection, attention is invited to Para 1214 of the Code for the Engineering Department 1982 as corrected under Advance Correction Slip No. 2 E (copy enclosed for ready reference). It will be seen that Para 1214 (i) deals with limited tenders invited with concurrence of FA & CAO when it is not considered practicable or advantageous to call for open tenders. In such cases, the normal powers of acceptance of the tender as existing on the Railways will apply.

The Board's letter referred to above is in regard to works costing upto Rs. 10.0 lakhs where when it is considered advantageous to do so, the limited tenders are invited from approved list of the contractors. This limit vide Para 1214 (ii) of the Engineering Code was Rs. 5.0 lakhs but was raised to Rs. 10.0 lakhs under Board's letter referred above. In such cases, as would be seen from the Board's letter and Engineering Code, Finance concurrence for inviting limited tenders is not required. This should not be confused with the provision contained in Para 1214 (i) of the Engineering Code.

This issues with the Concurrence of Associate Finance.

DA : one.

(Ashok Kumar)  
Executive Additional Director,  
Civil Engineering Railway Board.

This disposes of CE/N.F.Rly.'s letter  
No.W/362/O/Pt. VIII/W-2 dated 17-10-85.

**Government of India (Bharat Sarkar)**  
**Ministry of Railways(Rail Mantralaya)**  
**Railway Board.**

No.83/WI/CT/14/Policy.

New Delhi dt. 30.3.1987.

The General Managers(Constn.)  
Southern Railway.

Sub: Decentralisation of powers in regard to works  
contracts on the basis of 'Limited Tenders'.  
-----

The ceiling limit for calling of limited tenders for each work from amongst the contractors on the approved list had been enhanced to 10 lakhs vide Board's Letter of even number dated 13.3.984 as an experimental measure valid upto 31.3.1987. Railways in their reports to Board have observed that the above arrangement is working satisfactorily at their end. They have further suggested that this measure should be introduced on regular basis and the existing monetary ceiling also suitably enhanced.

After careful consideration of relevant issues, Board have decided that Civil Engineering Works upto 20 lakhs for both open line and construction project may be awarded on the basis of limited tenders. For this purpose a list of approved contractors should be properly maintained and tenders called only from amongst the contractors borne on the approved list.

The revised schedule of powers will be as follows:

<u>Level of Officers.</u>	<u>Revised power.</u>
(i) General Managers.	Between Rs. 15 lakhs and Rs. 20 lakhs. (This power should not be re- delegated.).
(ii) CE/CE(Con.)/DRMS.	CE/CE(Con.) -Rs. 15 lakhs DRMS -Rs. 10 lakhs
(iii) DY. Chief Engineer/ Senior DENS.	Above Rs. 1 lakh and upto Rs. 5 lakhs.
(iv) Executive Engineer/ Divisional Engineers.	Upto Rs. 1 lakh

While exercising powers above, the following conditions should be fulfilled:-

- (a) The minimum number of contractors to borne on the approved list should not be less than 10.

- (b) The approved list of contractors should be updated annually, without fail.
- (c) Notwithstanding the provision above the railways may in consultation with Associate Finance invite open tenders in the following circumstances:
  - (i) In the event of insufficient response to the tender from the constructors borne on the approved list.
  - (ii) When the work is of special nature and contractors with requisite experience are not available on the appropriate list, and
  - (iii) When ring formation is suspected.

This issues with the concurrence of Finance Directorate of the Ministry of Railways (Railway Board).

Receipt of this letter may please be acknowledged.

Sd/-  
(Arimardan Singh)  
Joint Director Civil Engg.(G),  
Railway Board.

-----

## SOUTHERN RAILWAY.

FA & CAO'S Office,  
Madras - 600 003,  
Dated : 9.5.1988.

No. W. 496/F/O

FA&CAO/WST/PER; FA&CAO/CN/MS; FA&CAO/MTP/MS  
FA&CAO/PE/MS; Sr.DAOs/MAS, TPJ, SBC & MYS

Sub:- Decentralisation of powers in regard to works contracts on the basis of ` Limited Tenders'.

----

A copy of Railway Board's letter No. 83/WI/CT/14(Policy) date 8.4.88 is sent here with for information and guidances.

Encl: one

for F.A. & C.A. O.

-----  
copy of Railway Board's letter No. 83/WI/CT/14/(Policy) of 8.4.88 to the General Managers, All Indian Railways others.

Sub:- Decentralisation of powers in regard to works Contracts on the basis of ` Limited Tenders'.

----

In Board's letter of even No. dated [30.3.87](#), certain guide- lines were issued in regard to invitation of limited tenders for works contracts. Since doubts have been raised about the interpretation of some of the provisions thereof, the following clarifications are furnished:-

i. The powers delegated vide above-mentioned letter, are only for approving invitation of limited tenders as a regular measure, without Finance concurrence, from contractors borne on the approved list. The acceptance of such tenders shall follow the normal procedures and delegation of powers, as obtaining on the Railway.

ii. In case limited tenders are proposed to be invited from any of the Contractors not borne on the approved list prior Financial concurrence will be necessary irrespective of the value of the tender and approval shall be by the competent authority as per delegation of powers as obtaining on the Railway. The words "in consultation with Associate Finance", appearing in item (c) on page 2 of the letter may be deleted.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Sd/-.  
(ARIMARDAN SINGH)  
Jt. Director Civil Engg(G)  
Railway Board.

Copy of Railway Board's letter No. 83/W-1/CT/14(Policy) dt. 4.4.89 from Arimardan Singh, Director, Director, Civil Engg. (G), Railway Board, addressed to All General Managers, All Indian Railways.

-----

Sub:- Decentralisation of powers in regard to works contracts on the basis of 'Limited Tenders.'

-----

Guidelines were issued in regard to inviting of limited tenders for works contracts vide Board's letter of even number dated 13.3.84 and further amended vide Board's letters of even Number dated 30.3.87 and 8.4.88. A doubt has since been raised as to whether the limited tender system for works costing upto Rs. 20 lakhs is invariably to be adopted in each case by the respective competent authority.

2. In this connection, attention is invited to para 1214 (Advance Correction Slip No. 2-E) according to which Limited Tenders are to be invited only when it is considered advantageous to do so. It is clarified that there is no restriction on calling open tenders even in the case of works costing less than Rs. 20 lakhs. As a matter of fact calling open tenders for such works from time to time would be advantageous to test the market and hold the rates in check.

3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

\*\*\*



## SOUTHERN RAILWAY

No. W.496/P/CN/Vol.XIX

Headquarters Office,  
Works Construction Branch,  
Madras.  
Dt: 11.7.89

DY.CE/CN/MS, MAS, TBJ, MDU, TOR, ERS, KYJ,  
XENS/CN/MS, MAS, TPJ, DG, MDU, PCO, SA, PTJ,  
CLT, TCR, TVC, ERS, ALLP & KYJ  
DY.CEE/MMC/MAS, Sr.DEE/CN/GOC, CSTE/CN/MAS.

Sub: Limited Tenders.

--x--

A copy of Board's letter No. 88/CE-1/CT/74 dt. 12-6-89 received from CE/MAS is appended for your information, guidance and necessary action please.

This takes with immediate effect.

for Chief Engineer/Constn.

Copy to: CE/MAS with reference to his letter No. W.496/P/8 dt. 27-6-89.

Copy to: FA & CAO/CN/MS, SAO/CN/TPJ & SAO/CN/ERS.

-----  
Copy of Board's letter No. 88/CE-1/CT/74 dt. 12-6-89 to all General Managers,  
All Indian Railways.

-----  
Sub: Limited Tenders.  
-----

Railways have been empowered to invite limited tenders from approved contractors, for works upto Rs. 20 lakhs for both Open Line/Construction projects vide Board's Letter No. 83/W1/CT/14/Policy dt. 30-3-87 subject to the fulfillment of conditions laid down therein. During the course of Vigilance checks, it has been observed that the system of calling limited tenders is being manipulated in some cases resulting in favoritism & Railways not getting the benefit of the reasonable rates. In order to safeguard against misuse/manipulation, the following instructions should be scrupulously followed:

- i) Limited Tenders may be invited from all the contractor, borne on the approved list and not restricted to 10 number of contractors. Exception may be made where the previous record of the contractor has not been satisfactory but the reasons thereof should be recorded in writing.
- ii) The Tender Notices should be sent by Registered post or under Certificate of posting or handed over to the parties concerned and their clear acknowledgement obtained.

iii) To check reasonableness of the rates. It is not merely enough to compare the same with the previous accepted rates, especially if the previous tenders happens to be a limited one. A check of the current market rate and rate analysis may also be undertaken to establish reasonableness of the rates.

In this connection attention is also invited to Board's letter No. 83/W1/CT/14/Policy dt. 4.4.89 wherein it was clarified that there is no restriction on calling of open tenders even in case of works costing less than 20 lakhs and that calling of open tenders for such works, from time to time, would be advantageous to test the market and hold the rates in check.

Sd/- (ASHOK KUMAR)  
Executive Director-Civil  
Engg.(G)  
Railway Board.

Copy of Railways Board's letter No.85/W1/CT/24 (Audit\_ dated 5.8.1985 from Addl. Director, Civil Engineering, Railway Board, New Delhi, addressed to GMs/All Indian Railways including CLW, DLW, ICF and MTP (Railways at Calcutta) etc.

Sub:- Draft para for C&AG's report on Railways for the year 1982-83- southern Railway- Avoidable expenditure due to execution of works through special contracts instead of Zonal contracts.

----

The Comptroller and Auditor General of India, vide para 18- IV(ii) of their Report on Railways for the year 1982-83 have pointed out a case wherein the Railway clubbed certain works of improvements to staff quarters (like provision of additional shelves, verandah and flooring etc.) at different stations spread over a distance of 250 Km. into one work and awarded it to a contractor on open tender basis at high rate instead of getting them executed individually by zonal contractors under the zonal contracts, thus involving an extra expenditure of considerable amount.

2. Board have examined the matter carefully and wish to reiterate the provisions contained in Para 1209 of the Indian Railways Code for the Engg. Department (Revised Edition-1982) according to which the following works are to be included for execution in Zone contracts:

- (i) New Works, additions and alternations to existing structures, special repair works and supply of building materials subject to the contract value of each such work not exceeding Rs. 50,000/-.
- (ii) All ordinary repairs and maintenance works; and
- (iii) Conveyance of materials e.g. bricks, limes and etc. which are likely to be required in zone during the year."

3. The provisions contained in the above Para of the Engineering Code should be adhered to strictly.

4. The receipt of this letter may please be acknowledged.

(Hindi version will follow)

## SOUTHERN RAILWAY

No.W.496/P

Headquarters Officer,  
Works Branch, Madras-3  
Dated: 7-7-70.

DRY/W/MAS TPJ MDU CJA & MYS

Sub: Consideration of tenders - Powers to dispense with the calling of tenders for works contracts.

-----  
A copy of Board's letter No.79/W1/CT/9 of 23-6-79, received on the above subject is sent herewith for information and guidance.

Board's earlier letter dated 31-1-69 was circulated under No.W.496/P dated 0-2-69.

Sd/-  
for CHIEF ENGINEER

-----  
Copy of letter No.79/W1/CT/9 dated 23-6-79 from Railway Board addressed to All Indian Railway's General Managers etc.

Sub:- Consideration of tenders - Powers to dispense with the calling of tenders for Works Contracts.

Ref:- Board's letter No.68/W1/CT/46 of **31-1-69**.

-----  
The question of raising the limit of Rs. 10,000/- upto which the General Managers of Indian Railways can at present dispense with the need for calling of tenders for Works Contracts has been under consideration of the Ministry of Railways (Railway Board). It has now been decided that the limit of Rs. 10,000/- provided in para iii-E may be raised to Rs. 25,000/-. However, the powers to dispense with calling of tenders valued from Rs. 10,000/- to Rs. 25,000/- shall be exercised only by administrative grade officers. For tenders upto the financial limit of Rs. 10,000/- these powers may be exercised by senior scale officers.

The above mentioned revised procedure should be introduced on a trial basis for a period of 2 years i.e. upto 31-3-1981 after which the position will be reviewed. The Railways may please send a detailed report on the working of the revised procedure so as to reach this office by 28th Feb. '81.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways (Railway Board).

The receipt of this letter may please be acknowledged.

\*\*\*

Copy of Railway Board's letter No. 79/W1/CT/9 of 5-3-81 to GMs etc.  
-----

Sub: Consideration of tenders-powers to dispense  
with the calling of tenders for Works  
Contracts.  
-----

In reference to Board's circular letter of even number dated **23-6-1979** addressed to all Indian Railways, including Project Organisations and Production Units etc., on the above subject, inter-alia raising the financial limit of Rs. 10,000/- as provided in para iii-E, to Rs. 25,000/-the Ministry of Railways, Railway Board, have decided further that:-

i) Normally, powers to dispense with the calling of tenders should be exercised sparingly; however, in special cases where it is felt necessary to do so, reasons for taking such a decision should be recorded by the competent authority in such case. viz. Sr. Scale Officer upto Rs. 10,000/- and J.A. grade officer upto Rs. 25,000.

ii) The work should not be split up for the purpose of bringing it within the ambit of this dispensation.

iii) The reasonableness of the rates should be gone into by the accepting authority.

iv) Association of finance for accepting such quotations is not necessary.

2. The revised procedure should be introduced on a trial basis for a further period of 2 years, i.e. upto 31-3-1983 after which the position will be reviewed. The Railways, may therefore, please send detailed reports on the working of the revised procedure so as to reach this office by 28th Feb. 1983 to enable the Board to take a final decision in the matter including amending the 'Note under para iii 7-E.'

3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways (Railway Board).

4. The receipt of this letter may please be acknowledged.

Sd/-  
(A. Bhima Rao)  
Addl. Director, Civil Engg.,  
Railway Board.

Copy of Board's letter No.8/W1/CT/9 dt.2.6.83 to The General Managers, All Indian Railways, including CLW, DLW, ICF & MTP (Railways) at Calcutta.

Sub: Consideration of tenders- Powers to dispense with calling of tenders for Works Contracts.

----

The financial limit of Rs. 10,000 upto which the General Manager could dispense with calling of tenders was raised to Rs. 25,000 as a trial measure for a period of 2 years, vide this office letter of even number dated [23.6.79](#).

2. While extending the period of delegation of the above powers by another two years upto the end of 31.3.1983 vide Board's letter of even number dated [5.3.1981](#), Board has stipulated the following safeguards to prevent misuse of these powers:-

(i) Normally, powers to dispense with the calling of tenders should be exercised sparingly. However, in special cases where it is felt necessary to do so, reasons for taking such a decision should be recorded by the competent authority in each case, viz: Sr. Scale Officer upto Rs. 10,000/- and J.A. Grade Officer upto Rs. 25,000/-

(ii) The work should not be split up for the purpose of bringing it within the ambit of this dispensation.

(iii) The reasonableness of the rates should be gone into by the accepting authority.

(iv) Association of finance for accepting such quotations is not necessary.

3. Board have carefully considered the matter in the light of additional facts brought to their notice in the course of last two years when the delegation of powers was in use on the Railways. With a view to exercise more effective financial control and to avoid the tendency towards splitting of the contracts and acceptance of unreasonably high rates, it has now been decided that the limit to dispense with calling of tenders without Finance concurrence should, revert back to Rs. 10,000/-

4. Board have also decided that the enhanced powers to dispense with calling of tenders in the range of contracts of Rs. 10,000/- to Rs. 25,000/- in value may however, continue to be delegated to the Railways in consultation with the Associate Finance at the stage of acceptance of the offer. The Railways while using these enhanced powers should bear in mind precautions indicated in para 2(i) to 2 (iii) above.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Sd\  
(M.M. Goyal),  
Addl, Director, Civil Eng  
Railway Board.

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF TRANSPORT (PARIVHAN MANTRALAYA)  
DEPARTMENT OF RAILWAY (RAIL VIBAGH)**

No.81/W1/CT/26-(Com)

New Delhi dt. 29/30.1.1986.

The General Managers,  
All Indian Railways

The General Manager, S.Rly/Bangalore & others

\* \* \* \* \*

Sub: Consideration of tenders-Powers to dispense with the  
calling of tenders for works contracts.

----

Reference is invited to Board's letter No.78/W1/CT/9 dated [2.6.83](#) wherein it was advised that limit to dispense with calling of tenders without Finance Concurrence should revert to Rs. 10,000/-. It was also communicated therein that the enhanced powers to dispense with calling of tenders for works in the range of Rs. 10,000/- to Rs. 25,000/- in value may, however, continue to be delegated to the Railways, subject to consultation with the Associate Finance at the stage of acceptance of the offer.

2. In modification of the above orders, it has been decided that the Finance limit to dispense with calling of tenders and acceptance of the quotations would be as under:

i) Normally, powers to dispense with calling a tender should be exercised sparingly unless the works are of small value say upto and less than Rs. 5,000/- in value. In cases, where it is felt necessary to do so, reasons for taking such a decision should be recorded by the competent authority in writing in each case.

ii) While exercising above powers, the following limits should be observed strictly:

Rank of the Officer	Financial limit to dispense with tender and accept quotations without Finance Concurrence in each case (Rupees)	Financial limit to dispense with tender and accept quotation with Finance Concurrence in each case (Rupees)	The total Financial limit to which quotations can be accepted by Officers with in a Financial year
Sr. Scale	20,000	-	2.0 lakhs
JA Grade	25,000	40,000	-do-
SAG/DRM	25,000	50,000	-do-

It will be responsibility of the competent accepting officer to ensure that the above limits are not exceeded. Accounts Department in their internal checks should also check this.

iii) For works costing over Rs. 10,000/- sealed quotations for the work may be invited from the contractors working in the area and selected by Sr.DEN/DEN in-charge of the work for the type of works to be done. The quotations should normally be invited with a minimum notice period of 7 days. For lesser periods reasons should be recorded in writing. The quotations so obtained should be deposited in a sealed box kept for the purpose in the office of the officer calling for quotations. The box should be opened at the appointed time and date and quotations read out before parties who have quoted and are present. The quotations should be numbered and initialed by the officer opening them, after which they should be properly evaluated and tabulated. An Account's representative or Divisional Accountant also be associated in the above process. For works costing less than Rs. 10,000/- also, similar procedure may be followed as far as practicable. Detailed procedure may be laid down by the Railways.

iv) The work should not be split up for the purpose of bringing it within the ambit of this dispensation

v) The reasonableness of the rates should be gone into by the accepting authority and necessary certificate recorded.

3. The revised procedure should be introduced on a trial basis for a period till 31-3-87 after which the position will be reviewed. The Railways may therefore, send detailed reports on the working of the revised procedure so as to reach Board's office by 28-2-87.

4. While according approval to quotations for works, the competent authority must invariably record the following certificates :

- i) The rate (s) accepted is/are reason able.
- ii) Adequate funds are available in the budget to execute the work.
- iii) Provision does exist in the sanctioned estimate for the execution of the work(Purchase of material) except for small revenue works where estimate is not necessary
- iv) Calling of tenders was not justified.



- v) Adequate number of quotations (not normally less than 3) have been called as per procedure in vogue on the Railway. Under no circumstances should a single quotations be accepted without prior finance concurrence and acceptance of competent authority.

In the absence of above certificates, the Accounts department may not release the payment.

5. This issues with the concurrence of the Finance Directorate of the Department of Railways.

Sd/.....  
(Ashok Kumar)  
Executive Additional Director,  
Civil Engineering, Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.81/W1/CT/26(Com.)

New Delhi/dt. 2.11.88

The General Managers,  
All Indian Railways including  
CLW,DLW,ICF&MTP/Railways,  
Calcutta.

The Officer on Special Duty,  
Rail Coach Factory,  
Kapurthala.

The Chief Admn. Officer,  
MTP/Railways at Bombay &  
Madras

The Chief Admn.Officer,  
DCW/Patiala and COFMOW/  
New Delhi.

The chief Project Officer,  
MTP/Railways, Delhi.

The General Manager, Central  
Organisation, Railway  
Electrification  
Allahabad.

The Chief Admn.Officer(Con.),  
Southern Railway, 18 Millers Rd,  
Bangalore.

The Director, IRICEN/Pune,  
IRISET/Secunderabad,  
IRME/Jamalpur,  
IRIEEN/Nasik.

The Director General,  
RDSO/Lucknow.

The Chief Admn.Officer(C),  
S.E.Railway/Waltair.

The General Manager, Wheel &  
Axle Plant, Bangalore.

The Principal,  
RSC/Baroda.

The General Manager(Con.),  
N.F.Railway/Guwahati.

Sub: Consideration of tenders-Powers to dispense with the  
calling of tenders for works contracts.

----

In continuation of Board's letter of even number dt.29/**30.1.1986** on the above subject, it has been decided that the limits to dispense with the calling of tenders and acceptance of the quotations should be observed as under upto 31.3.89:

Rank of the Officer	Financial limit to dispense with tender and accept quotations without Finance Concurrence in each case In Rs.	Financial limit to dispense with tender and accept quotation with Finance Concurrence in each case in Rs	The total Financial limit to which quotations can be Accepted by Officers within a Financial year.  In Rs.
Sr.Scale	20,000		2,00,000
JA Grade	25,000	40,000	2,00,000
SAG/DRM	25,000	50,000	2.00.000

While accepting quotations with/without Finance Concurrence, the following guidelines may be followed:

- (i) Quotations should not be for items which can be executed through the existing contracts including zonal contracts;
- (ii) Quotations should not be for fancy (expensive but of less utility) items;
- (iii) Quotations should only be for works which are urgent in nature for which prior approval of next higher authority should be obtained except in the case of SAG/DRM;
- (iv) Quotations should normally be invited from at least 3 contractors working in that area and selected by Sr.DEN in-charge of the work. At least two of them should be from the approved list of the Division;
- (v) Accepting authority must take precautions to see that the quotations are from genuine firms (and not from fictitious firms);
- (vi) Each Officer will maintain a Register showing full particulars of works or supplies authorised by him and this should be open to verification by Accounts while passing the bills. DRM/ADRM should have a monthly review as a matter of control.

Other terms and conditions as stipulated in Board's letter of even number dt. 29/30-1-1986 remain unchanged.

An appreciation report on this procedure, duly incorporating FA&CAO's comments, may be sent to Board by Feb. '89 positively.  
This issues with the concurrence of the Finance Directorate of this Ministry.

Please acknowledge receipt of the letter.

(ARIMARDAN SINGH)  
Director, Civil Engineering (G)  
Railway Board

FA & CAO'S Office.  
Madras-600 003,  
Dated : 10.1.1990.

No. W.496/F/O

FA&CAO/CAO/WST/PER; PA&CAO/CN/MS; FA&CAO/MTP/MS  
Sr.DaCs/MAS, TPJ, MYS; DAOs/SBC, MDU & TVC  
SAO/W&S/GOC; MYS & PTJ ; AAO/XC/MAS

Sub:- Consideration of tenders - Powers to dispense with  
calling of tenders.

-----

A copy of Railway Board's letter NO. 81/W1/CT/26(Com) of 22.12.89 on the  
above subject is sent herewith for information and guidance.

Sd/-  
for F.A & C.A.O.

-----  
Copy of Railway Board's letter No. 81/W1/CT/26(Com) dated 22.12.89 to The  
General Managers, All Indian Railways and others with copy to The FA & CAOs, All  
Indian Railways and others.

Sub:- Consideration of tenders - powers to dispense with  
calling of tenders.

Ref:- Board's letter of even number dated (i) 29/30.1.86 (ii)  
2.11.88 (iii) 9.5.89 (iv) 21.8.89/01.9.89.

-----

1. In continuation of Board's letter of even numbers dated 9.5.89 it has been  
decided to further extend the validity of the above instructions upto 30.9.90. As  
the ceiling of Rs.2 lakhs is normally given for a full financial year it is clarified that  
for the broken period it is reduced proportionately.

2. The appreciation report on this procedure, duly incorporating FA&CAO'S  
comments may be furnished to the Board by 28.2.90 positively so that a final  
decision can be taken as to whether this procedure should be adopted as a  
regular measure.

3. This issues with the concurrence of Finance Directorate of the Ministry of  
Railways.

Hindi version will also follow.

Sd/-  
(S.D. Gupta)  
Exe. Director, Civil Engg(G)  
Railway Board.

**Government of India  
Ministry of Railways  
(Railway Board)**

Rail Bhawan Raisina Road  
New Delhi: 110001  
Dated 14th Dec. 1990

No.90/CE-I/CT/1

The General Managers:-

1. Central Railway, Bombay
2. Eastern Railway, Calcutta
3. Northern Railway, Baroda House, New Delhi
4. North Eastern Railway, Gorakhpur,
5. Northeast Frontier Railway, Maligaon, Guwahati
6. Southern Railway, Madras.
7. South Central Railway, Secunderabad
8. South Central Railway, Garden Beach, Calcutta.
9. Western Railway, Bombay.
10. Chittaranjan Locomotive Works, Calcutta.
11. Diesel Locomotive Works, Varanasi
12. Integral Coach Factory, Perambur/Madras.
13. Rail Coach Factory, Kapurthala
14. Railway Electrification, Allahabad
15. Wheel & Axle Plant, Bangalore.
16. N.F. Rly(construction)/Guwahati
17. M.T.P. (Rlys)/Calcutta.
18. M.T.P. (Rlys), Bombay: 400 020

The Chief Administrative Officer(Constructions)

19. Central Railway, Bombay.
20. Northern Rly, Kashmere Gate, Delhi: 110 006
21. N.E. Railway. Gorakhpur.
22. Southern Railway Egmore/Madras.
23. South Eastern Railway, Secunderabad
24. South Eastern Railway, Visakhapatnam
25. C.O.F.M.O.W, New Delhi
26. Diesel Component Works/Patiala
27. The Chief Engineer(S&C)/Western Railway, Bombay.
28. The Director General, R.D.S.O/Manak Nagar/Lucknow

The Director,

29. Indian Railways Institute of Civil Engineering, Pune.
30. Indian Railways Institute of Signal Engineering and Telecommunications, Secunderabad
31. Indian Railways Institute of Mechanical and Electrical Engineering, Jamalpur.
32. Indian Railways Institute of Electrical Engineering, Nasik.
33. The Principal, Railway Staff Collage, Vadodara.

Sub: Consideration of tenders-Powers to dispense with the calling of tenders for works contracts.

Ref: Board's letter Number:-

(i) 81/W.I/CT/26/Com dated 2-11-1988

(ii) 81/W.I/CT/26(Com) dt. 22-12-1989.

-----

Enhanced powers to dispense with calling of tenders for works contracts were last extended upto 30-9-1990.

After due consideration of the subject, it has not been decided that the powers to dispense with calling of tenders and acceptance of quotations shall be exercised by J.A. and S.A. Grade Officers only and with Finance concurrence as per following schedule:-

Rank of the Officer	Financial limit to dispense with tender and accept quotations without Finance Concurrence (Rupees)	Financial limit to dispense with tender and accept quotation with Finance Concurrence (Rupees)	Total Financial limit to which quotations can be accepted by Officers within a Financial year
1. Sr.Scale	Nil	Nil	Nil
2. JA Grade	Nil	40,000	Rs. 4,00,000/-
3. SAG/DRM	Nil	50,000	Rs. 4,00,000/-

3. To avoid unnecessary paper work, a proper assessment of works to be executed under the Zonal contract on Open Line and Miscellaneous Works Contracts on construction Organisation should be made. These tenders should be of viable amounts and should include works under various chapters of the standard schedule of rates. Construction Units should evaluate miscellaneous works on their system which may be required during a specified period and in a specified jurisdiction, such as loading/unloading, transportation of materials, maintenance works of Construction offices/quarters and such other item which may be required to be done at standard schedule of rates of the Railway and include these in the Miscellaneous Works Contracts.

4. Recently the limit of each work order under such zonal/ miscellaneous contracts had been enhanced to Rs.1 lakh vide Railway Board's letter No.83/W.I/CT/18(P) dated 20-11-1990. These powers should be made use of to the fullest extent and calling tenders for small works separately should be avoided.

5. Similarly zone tenders should be of adequate value and there should be only one Zone contract for a specified jurisdiction for the various items.

6. While accepting quotations as now empowered, the following guidelines may be strictly followed:-

- i) Quotations should not be for items which can be executed through the existing contracts including zonal contracts;
- ii) Quotations should not be for fancy (expensive but of low utility) items;
- (iii) Quotations should not be for works which are urgent in nature.
- (iv) Quotations should normally be invited from at least 3 contractors working in that area. At least two of them should be from the approved list of the Division;
- (v) Accepting Authority must take precautions to see that the quotations are from genuine firms (and not from fictitious firms); and
- (vi) A Register showing full particulars of works authorised will be maintained by each Officer and this should be open to verification by Accounts while passing the bills. D.R.M./A.D.R.M. should have a monthly review as a matter of control.

7. Approved list of contractors should be periodically up-dated as per extant instructions.

8. This issues in consultation with the Finance Directorate of the Ministry of Railways.

Receipt of this letter may be acknowledged.

(S.M. Singla)  
Exec. Director, Civil Engg.(G)  
Railway Board.

No.90/CE2I/CT/1 New Delhi: 110 001 dated 12-1990

Copy (with 40 spares) forwarded to A.D.A.I(Rlys)  
New Delhi for information.

(S.M. Singla)  
Exec. Director, Civil Engg.(G)  
Railway Board.

**Government of India  
Ministry of Railways  
(Railway Board)**

Raisina Road,  
Rail Bhawan,  
New Delhi: 110 001.

No.90/CE.I/CT/I

Dated 2nd April 1992

Addressed to:

As per list attached

Sub: Power to dispense with calling of tenders  
finalisation of quotations.

-----

As per Board's letter No.90/CE.I/CT/1 dated 14-12-90 para 6(iv) while exercising powers to dispense with calling of tenders and acceptance of quotations, quotations should normally be invited from at least 3 contractors working in that area and at least two of them should be from approved list of the Division.

2. It has been brought to the notice of Board that S&T department have not prepared "lists of contractors" as most of their works were being executed departmentally. The matter has been considered and it is decided that in such cases the condition of 2 contractors being necessarily from approved list may be waived temporarily upto 31.12.1992. All other guidelines should, however, be followed as closely as possible.

3. It is however, essential that the quotations are called for from at least 3 contractors and ensure that "Approved lists" are prepared latest by 31.12.1992 positively.

4. This is issued in consultation with Finance Directorate of Ministry of Railways.

5. Please acknowledge receipt.

(S.M. Singla)  
Exec. Director, Civil Engg.(G)  
Railway Board.



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.90/CE-I/CT/1

New Delhi, the 24.4.96

The General Managers,  
All Indian Railways including  
DLW, CLW, ICE, CORE/Allahabad,  
RCF/ Kapurthala, W&AP/ Bangalore  
and MTP/Railways, Calcutta.

The Chief Admin. Officers (Construction),  
Central Railway/Bombay, Northern Railway, Kashmere Gate/Delhi, NE  
Railway/ Gorakhpur, Southern Railway/Madras, S.C. Railway/ Secunderabad,  
E Railway, Visakhapatnam, Eastern Railway, Bombay. COFMOW /New Delhi &  
DCW/Patiala. The Chief Engineer (S&C), Eastern Railway /Calcutta.

The GM(Con.), N.F. Railway, Maligaon, Guwahati.  
The DR/ROSO, Lucknow.

Sub: Consideration of Tenders – Powers to dispense with  
calling of tenders for works contracts.

Ref: Railway Board's letter No.90/CE-I/CT/1 dated 14.12.90.

----

As per Railway Board's above quoted letter, powers to dispense with calling tenders and acceptance of quotations have been given to JA Grade and SA Grade Officers and are meant for works of urgent nature. No power to dispense with tenders and to accept quotations were given to senior scale officers. Situations are arising where the senior scale officers are holding independent charge in the Divisions instead of JA Grade Officers. To cover such situations in the Divisions i.e. where senior scale officers dealing with works contracts are holding independent charge instead of JA Grade Officers, it has been decided to delegate powers to dispense with calling of tenders for works contracts and zonal contracts as follows:—

Rank of the Officer	Financial limit to dispense with tender and accept quotations without Finance Concurrence	Financial limit to dispense with tender and accept quotation with Finance Concurrence	Total Financial limit to which quotations can be accepted by Officers with in a Financial year.
Sr. Scale (In-charge) in The Division Holding independent charge	Nil	Rs. 20,000/-	Rs. 1,00,000/-

Reasons for dispensing with tenders have to be recorded in each case and prior finance concurrence obtained.

This issues in consultation with finance Dte. of the Ministry of Railways.

Sd/-  
(Ved Prakash)  
Exec. Director Civil Engg (G)  
Railway Board

No.90/CE-I/CT/1

New Delhi, the 24.4.96

Copy (with 40 spares) forwarded to ADAI(Rlys), New Delhi, for Information.

Sd/-  
(Ved Prakash)  
Exec. Director Civil Engg (G)  
Railway Board

No.90/CE-I/CT/1

New Delhi, the 24.4.96

Copy forwarded for information and necessary action.  
The Director of Audits, All Indian Railways.  
Production Units and Construction Organisations.

Sd/-  
(Ved Prakash)  
Exec. Director Civil Engg (G)  
Railway Board

Relevant extract from Sudhir Chandra Committee Report circulated vide Board's Letter No. 94/CE-1/CT/4 dated [17.10.2002](#), on the above subject is as follows:-

## **DISPENSING CALLING OF TENDERS- CALLING OF QUOTATIONS**

(2.7.4.1) Sub-paras (i), (vii) & (ix) of para 1211 (E) may be modified as under:-

**(a) Sub-para (i):-** Normally the powers to dispense with calling of tenders should be exercised sparingly. The circumstances under which quotations have to be called should be spelt out. The financial limits for calling Quotations of different grades with finance concurrence have been revised as under:

Rank of Officer	Financial limit to dispense with tenders and accept quotations per case	Annual Ceiling
Sr. Scale holding independent charge	Rs. 50,000/-	Rs. 2,00,000/-
JAG/SG	Rs. 1,00,000/-	Rs. 5,00,000/-
SAG	Rs. 2,00,000/-	Rs. 10,00,000/-

Note: These powers will be exercised by the officers with their own administrative approval and no separate administrative approval is necessary.

**(b) Sub-para (vii):-** Quotations should normally be invited from at least these well experienced contractors/agencies not necessarily borne on the approved list...

**(c) Sub- para (ix):-** A register showing the full particulars of works through quotations will be maintained by the officer having powers to dispense with calling of tenders. The register may also be sent to Associate Finance while seeking their concurrence.

(d) Other sub paras (ii),(iii),(iv),(v),(vi) & (viii)  
**-No change.**

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

NO. 93/W2/PQR/SC/4/PT.

New Delhi, dated 27.9.96

Chief Admn. Officers (Con.) General Managers, FA&CAO(C)  
5/FA&CAO'S  
Central Railway, Mumbai  
Eastern Railway, Calcutta  
Northern Railway, Baroda House, N.Delhi/ Kashmere Gate/Delhi  
N.E. Railway, Gorakhpur  
N.F. Railway, Maligaon  
Southern Railway, Madras/Bangalore  
S.C. Railway, Secunderabad  
S.E. Railway, Calcutta/ Bhubaneshwar  
Western Railway, Mumbai

Sub: Procedure with regard to single Tenders/Awards of  
Contracts on Zonal Railways.

-----

The Chairman, Rajya Sabha Committee on Government Assurances while taking oral evidence of Board (CRB and ME) in connection with the system of award of contracts on one of the Zonal Railways had adversely commented upon the high incidence of Single Tenders particularly on that Railway. The Committee had desired this Ministry to order an enquiry into the incidence of Single Tenders resorted to during the last three years on the Zonal Railways and to suggest measures to streamline the procedure for inviting single Tenders so as to curb their misuse.

2. On the basis of the Report furnished by the Enquiry Committee, it has been decided that the following procedures should be strictly observed by the Zonal Railways, in cases of award of Single Tenders:-

- (i) Award of works on Single Tender should be restricted to restoration works in cases of accidents, breaches and other emergencies, as also to works of a very specialised nature. The decision in regard to these specialised works, should be taken by the Chief Administrative Officer/Construction or the General Manager and cannot be delegated further. Routine nature of works like transportation of ballast, P. Way, cement, renovation of canteen complex and renovation of officers chambers should not be undertaken on a Single Tender basis under the garb of urgency. Adherence to stiff target dates, or any shift in target dates of completion of projects like gauge conversion etc. should not be a cause of awarding works on a Single Tender. Such exigencies can be taken care of by special limited tenders by the Railways.

- (ii) It has been noticed that in many cases of Single Tenders, the delay in completion of contracts has resulted in time over-runs as well as incurring of extra expenditure, which completely nullified the calling of Single Tenders on grounds of urgency. Therefore, Single Tender should be invited on a very restrictive basis, as brought out above.
- (iii) Selection of agencies for award of work on Single Tender basis should be from the approved list of contractors on the Zonal Railways, except in respect of works of a specialised nature for which no approved list is usually maintained.
- (iv) Detailed reasons justifying the need for resorting to Single Tender should be spelt out. The tender value should be worked out carefully based on realistic quantities and rates, and keeping in view the time frame for completion of the works. All cases of Single Tender shall require prior Finance concurrence before the competent authority accords administrative approval for the award of the work on Single Tender.
- (v) The delegation of powers below the level of GM for according administrative approval for award of work on Single Tenders for works connected with restoration of traffic will henceforth be as below:-
  - (a) upto Rs.20 lakhs per case per PHOD subject to annual limit of Re.1 crore per PHOD.  
  
Prior Finance concurrence at the level of FA&CAO should be obtained in each case:
  - (b) Upto Rs.10 lakhs per case per DRM subject to annual limit of Rs.50 lakhs.  
  
Prior concurrence of the Sr. DAO should be obtained in each case.
- (vi) Once Administrative approval for awarding the work on Single Tender has been accorded by the competent authority, the reasonableness of the rates quoted by the tenderer as also other terms and conditions, if any, would require to be considered by a Tender Committee and accepted by competent authority at appropriate level. The acceptance of the Tender Committee recommendations would be determined with reference to the delegation of powers prevailing on that Railway for Open Tenders.

- (vii) Where award of contract on Single Tender basis is for a very specialized nature of work, extension may be considered as per extant rules and instructions. No extension should normally be granted for works awarded on Single Tender basis for works connected with restoration of through traffic.

However, in case of extreme necessity warranting grant of extension on account of unforeseen exigencies, the same should be done by levying adequate penalty (if extension is on contractors' account). Prior Finance concurrence and sanction of competent authority that had earlier accorded Administrative approval for the award of the work on Single Tender, should be obtained irrespective of whether the extension is being granted on contractors' account or Administration's account. If the value of the Single Tender goes beyond the original competent authority's powers, in the regard, then prior approval of the next higher authority (i.e. PHOD/GM) should be taken.

3. This issues with the concurrence of Finance Dte. of Board's office.

(K.P. SINGH)  
EXECUTIVE DIRECTOR WORKS  
RAILWAY BOARD

**Government of India**  
**Ministry of Railways (Rail Mantralaya)**  
**(Railway Board)**

No. 97/CE-I/CT/32

New Delhi, the 27.8.97.

Addressed to:

As per list attached.

Sub: Procedure with regard to Single Tenders/Award of contracts in zonal Railways

Ref: Board's letter No.93/W2/PQR/SC/C/4/Pt. Dt. [27.9.96](#).

---

Further to Board's letter No.93/W2/PQR/SC/4/Pt. Dt.27.9.96 wherein Board had sought to streamline the procedure for award of works on Single tender basis by the zonal Railways, the following clarifications are Issued:

(i) While the circular of 27.9.96 stressed the need for restraint on calling of single tenders for routine works, withdrawal of the financial powers of GM (presently upto Rs. 3 Crores) to call for single tenders in emergent situations was not the Intention.

(ii) Emergent situation would cover —

(a) accidents, breaches Involving dislocation to traffic.

(b) works of specialised nature to be personally approved by the GM/CAO/C with prior concurrence of the FA&CAO. This power is not to be delegated to any other authority.

(c) any other situation where General Manager personally considers it Inescapable to call for single tenders subject to the following provisio:-

(1) This cannot be delegated further even if the CAO(C) enjoys all powers of GMs as in the case of certain Railways.

(2) Prior concurrence of FA&CAO Is obtained.

(3) No post-facto sanction /ratification will be allowed.

(4.) Single Tender should be resorted to only after exhausting the Open Tender/Special Limited Tender routes.

(5) Tight targets and urgency cannot be accepted as a reason for calling single tenders. In these cases, Limited Tenders/Special Limited Tenders should invariably be called for from the approved list and not from non-registered contractors.

(iii) In view of the commitment to the Rajya Sabha Committee on Govt. Assurances, the number of cases finalised on single tender in each of the above mentioned three categories, (ii) (a),(b),(c), should be reported to the Board through the GM's Monthly PCDO TO CRB This would ensure a close monitoring of the number of cases of single tender over the various zonal Railways.

(iv) All other instructions contained In Board's letter no. 93/W2/PQR/SC/4fPt.Dt.27.9.96 should be strictly followed.

(v) This issues with the concurrence of the Finance Dte. Of Board's office.

Please acknowledge receipt.

-Sd-  
(V.K.Bahmani)  
Executive Director (Civil Engg)  
Railway Board



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

NO.97/CE.I/CT/32

New Delhi, dated 19.1.2000

Addressed to. As per list attached.

Sub: Calling of Limited Tenders – Issue of correction  
slip to Engg Code

---

The Ministry of Railways (Railway Board) have decided that a new para 1214-A of the Indian Railway code for the Engineering Department (Revised Edition 1993) may be added as shown in the enclosed correction slip No.

This issues with the concurrence of Finance Directorate of the Ministry of Railways.

Receipt of this letter may please be acknowledged.

Sd/-  
(V.K. Bahmani)  
Exec.Director..Civil Engg.I (Spl)  
Railway Board.

ADVANCE CORRECTION SLIP TO INDIAN RAILWAYS CODE FOR THE  
ENGINEERING DEPARTMENT (1993 EDITION)

Add Sub Para 1214-A to. Para 1214-E as under:

1214-A Single tender can be awarded under following situation such as

**1. Emergent Situation:**

(a) Accidents, breaches involving dislocation of traffic.

(b) Works of specialized nature to be personally approved by the GM/CAO(C) with prior concurrence FA&CAO. This power is not to be delegated to any other authority.

(c) Any ether situation where General Manager personally considers it inescapable to call for single tenders subject to this powers; can be exercised by GM only with prior concurrence of Finance.

2. Annual Maintenance Contract for equipment can be placed on single tender basis on authorised dealers with approval of Additional General Managers Railways.

**NOTE:**

These powers may be delegated by the General Managers in consultation with FA&CAO to PHODs/DRMs, upto a maximum of Rs.5 lakhs per item per annum . On re-delegation, these powers would be exercised by PHODs/DRMs in consultation with associate finance.

(Authority Railway Board letter No.97/CE.I/CT dated [27.8.97](#) and 24.2.99 and F(X)II-99/PW/3 dated 20.10.99).

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

Rail Bhavan,  
New Delhi, dated 8.2.02

No.94/CE.I/CT/4

Addressed to: As per list attached.

Sub: Appointment of Works contractors – Finalization of tenders – Eligibility Criteria for enlistment of Contractors in A to D Category.

\*\*\*

Instructions had been issued to the Railways regarding approved list of contractors vide Annx.I of Board's letter of even number dated 22.10.01. However, eligibility criteria for enlistment circulated vide Board's letter No.85/W.I/CT/23(GCC) dated 31.1.86 was not revised. The revised criteria for enlistment of contractors 'A' to 'D' category as approved by Board(ME) is given below:

S.No.	Slab	Eligibility Criteria
(i)	Class 'D'-(upto Rs. 10 lakhs)	(i) At the time of enlistment, they should have satisfactorily executed at least two works each individually costing not less than Rs.1 lakh
(ii)	Class 'C'-more than Rs.10 lakhs upto Rs. 25 lakhs	(i) They should have an engineering organisation or one of the partners should be a Graduate Engineer with at least 10 years experience.  (ii) At the time of enlistment, they should have satisfactorily executed at least two works; each individually costing not less than Rs. 4 lakhs.
(iii)	Class 'B'-more than Rs. 25 lakhs & upto Rs.50 lakhs	(i) They should have a permanent engineering organization and should have a minimum of transport equipments and construction tools and plants required for the works.  (ii) At the time of enlistment, they should have satisfactorily executed at least two works each individually costing not less than Rs. 10 lakhs.

(iv)	Class 'A' more than Rs. 50 lakhs & upto Rs.1 crore.	(i) They should have a permanent engineering organization and should maintain a minimum of transport equipments and construction tools and plants required for the works.  (ii) At the time of enlistment, they should have satisfactorily executed at least two works, each individually costing not less than Rs. 25 lakhs.
------	---	---

This issues with the concurrence of Finance Directorate of Ministry of Railways.

(PARMOD KUMAR)  
Exec. Director, Civil Engineering (G)  
Railway Board.

### III. TENDERS

#### F. GUIDELINES FOR CERTAIN SPECIFIC TYPES OF WORKS

S. No	Subject in Brief	Letter Date
	(a).Earth work	
1	Systematic Soil Sampling for Determining the Nature and Classification of Soils met with On Construction of New Lines	08/09/86
2	Assessment of Quantities of Earthwork and Bridges for Construction	24/07/90
3	Correct Assessment of Quantities of Earthwork in Contracts	30/05/92
4	Tenders for Earthwork	20/08/86
5	Avoidance of Extra Expenditure On Earthwork	26/06/91
6	Audit Objection Regarding Abnormal increase in Quantities of Earthwork	13/11/90
7	Contracts for Earthwork	04/12/68
8	Incorporation of Suitable Clause in the Contracts for Royalty Purposes	25/07/91
	(B). Ballast	
1	Standard Specification for Ballast	16/02/76
2	Specification of Ballast for Points and Crossings	31/08/87
3	Specification of Ballast Size	19/12/90
4	Review of Ballast Specifications	05/07/93
5	Acceptance of Ballast Samples	04/02/94
6	Supply of Ballast Along the Cess	25/05/78
	(C). Staff Quarters	
1	Building Costs index for Constn. of Staff Qrs.	13/07/70
2	Infructuous Expenditure On Constn. of Staff Qrs.	03/08/90
	(D). Bridges & Girders	
1	Incorrect Assessment of Time in the Assembly and Errection of Girders	05/07/68
2	Extra Expenditure On Provision of Deck Width for Bridges in Excess of Standards	20/05/92

## SOUTHERN RAILWAY

FA & CAO's Office,  
Madras - 600 003,  
Dated: 3.12.1986.

No. W. 193/F/O/Vol.10

Sr.DAOs/MAS, TPJ, SBC, MYS  
DAOs/MDU, TVC, PGT

SUB:- Systematic soil samplings for determining the nature and classification of soils met with on construction of new lines.

----

A copy of Railway Board's letter No. 84-BC-SC/5 dated 8.9.86 on the above subject is enclosed for information and necessary action.

for F.A. & C.A.O.

---

A copy of Railway Board letter No. 84-BC-SC-5 of 8.9.86 to The General Managers, All Indian Railways and others.

SUB:- Systematic soil samplings for determining the nature and classification of soils met with on construction of new lines

In one of the cases, Audit have pointed out that proper survey had not been done and trial pits had not been dug in order to determine the extent of availability of earth, as a result of which large quantities of earth work anticipated to be done with Railways earth, had actually been carried out with contractors earth borrowed from outside railway land. The Audit have further pointed out that as per one of the Divisional Engineer's letters addressed to the Chief Engineer(Construction), no trial pits details were taken in this case to ascertain the actual strata that would be met with, alongside the proposed alignment.

In this connection, attention is invited to Para 425-E (1982 edition) which stipulates that as the method of construction of earthwork will be dependent largely on the nature and classification of the soils, a systematic soil sampling at suitable intervals and upto sufficient depths, depending upon the nature of terrain should also be done all along the proposed route (During the Final Location Survey). Wherever, borrow areas are not located along with alignment soil samples should be collected from such places also. These samples shall then be tested for the standard properties, bore logs prepared and the data used for designing the profiles of the embankments, and cuttings, foundations of important structures as well as the method of undertaking the earthwork.

Board, therefore, desire that while carrying out Final Location Surveys, or in any case, before undertaking construction work soil sampling at suitable intervals and upto sufficient depth, as envisaged in para 425.E should be undertaken with due regard to the economic considerations. Lapses if any, in such cases will be viewed seriously.

Please acknowledge receipt.

Sd/-..  
(S.V. SALELKAP)  
Executive Director Works.  
Rly. Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.89-BE-NF/7

New Delhi: 24.07.90

General Managers,  
All Indian Railway,  
Maligaon, Guwahati.  
Chief Administrative Officer (Con.),

Sub: Assessment of quantities of earthwork and  
bridges for construction,

Vide Para 3.9 of the Comptroller and Auditor General's Report (RAILWAYS) for 88-89 a case of avoidable expenditure due to defective estimate of quantities of earthwork and bridges by construction organisation on a zonal Railway has been highlighted.

2. Provisions in the Indian Railway Code for Engineering Department and extant instructions provide that before undertaking the execution of New Line, Gauge Conversion or Doubling, a final location survey should be taken and the work should be taken up only after preparation of adequate site plans/drawings and clear assessment and identification of works and formulation of the project taking into account the relevant factors and site conditions, so that the possibility of incorporating additional items of works, modifications and enlargement of the scope of work is eliminated.

3. In spite of the above clear instructions, on one of the Railways earthwork quantities and number of islands required for substructure of bridges were wrongly estimated while inviting tenders, resulting in fixing up of higher rates after negotiations for quantities exceeding 25% of the quantity indicated in the agreement. This had resulted in an avoidable expenditure of about Rs. 9 lakhs.

4. It is, therefore, reiterated that a great care should be exercised to assess the quantities correctly in the first instance before inviting tenders. Any incidence of avoidable expenditure due to defective estimate of quantities, etc. will be viewed seriously.

(S.V. Salekar)  
EXECUTIVE DIRECTION WORKS

Copy of Railway Board letter No. 91/W2/CAG/S/3 dt. 30.5.92 from K.P. Singh, Executive Director/Works addressed to The General Manager, All Indian Railways.

Sub: Correct Assessment of quantities of earthwork in contracts.

-----

Open tenders for earthwork, excavation in cutting for formation etc. were floated on one of the Railways in Nov.'86. The work was awarded in June ' 87 to contractor `A', the second lowest tenderer for a value of Rs.95.79 lakhs, passing over the lowest tenderer (Rs.90.42 lakhs) who was considered inexperienced and not having the capacity to execute the work.

The tender committee observed that there would not be any vitiation in the inter-se position between contractor `A' and the fourth lowest contractor `B' upto a variation of 25 percent in quantities after ignoring the third on grounds of capacity and lack of credentials.

During execution of work, it was noticed in Nov. `88 that earth work in cutting in hard rock, required intensive blasting and the quantity increased by 132 percent over that provided for in the agreement, while earthwork under other items decreased by 40 to 75 percent. The value of the agreement with contractor `A' was revised to Rs. 176.9 lakhs, which was signed under protest by the contractor in Jan. '89 The contract was terminated at contractor's risk and cost on 29 January '90 for want of sufficient progress and a new agency was fixed on 15th Oct. `90 for completion of the work.

The incorrect assessment of extra earthwork led to vitiation of contract and consequent extra expenditure of Rs. 6.47 lakhs with reference to the quantities executed by contractor `A' compared to the rates of contractor `B'. The extra expenditure would be Rs. 13.56 lakhs with reference to the total revised quantity. In this particular case cutting was a long to deep one.

Board would like to reiterate that all studies/investigations required for a realistic assessment of various classifications of earthwork should be done to the maximum extent possible before entering into contracts.



No. W. 496/CE/BNC/Policy/VI

Office of the CE/CN/BNC  
Date:- 8.9.1986.

XENS/CN/MYS, BNC, HUP, ATP, CTA,  
MAQ, DL/GTL and DL/BNC.

Sub:- Tender for earthwork.

Copy of Railway Board's letter No. 86/W4/CNL/NF/11 dated 20.8.86 received under Head Quarters Office, works Branch, Madras-3 letter No. W. 496/P dated 1.9.86 is appended below Paras 2 and 3 of Board's letter may please be noted and necessary action taken accordingly.

for CE/CN/BNC.

---

**GOVERNMENT OF INDIA  
MINISTRY OF TRANSPORT  
DEPARTMENTS OF RAILWAYS  
(RAILWAYS BOARD)**

No. 86/W4/CNL/NF/11

New Delhi 20.8.86

The General Manager (Cons)  
N.F. Railway, Guwahati.

Re: Tenders for earth work

It has been reported by the Audit vide para 25 of C&AG Report 1984-85 that your Railway Admn. entered into thirteen contracts in 1984 for earthwork by trucks from private lands. During the execution of the work, there were major increases in the quantity of earth work under different contracts and part of the earthwork was carried out by head lead. In some cases, reduced rates for earthwork by head lead from nearby private land were negotiated while in the remaining contracts, revised rates are still to be negotiated and finalised.

2. Instructions have been issued from time to time that detailed plans, estimate and quantities should be finalised before calling tenders, to avoid any major variation during the execution of contracts. These should be complied with in all future contracts.

Board consider that it was not necessary to mention the mode of transport for earthwork from private land in the description of the item. It is normally left to contractors to choose the economical method and offer a competitive through rate. Instructions to this effect may now be issued to units under your control.

4. Board also desire that negotiations with the remaining tenderers for reduction in the rates for the quantity of earth work done by head lead may be finalised and report submitted to Board by 31.8.86.

Please acknowledge receipt.

DA: Nil  
works.

Sd/-  
Executive Director

1. General Manager/Indian Railways for necessary action in regard to para 2 and 3.
2. ADAI (Railways), New Delhi (with 40 spare copies)
3. Copy for file 86-BC-NF/7
4. Copy to EDW, AEDW, W5

Copy of Railway Board's letter No. 89/W2/PAC/C/1 dated 26.6.91 from L.P. Sing, Executive Directors/Works, Railway Board to The General Managers All Indian Railways.

Sub: Avoidance of extra expenditure on earth work etc.

----

Para 3.29 of the C&AG's Report for 1987-88 highlights the incurrance of extra expenditure of Rs. 19.83 lakhs on account of the completion of the earthwork, connected with the construction of car shed on a Zonal Railway, in four phases instead of at one stroke as was initially contemplated by the Railway Administration.

2. Although the completion of the earth work in phases in the instant case was necessitated due to the non-availability of funds and also due to the fact that the facilities created was to match with the availability of EMU stock, the Board have accepted the thrust of the Audit Para regarding the desirability of achieving maximum economy in such cases.

3. Accordingly Board desire that while planning such works, all care should be taken to ensure that there is no undue delay in their completion in order that there is no avoidable expenditure on account of time over-run.

4. Please ensure action accordingly and acknowledge the receipt of this letter.

Sd/-  
(K.P.Singla)  
Executive Director/Works  
Railway Board.

No. 89/W2/PAC/C/1

New Delhi, Dt. 26.6.91.

Copy (with 40 spares to DAI (Railways) for information

Copy of Board's letter No.90-BC-NF/7 of 13-11-1990 from K.P.Singh, Executive Director (Works), Railway Board, New Delhi, addressed to The General Managers, All Indian Railways.

Sub:        Audit Objections regarding abnormal  
              increase in quantities of earthwork.

----

ADAI (Railways) while reviewing a case on one of the Railways has commented adversely on avoidable expenditure due to incorrect assessment of the requirement of earthwork. In the work in question, an additional quantity of about 50,000 cu.ms of earthwork was executed over and above the tendered quantity. The reason given necessary subsequently as the drawing had not been finalised before accepting the tender.

2. It is reiterated that the Railways must ensure that complete site investigations, final planning of the works to be done and correct assessment of quantities is done in all cases before finalisation of tenders.

3. Please acknowledge receipt.

Copy of letter No. 67/W5/RP2/9 dated 4.12.1968 from Joint Director (Works), Railway Board, New Delhi, addressed to General Managers, All Indian Railways, etc.

(Wr.Br. No. W.496/P dated 17.12.1968)

-----

Sub: Contracts for earthwork.

-----

Of late, several instances have come to Board's notice wherein on important projects such as new lines, doublings, yard remodelling etc., the progress of the works had been severely affected due to failure of the earthwork contractors. In order to avoid the risk of such failures on the part of the contractors and consequent delay to works, Board desire that special attention should be paid to the selection of contractors for carrying out such works while deciding tenders.

**GOVERNMENT OF INDIA  
Ministry of Railways  
(Railway Board)**

No. 85/BC/C/9.

New Delhi,  
Dt. 25-7-91.

The General Managers  
All Indian Railways

Sub: Incorporation of suitable clause in the  
contractors for royalty charges

----

C&AG in its report for the year 1989 has brought out that failure to incorporate a clause relating to regulation of Payment of royalty charges on one of the Zonal Railways in the contract for earthwork has resulted in an unintended benefit to two firms to the extent of Rs. 6.57 lakhs as the royalty charges for earth used, as included in the contract, were not actually payable to the state Govt. concerned.

2. Board desire that in all earthwork contracts, the Railways should ask for rates for earthwork without royalty, with extra for royalty as payable to be quoted separately, so that it possible to regulate the payment of royalty as actually applicable in each case.

Sd,  
Executive Director (Works)  
Railway Board.

Copy to: ADAI (Railways) with 40 spares.

Copy of letter No. 75/W6/MB/Misc/N dt. 16.2.1976 from the Addl. Director, Civil Engg., Railway Board, New Delhi to the General Manager, All Indian Railways and the GM/S.Rly(Con) Bangalore.

Sub:- Standard Specifications for Ballast.  
Ref :- Board letter No.66/WDO Spec. Materials  
dated 17.7.1967.

. . . . .

Board have decided that the following instructions regarding Standard Specifications for Ballast and procedure in passing and measurement of ballast should be implemented:-

(1) At the time of calling tenders for ballast, a minimum of 3 sealed samples should be obtained from each Tenderer. One of the sealed samples should be kept with the DEN in safe custody, so that it could be available for comparison in case of any dispute. The other two samples may be sent to AEN and concerned inspector responsible for accepting/passing the supply for their guidance.

(2) Results of the sieve analysis of the ballast stacks should be recorded in a 'Record Measurement Book' specially meant for the purpose.

The receipt of this letter may please be acknowledged.

. . . . .

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.15/W6/MB/Misc./N.

New Delhi,  
dt.31.8.87

General Managers,  
All Indian Railways.

Sub:- Specifications of ballast  
for Points and Crossings.

----

Vide Board's letter of even No. dated 24-12-79, the specifications for ballast for use with different types of sleepers were enclosed. These specifications were subsequently revised in terms of Board's letter of even No. dated 6-1-81.

2. Vide para 262 of the Indian Railway Permanent Way Manual (1985), the use of 40 mm. size stone ballast has been specified for use on Points and Crossings whereas the existing specifications contained in Board's letter of even No. dated 6-1-81 stipulate the size of stone ballast as 25 mm. Instructions have already been issued to the Railways vide Board's letter No.86/W1/MW/18 dated 18-8-86 that the new Indian Railways Permanent Way Manual will come into effect from 1-9-86. Accordingly, the existing specification as contained in Board's letter dated 6-1-81 should be revised to prescribed use of 40 mm gauge ballast on points & crossings. A Correction Slip to existing specifications is enclosed. Board desire that these revised specifications should be followed forthwith in respect of new contracts for which the tenders are to be called after the receipt of above instructions.

Sd/-(Ashok Kumar)  
Executive Director  
Civil Engineering(P)  
Railway Board.

DA:One.

No.75/W6/MB/Misc./N New Delhi, dt.31-8-87.

Copy to:

1. Director, Indian Railways Institute of Civil Engg., Pune.
2. Principal, Railway Staff Collage, Baroda.
3. G.M.(Con.) N.F.Rly. for information and necessary action with reference to his C.E.'s D.O.letter No. W/308/BG/KN/S/turnouts dated 2-4-87.
4. DG/RDSO.



**Correction Slip to existing specification  
as contained in Board's letter No.75/W6/  
MB/Misc./N dated 6-1-1981.**

2. Standard size of ballast for Points and Crossings

(1) 40 mm, gauge ballast

Retained on 40 mm.  
sq. mesh sieve

Not more than 10%

Retained on 50 mm.  
sq. mesh sieve.

Nothing will be retained  
and 100% ballast shall  
pass through the sieve.

3. Oversized ballast

3.1 Ballast shall be considered as oversized if more than 10% is retained on a sq. mesh sieve of 40 mm. in the case of 40 mm. gauge stone ballast.

3.2.4. If any ballast is retained on 50 mm. sieve in case of 40 mm. gauge ballast, the stock shall be rejected.

Divisional Office,  
Works Branch,  
Bangalore - 560 023.  
Dated: 02.1.1991.

No. B/W.45/Ballast/Genl.

All AENS & PWIS of SBC Division,

Sub: Specification for Ballast size.

- Ref: 1) CE/MAS letter No.W. 506/33/VoI.VII Dated:  
19.12.90.  
2) RLY.Bd's circular no.85/W6/MB/4/Pt.II dated:  
23.11.90.

\*\*\*\*\*

Copies of the above two letters are appended below for your  
information add necessary action.

Sr. DEN/N/SBC.

Copy to: TS/BNC.  
Copy to: B/W.509/Policy.  
Copy to: Tender Section.

-----  
CE/MAS Lr.No.W.506/33/Vo1.VII of 19.12.1990.

Sub: Specification for ballast Size.

Ref : Rly.Bd's Circular No. 85/M6/MB/4/  
Pt.II of 23.11.90.

\*\*\*\*\*

A copy of Railway Board's letter quoted above is enclosed herewith for adoption  
immediately.

1. The size of the ballast should be 50mm uniformly for track and also for points  
and crossings.
2. All future tenders for the ballast should be called for only to the Specification  
mentioned in the Railway Board's Circular quoted above.
3. For tenders already called for and yet to be finalised, the revised  
Specifications as mentioned above, may be adopted, if possible.

4. Since the specification for ballast mentioned in the Bd's letter quoted above, differs from the existing specifications described in the specification for materials and works, 1969, the tender to be called for ballast should be as non-schedule item until the new BSR which is under revision with the revised specifications mentioned in the Bd's letter comes into force. A clause may be introduced in the Tender Schedule stating that the specification of ballast mentioned in the specification for material and works is not applicable and the specifications for the ballast should be per the revised specifications mentioned in the above Board's letter which should be included as part of special conditions.

Please acknowledge receipt of this letter.

Sd/-  
for Chief Engineer

-----  
Copy of RLY.Bd's Letter No. 85/W6/MB/4/Pt.II dated : 23.11.90 addressed to GMS/Engg/All Indian Railways.

Sub: Specification for ballast size.

\*\*\*\*\*

The Board have been considering revision of the existing specification of ballast in view of the progressively increasing installation of concrete sleepers on the Indian Railways and use of mechanical tamping. Also, the ballast cleaning machines recently acquired by the Indian Railways do not permit anything below 20mm, in ballast there by necessitating reduction in permissible percentage of under-sized ballast.

2. While the detailed instruction/specifications regarding quality, of stone are being formulated and would be issued separately, the Board desire that as far as the ballast size and gradation are concerned, the Railways may follow the specifications as given in the Annexure. The size and gradation of ballast given in the Annexure should be made applicable in all cases where process of tendering has not yet commenced. It is expected that the specifications given in the Annexure would be included in all ballast tenders which would be proceeded after receipt of this letter. It may be noted that the specification given in the Annexure will equally apply to machine and manually crushed ballast as also for Points and Crossings and plain track.

3. Till such time as further instructions regarding the quality of stone are issued, the extent instructions regarding the same would continue to be adopted.

4. The receipt of this letter may please be acknowledged.

Sd/-

## **SPECIFICATIONS FOR TRACK BALLAST.**

### 1.0 Quality of stone - Selection of source.

1.1 Track Ballast should be obtained from good quality stones/boulder and top layer, if weathered, must not be use.

1.2 To ensure the quality of parent rock/boulder material existing specifications, as for as they relate to the quality ballast, as contained in Board's letter No. 86/W6/MB/4 dated 5.12.86 and 20.10.87 will continue to be followed till further advise.

### 2.0 Quality control for supply of Ballast:

After judicious Selection of the source of material, only size and its gradation should be checked once for each 2,000 cum supply or more frequently, if warranted.

#### 2.1 Size and Gradation of ballast:

The track ballast shall be of the following size:

- a) Retained on 65 mm square mesh .... Nil
- b) Retained on 50 mm square mesh .... Not more 15%
- c) Retained on 20 mm square mesh .... Not less 100%
- d) The ballast should be PURE, i.e. it should not containing organic or organic residues, and must be free from infer or harmful substances.
- e) Contamination of ballast with the ground soil etc., of stacking area should be minimized by providing neat stack areas with good drainage.

### 3.0. Over Size and under-size ballast.

3.1. Over-size ballast: If ballast is retained on 65 mm square mesh, the stack shall be rejected.

3.1.1. For manually-crushed ballast, the limit of not more than 15% to be retained on 50 mm sq. mesh sieve can be exceeded upto 30% but with reduced payment as under:-

Retained on 50 mm sq. mesh	Rate for the whole stack the %age of accepted rate of supply.
Upto 15%	100%
more than 15% but upto 20%	95%
more than 20% but upto 25%	90%
more than 25% but upto 30%	85%

### 3.2. Under-size Ballast - Tolerances.

3.2.1. Machine crushed ballast: Upto 1% passing 20 mm square mesh sieve may be permitted.

### 4.0. Sieve Analysis for size and gradation:

4.1. The screens for testing ballast shall be of square mesh and shall not be less than 100 cm in length, 70 cm in breadth and 10 cm in height on the sides.

4.2. When carrying our sieve analysis, the screen shall not be kept inclined, but held horizontally, and shaken vigorously. The pieces of ballast retained on the screen shall not be pushed through the screen openings.

4.3. The percentage of passing through or retained on the sieve shall be determined by volume and not by weight.

### 5.0. SAMPLING OF BALLAST:

The sieve analysis will be done for a representative sample of ballast selected at random from different parts of stack. The quantity of ballast taken for analysis should be 0.03 Cum of ballast per 50 cum. ballast in the stack.

\*\*\*\*\*

**SOUTHERN RAILWAY**

No.W.47/CN/BNC

Office of the CAO/Constn./BNC.

Dated: July 12,1993.

CE/C/MS, CPM/GC/MS, CE/C/BNC, CE/GC/BNC  
CPM/MTP/MS, Dy. CE/W/MS, Dy.CE/W/BNC,  
OA/A/MS, OS/A/BNC. Dy. CE/P&D/MS.  
Dy. CE/P&D/BNC.

Sub: Review of ballast specifications

I am enclosing a copy of Board's letter No.85/W6/MB/4/Pt/II  
of 5-7-93.

As would be seen, Board have revised the specifications relating To retention of  
40mm size ballast.

The revised specifications must feature in all new contracts. This shall be  
ensured.

Encl: One

(Sd/-)  
Chief Administrative Officer  
(Construction)

Copy of Railway Board's letter No.85/W5/MB/4/Pt.II dated 5-7-93  
addressed to the GMs/Engg., CAOs/CEs/S&C All Indian Railways.

-----

Sub: Review of ballast specifications.

Ref : Railway Board letter of even no. dated  
[23-11-90](#).

-----

The issue of revision of ballast specifications has been under consideration of the Railway Board. It has now been decided that the existing instructions/specifications regarding ballast size and gradation issued vide letter mentioned above may be modified as follows:-

A. Para 2.1 -

"(b) Retained on 50 mm square mesh... not more than 15%" to be replaced by  
"Retained on 40 mm square mesh... between 55 to 70%

B. Para 3.1.1 to be replaced by the following:

"The range of 55% to 70% to be retained on 40mm square mesh should be strictly followed and no variation will be permitted."

2. The instructions for modification will equally apply to machine and manually crushed ballast as well as for points and crossings and planned track.

3. It is expected that the specifications as now modified would be included in all ballast tenders which would be processed after receipt of this letter.

4. The receipt of this letter may please be acknowledged.

(Sd/-)  
(B.S.Kapur)  
Executive Director, Civil Engg.(P)  
Railway Board.

/C O P Y /

**SOUTHERN RAILWAY**

No.W.496/CE/BNC/Policy.

Office of the Chief  
Engineer/CN/BNC.  
Dated 9-3-1994.

Dy.CE/W/BNC. Dy.CE/I,II/CN/BANC,  
Dy.CE/P&D/BNC,Dy.CE/GC/BNC,Dy.CE/GC/I&II/ASK,

Sub: Acceptance of Sample Ballast

-----

A copy of Railway Boards letter No.93/CEI/CT53 dt. 4/2/94, is appended below for information, guidance and necessary action. Receipt of this letter may please be acknowledged.

for Chief Engineer/CN/BNC

-----  
Copy of Railway Board's letter No.93/CE.I/CT/53 dated 4.2.94 addressed to: As per list `A`

----

Sub: Acceptance of Ballast Samples.

---

Railways are required to follow the instructions contained in Board's circular No.75/W6/MB/Misc./N dated 16.2.76 which inter- alia states that at the time of calling tenders for ballast, a minimum of three Sealed Samples should be obtained from each tenderer. One of the sealed Samples should be kept with the DEN in safe custody, so that it could be available for comparison in case of any dispute and two samples may be sent to AEN & inspector in the field for accepting/passing the supply.

During a vigilance check it has come to notice that the ballast samples received along with the tenders are not being signed by the tender opening officials. In the absence of tender Officials signatures, there is every possibility of the ballast samples getting mixed up at a later stage. Thus the ballast received at the time of tender opening should be invariably signed by the tender opening officials. Similarly, once the tender is finalised the sealed samples of the successful tenderer should be signed by the technical member of the Tender Committee.

The above instructions should be followed scrupulously.

Please acknowledge receipt of this letter.

Sd/-  
(S.M. Singla)  
Exec. Director, Civil Engg(G)  
Railway Board.



Copy of letter No.G. 148/CN dated 13.6.1978 from GM/CN/BNC to CE/CN/BNC & MS, FA & CAC/CM/MS & Dy.FA & CAC/CM/BNC.

Sub: Supply of ballast along the cess.

.....

Copy of Board's letter No. 78/W6/MB/1 dated 25-5-1978 is appended below for your information and necessary action.

-----  
Sub: Supply of ballast along the cess.

The Ministry of Railways desire to reiterate instructions contained in their letter No. 71/76/MB/6 of 21/12/1974. However, in cases where training out of ballast by departmental wagons would involve higher expenditure even on the basis of marginal costing of rail movement and the Railway administration decides to obtain supply of ballast along the cess, checks prescribed in Railway Board's letter No. 73/W6/MB/6 dated 29.7.74 to be conducted by the Assistant Engineer and Divisional Engineer must be carried out. Strict observance of provisions of clause 634 of the Indian Railways Way & Works Manual regarding "assessment of ballast requirement especially in respect of the test check to be exercised by the Assistant Engineer" should also be ensured.

2. The Ministry of Railways also desire that where boulders are available within railway land in the cut-spoils or otherwise in that sections etc. suitable provision should be made in the tender conditions that ballast may be supplied by the contractor using these boulders. The breaking of boulders available within the Railway land into ballast departmentally could also be considered in case this process works out cheaper than supply of ballast through a contractor. It should also be ensured that contracts for supply of ballast both with use of Railway's boulders and boulders brought from outside railway land are not operated simultaneously for same section.

The receipt of this communication may please be acknowledged.

Sd/-  
(Ravinder Singh)  
Additional Director, Civil, Engg.  
Railway Board.

Copy of letter No. 70/W2/21/14 dated 13th July 1970 from Director (Civil Engineering) Railway Board, New Delhi addressed to General Manager, Southern Railway, Madras.

-----

Sub: Building costs index for construction  
of staff quarters.

Ref : Your Chief Engineer's O.O. letters No.W.399/P  
dated 5th Feb. 1971 and 23rd April 1970.

-----

The difficulty raised by your Railway regarding delay in deciding the tenders for staff quarters on account of the cost of the work as per the tenders exceeding that as per building cost index adopted at the time of preparing the estimate has been examined by the Board.

2. It is clarified that the Building costs index if brought up-to-date as and when found necessary, would be useful not only at the time of preparing the estimate for the staff quarters but also for judging the reasonableness of the tendered rates at the time of deciding the tenders. If there is no significantly variation in the building cost index between the preparation of the estimate and the consideration of tenders the tendered rates should be within the estimated cost. If, however, there has been a rise in the market rates due to which the building costs index adopted at the time of preparation of the estimate may not hold good, it would not be correct to reject the tenders merely on this account, if the Tender Committee feel and are able to recommend that the tendered rates are otherwise reasonable and may be accepted. It would only mean that the initial estimate may have to be revised if the excess is beyond the permissible limits of variation. In preparing the revised estimate, the building cost index would, of course, have to be updated. It is not the intention of the Board that such updating should be a prerequisite for acceptance of the tenders if as stated earlier, the tenders are otherwise considered reasonable by the Tender Committee and by the accepting authority.

\*\*\*\*

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS/RAIL MANTRALAYA  
(RAILWAY BOARD)**

No. 89/BC-SE/4.

New Delhi, dated 3/8/1990

The General Managers and  
Chief Administrative Officers(Con.),  
All Zonal Railways.

Sub:- Infertuous expenditures on construction  
of staff Quarters.

----

Vide para 3.10 of the CAG's Report (Railways) for 1988-89, the failure of a Railway Administration to include the work of land filling in the initial contract resulting in delay in completion of the project of construction of 32 units of quarters thus causing an infertuous expenditure of Rs. 6.18 lakhs has been highlighted.

In the instant case after completion of the under reamed piles in foundation, the work was abandoned as the subsequent, review indicated that the quarters were not naturally required at that station.

In another case, the quarters were constructed at much a secluded location where the staff refused to occupy them and the quarters had to be abandoned.

Railway Board desire that Zonal Railways, before processing any proposal for the construction of staff quarters for inclusion in works Programme, should carefully consider various aspects like requirement of additional quarters taking into account the operational scenario of the future, proper locations and siting of the quarters etc. They should also ensure that there is no possibility of quarters remaining unoccupied after construction.

Special care should also be taken while formulating the schedule of quantities of tender to ensure that interconnected items of works are not left out by oversight.

Please acknowledge receipt.

(J.M. Sharma)  
Executive Director Land Management  
Railway Board.

Copy 10 spares) to A.D.A.I. (Railways) for then.

-----

Copy of letter No. 63/747/29/ Track dt. 5.7.68 from Director, Civil Engineering, Railway Board, New Delhi to the General Manager, All Indian Railways.

Sub:- Incorrect Assessment of time in the  
assembly and erection of Girders.

-----

A case has come to the notice of the Board where a Tender Committee, at the time of dealing with tenders for imported bridge girders, did not assess correctly the time likely to be taken in the transport to the site, assembly and erection of the girders after their shipment from a foreign port. Allowing a very short time schedule for these, the Tender Committee accepted an earlier delivery date from a contractor who quoted a higher rate. On account of the longer time taken in transporting the bridge girders to the site and its erection, the advantage of the earlier delivery date could not be fully realised. This led the Audit to question the wisdom of the Tender Committee in accepting a higher rate when the original time schedule for opening the Bridge could not be adhered to in actual practice.

The Board desire that in accepting conditions particularly in cases involving extra payment, a realistic and practical assessment of the full utilisation of the benefit should be worked out and adhered to.

-----

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.91/W2/CAG/S/2

N.Delhi, DATED 20.5.92

The General Managers,  
All Indian Railways.

Sub: Extra Expenditure on provision of Deck  
width for Bridges in Excess of Standards.

----

Audit have taken up a case of provision of Deck width for Bridges in Excess of standards on one of the Railways. In this connection, it is stated that:

The Bridge and Structures Standards Committee recommended in June '85 that the existing width of deck of bridges of 4.265 meters (outer to outer) might be increased taking into account maintenance and safety requirements and suitable designs evolved by the Research Design and Standards Organisation(RDSO) after rationalising the optimum width. In consultation with the RDSO, adoption of a revised deck width of 4.500 meters between the top inner faces (4.800 mtr. outer to outer) of ballast retainers was approved in March, 1987. The Zonal Railways were accordingly advised in May, 1987.

The construction organisation of the Railway unilaterally increased the deck width to 5 metres in respect of three bridge works carried out after 1985. The Board was advised of the extra width provisions in Oct '87. The cost of the extra width amounted to Rs.22.61 lakhs (excluding cost of steel and cement) in respect of these three bridges. Even after receipt of Board's instructions in May'87 this norm was continued to be adopted. After this was pointed out by Audit in July, 1989, the Railway revised the instructions in December, 1989 for adoption of deck width of 4.800 metres. The extra expenditure incurred on provision of deck width in excess of the standards in respect of other bridges constructed during 1985 to December, 1989 was Rs.16.78 lakhs. Thus due to non- observance of the instructions issued by the Board, the Railways incurred extra expenditures of Rs. 39.39 lakhs. This is being brought to your notice for taking suitable measures to prevent recurrence of such lapses in futures.

Please acknowledge the receipt.

(HINDI VERSION WILL FOLLOW)

(K.P. Sigh)  
Executive Director/Works  
Railway Board.

# III. TENDERS

## G. CONSTITUTION OF TENDER COMMITTEE.

S. No	Subject in Brief	Letter Date
1	Constitution and Functioning of Tender Committee	31/03/65
2	Constitution of Tender Committee	24-09-77
3	Constitution of Tender Committee Consisting of 3 Members	06/11/73
4	Recommendation No 275 of Task force Report On Vigilance -Association of Accounts Representatives with Tender Committee	29/06/78
5	Constitution of Tender Committee Consisting of 3 Members for Contracts up to Value of Rs 5 Lakhs	08/02/80
6	Constitution of Tender Committee Consisting of 2 Members for Contracts up to the Value of Rs 10 Lakhs	11/03/81
7	Higher Level Tender Committee- Function of	11/12/81
8	Constitution of Tender Committee On Zonal Railways and Production Units	28/02/90
9	Constitution of Tender Committee and Acceptance of Tender	23/12/88
10	Works Tender- Appreciation Committee Rly.Bd	10.05.93
11	Works Tender to be Accepted At Rly.Bd Level	6.01.02
12	Improper Use of SOP in Finalisation of Tender	24.08.04
13	Tender Committee Proceedings	11/03/77
14	Tender Committee Proceedings -Role of Finance as Member of Tender Committee	28/12/83
15	Tender Committee Proceedings -Role of Finance as Member of Tender Committee	18/06/85
16	Role of Tender Committee	19/10/95
17	Variation Between Estimated Tender Values and Rates Actually Received	30.12.99
18	Irregularities in Award of Work to the Contractor- Issue of instructions	12.04.01
19	Issue of instructions in Regard to Drawing Up of Self Contained and Self Explanatory T.C Minutes	15.10.03
20	Undertaking by the Members of T.C / Agency	2.01.06

## **ANNEXURE-66**

Copy of Headquarters General Branch letter No.W.496/II dated 31st March 1965 addressed to All Heads of Departments, Divl. Supdts. etc,

----

Sub: Constitution and functioning of Tender Committees.

----

The principal idea behind the constitution of a Tender Committee is that all the members comprising the Committee meet at one place, consider the tenders at the same time and reach a decision, without the formalities of correspondence and exchange of notes. It has, however, come of notice that in a number of instances, such committees do not meet but the papers are circulated amongst the members. This is not a satisfactory arrangements and certainly not in consonance with the principles underlying the consideration of tender by a Committee. It is, therefore, reiterated that every Committee constituted for the consideration of a particular set of tenders must meet, consider the tenders and frame their recommendations. It should, as far as possible, be ensured that even the minutes of the meeting are signed before the members disperse so that there is no further delay in processing the papers.

----

**Government of India (Bharat Sarkar)**  
**Ministry of Railway (Rail Mantralaya)**  
**(Railway Board)**

No. 72/W1/CT/12

New Delhi,  
dt. 24.9.1977

The General Manager,  
Southern Railway,  
Madras.

Sub: Constitution of Tender Committee.

----

Please refer to your FA & CAO (CN)'s D.O. letter No. W/496/CN/O/Vol.VII dt. 1.9.1977 addressed to Director, Finance (Budget) on the above subject, seeking inter-alia Board's instructions regarding close relations being members of a Tender Committee.

2. As far as the Board are aware, there has been no instance on any of the Railways where two close relations were nominated to a Committee. They, therefore, do not consider it necessary to issue any formal instructions or guidelines on the subject. While constituting the Tender Committee, the D.S. or the concerned HOD or the GM would certainly bear in mind the undesirability of nominating two close relations on a Selection Board or a Tender Committee and no formal guidelines are called for on the subject from the Ministry of Railways (Railway Board).

Receipt of this letter may please be acknowledged.

Sd  
(M.R.ANAND)  
Dy. Director, Works,  
Railway Board.

No. 72/W1/CT/12

New Delhi, dt. --.9,77

Copy forwarded for information to the General Managers, All Indian Railway (except Southern Railway) including CLU,DLU, ICF and MTRs (Rlys) at Madras, Calcutta, Bombay & Delhi and the Director General/RDSO/ Lucknow.

Receipt of this letter may please be acknowledged.

Sd.  
(M.R. ANAND),  
Dy. Director, Works,  
Railway Board.

COPY



Copy of letter No. 72/W.I/CT/12 dated 6th November-1973 from Shri M.P. Singhal, Joint Director, Civil Engineering, Railway Board, New Delhi to the General Managers, All Indian Railways and others.

Sub:-Constitution of Tender Committee consisting of 3 members.

----

Pleas refer to Board's letter of even number dated 1/11/1972 addressed to the General Manager/Northern Railway, copies endorsed to other Railways on the above noted subject inter-alia stating their in that out of 3 members of the Tender Committee, one should essentially be from the Accounts Department and one from the Executive Department concerned. It was further stipulated that the third member should be one who is from a department which also deals with such contract matters.

Some of the Railways have come up with a doubt as to whether the third member is to be taken from the same Executive Department but having separate and an independent Organisation or he is to be taken from a different Department.

It is, therefore, clarified for the guidance of Railways that the third member of the Tender Committee is to be taken from other Department which also deals with contract matters.

This disposes of Metropolitan Transport Project (Railways),Calcutta, letter No.MRTS/W-15/0 dated 16/8/73 and S.E. Railway's D.O. letter No. 4/7/W/1 pt. VI/44/7172 dt. 18/20.8.73.

Receipt of this letter may please be acknowledged.

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)**

No.74ACIII/30/6.

New Delhi, dated 29.6.1978.

1. The General Managers,  
All Indian Railway, CLW, DLW & ICF.
2. The F.A. & C.A.Os,  
All Indian Railways, CLW, DLW & ICF.
3. The F.A. & C.A.O.,  
M.T.P.(R), Calcutta.
4. The Dy. F.A. & C.A.Os,  
M.T.P. (Rlys), Delhi, Bombay & Madras.
5. Joint Director (Finance),  
R.D.S.O., Lucknow.

Sub: Recommendation No. 275 of Task Force Report on  
Vigilance-Association of Account representatives with  
Tender Committees.

---

It has been laid down in para 341 of Stores Code that whenever practicable and convenient, a Tender Committee with the Accounts Officer as a member should be formed for opening and acceptance of tenders. In cases where Tender Committees are not formally constituted the advice of the Accounts Officer should be obtained in considering tenders involving Rs. 10,000/- are more and where it is not practicable to obtain such advice at the time of considering the tenders, it should be sought immediately thereafter.

2. The association of Accounts Officers in Tender Committees is with a view to ensuring that the financial interests of the organisation are not lost sight of by the Committee in its deliberations. The Accounts Officer is also expected to advise and ensure that various codal provisions/rules/regulations are being complied with and that any deviation in this regard is suitably advised for appropriate sanction bearing an overall management interest. The Account Officer being an independent person is expected to look at the transactions in a dispassionate and objective manner. While the role of Accounts Officers in Tender Committees, auctions etc. as outlined above is well known, the responsibility of the Accounts Department is being reiterated to that the various Accounts Officers entrusted with the responsibility of tendering advice in respect of various financial matters are fully guided and give this responsibility its due importance. Receipt of this letter may be acknowledged.

Sd\  
(N.Gopalkrishnan)  
Jt.Drt of Finance

## **ANNEXURE 80**

Copy of Railway Board's letter No. 72/W1/CT/12 dated 8-2-1980 to GMs/All Indian Railways etc., etc.

Sub: Constitution of Tender Committee consisting of 2 members for contracts up to the value of Rs. 5 lakhs.

----

Please refer to Board's circular letters of even number dated 16-3-1972 and 1-11-1972 wherein it was emphasised that a Tender Committee should have a minimum of 3 members, out of which one should be essentially from the Accounts Department and one from the Executive Department concerned and the third member be from a Department which also deals with similar contract matters.

2. In order to speed up finalisation of tenders, the Ministry of Railways (Railway Board) have reviewed the matter and have decided that for works Contracts up to the value of Rs.5 lakhs, the tender Committee may hereafter be constituted consisting of a minimum of 2 members only but of which one should essentially be from the Accounts Department and the other from the Executive Department concerned. It is desired that in the first instance this system may be tried on an experimental basis up to 31-3-1981.

3. The Board desire that the Railways, including Project Organisations & Production Units, should send their reports on the working of this system with their specific comments/ recommendations in the matter.

4. It has also been decided by the Board that the Tender accepting authority should be independent of the Tender Committee and should not work as a member of the Tender Committee. In case, for certain reasons, the Officer competent to accept the tender as to be the member of the tender committee the recommendations of the Tender Committee should be put up for acceptance either to his colleague or to his next superior officer.

5. These instructions shall apply to the Electrical and Mechanical Engineering Works Contracts also.

6. The present instructions for having a minimum of 3 members in a Tender Committee will continue to be applicable for contracts valued at more than Rs. 5 Lakhs.

7. This issues with the concurrence of the Finance Directorate of the Ministry of Railways, Railway Board.

8. The receipt of this latter may please be acknowledged.

**SOUTHERN RAILWAY**

**CONFIDENTIAL**

Office of the CE/CN/BNC

No.W.496/CE/BNC/Police/Vol.IV

Dated 13th May, 1981.

XENs/CN/SKLR, HUP, ATP, BNC  
XENs/DL/GTL, RU AND SBC.

Sub:- Constitution of Tender Committee consisting of 2  
members for contracts up to the value of Rs. 10 lakhs.

\*\*\*\*\*

Copy of Railway Board's letter No. 72/W1/CT/12 of 11-3-1981 is appended below for information. In view of the Railway Board's letter, the limit of Rs. 5 lakhs indicated in this office confidential letter of even number dated 9-4-1980 is revised as Rs. 10 lakhs and other instructions contained therein continue to hold good.

for CE/CN/BNC

Copy to: Dy.CE/CN/I, II, III, SEN/P2.

-----  
Copy of Railway Board's letter No.72/W1/CT/12 of 11.3.1981 addressed to GM/CN/BNC and others.

\*\*\*\*\*

Sub: Constitution of Tender Committee consisting of 2 members  
for contracts up to the value of Rs.10 lakhs.

\*\*\*\*\*

Please refer to Board's circular letters of even number dated **16-3-1972** and 1-11-72 wherein it was emphasised that a Tender Committee should have a minimum of 3 members, out of which one should be essentially from the Accounts Department and one from the Executive Department concerned and the third member be from a Department which also deals with similar contract matters.

2. However, in order to speed up finalisation of tenders, Railways were inter-alia directed vide Board's circular letter of even number dated 8-2-80 to try out the system of having minimum of 2 members on the Tender Committee for works contracts up to the value of Rs. 5 lakhs (out of which one should essentially be from the Accounts Department and the other from the Executive Department concerned), on experimental basis, in the first instance, upto 31-3-1981.

3. Based on the discussion held at the Chief Engineers (Con)'s conference and taking an overall view of the recommendations received from the Railways, the Board have decided that for Works Contracts upto the value of Rs.10 lakhs, the Tender Committee may hereafter be constituted consisting of a minimum of 2 members only out of which one should essentially be from the Accounts Department and the other from the Executive Department concerned.

4. It has also been decided by the Board that the Tender Accepting authority should be independent of the Tender Committee and should not work as a member of the Tender Committee. In case for certain reasons, the officer competent to accept the tender has to be a member of the Tender Committee, the recommendations of the Tender Committee should be put up for acceptance either to his colleague or to his next superior officer.

5. These instructions shall apply to the Electrical, Signalling and Mechanical Engineering Works Contracts also.

6. The present instructions for having a minimum of 3 members in a Tender Committee will continue to be applicable for contracts valued at more than Rs. 10 lakhs.

7. This issues with the concurrence of the Finance Directorate of the Ministry of Railways, Railway Board.

8. The receipt of this letter may please be acknowledged.

(Hindi version will follow)

Sd/-

(A. Bhima Rao)  
Addl. Director, Civil Engg.,  
Railway Board.

## **SOUTHERN RAILWAY**

No:W.496/CE/CN/Policy/Vol.IV Office of the CN/CE/BNC  
Dt. 31-12-1981

XENS/CN/HUP,ATP,MYS,BNC,SKIR,  
XENS/DL/RU,GTL,SBC  
XEN/S/BNC

Sub: Higher Level Tender Committee-Function of.  
-----

Copy of Rly.Bd's letter No: 72/W1/CT/12(P) dt: 11.12.1981 is appended below for your information and guidance.

for CE/CN/BNC

---

(Copy of Rly. Bd's letter No:72/W1/CT/12(P) dt: 11.12.1981)

Sub: Higher Level Tender Committee-Function of.  
-----

In a case, Board has occasion to observe that where a lower level tender committee remitted the tender case to the higher level tender committee, the higher level tender committee took the view that they need not go into the recommendations of the lower tender committee as accepted by the relevant competent authority. In other words, the tender was not considered by the higher level tender committee as a whole and view was taken on it in piece-meal.

2. Board desire that suitable instructions may be issued to ensure that in such circumstances, the higher level tender committee must deal with the case as one entity and not piece-meal, so that the tender case as a whole may be examined de novo.

Please acknowledged receipt of this letter.

(Hindi version will follow)

Sd/-  
(A. Prasad)  
Jr. Director, Finance (Ex.),  
Railway Board.

## SOUTHERN RAILWAY

No.W 496/P/CN/Vol xx.

Headquarters Office,  
Works Construction Branch,  
Egmore, Madras. 600008.  
dt.19-3-90.

Dy.CE/CN/MS TPJ MLU TVC EXC.  
XEN/CN/MS TPJ DG. MDU PCO SA PTJ CLT TCR  
DL/TW. ERS ALLP KYP.

Sub: Constitution of Tender Committees on Zonal Railways and  
Production Unit.

----

A copy of Board's letter No.85/F(S)/I/PW/7/1 dated 28.2.90  
on the above subject is appended for your information and  
guidance

for Chief Engineer/CN.—

---

Copy of Board's letter No.SS/R(S)/I/PW/7/1 dated 28.2.90 from Executive  
Director/Finance, Railway Board, New Delhi addressed to GMs/All Indian Railways  
etc.

Sub: Constitution of Tender Committees on Zonal Railways  
and Production Units.

----

A question has been raised as to what should be the level of Tender Committee  
to consider tenders in regard to purchase of Stores, in case the lowest offer(s) as  
received is/are unacceptable on technical considerations.

This point has been examined and it is clarified that while level of the  
tender committee to consider the tendered offers could be decided based on the  
lowest acceptable offer as per the technical note, it would be incumbent on the  
said tender committee to examine individually all the offers received lower than  
the lowest acceptable offer whether technically acceptable or not and to make  
appropriate recommendations in each case for consideration of the accepting  
authority. In this connection it may be noted that a tender offer can be passed  
over only with the approval of the accepting authority based on the  
recommendations of the tender committee and not otherwise. In this connection,  
attention is also invited to instructions as issued under Board's letter  
No.72/WI/CT/12(P) DATED **11.12.81**.

Extract of Railway Board's letter No. 88/CE-I/CT/76 dated 23.12.88 addressed to all GMs of Indian Railways etc.

.....

Sub: Constitution of Tender Committee and Acceptance  
of Tender.

Ref : Board's letter No 72/W1/CT/12 dt [11-03-81](#)

-----

In para (4) of Board's letter referred to above, it was inter- alia laid down that in case, for certain reasons, the officer competent to accept the tender had to be a member of the Tender Committee, the recommendations of the Tender colleague or to his next superior officer.

In suppression of these instructions, Board have now decided that consequent to this posting of ADRM's on all the divisions in all such cases Tender Committee recommendations should be put up to next higher authority for acceptance and practice of putting T.C. recommendations to colleagues should be discontinued with immediate effect.

Sd/-  
(Arimardan Singh)  
Director, Civil Engineering(G)  
Railway Board

---

### **Southern Railway**

Headquarters Office,  
General Branch,  
Madras-3.

No. G.203/P/III/Vol.X Date: 25.1.89

A copy of the above is forwarded herewith for information and guidance.

(P.R.S. Narayanan)  
for General Manager.



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAY  
(RAILWAY BOARD)**

No.90/ CE.I/CT/27

New Delhi dated: 10.5.93

Addressed to :

As per list attached

Sub: Works Tenders - Appreciation Committee  
(Railway Board)

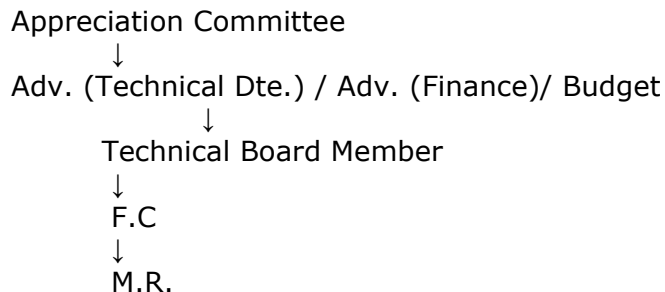
-----

Works Tenders pertaining to Electrical including RE, Signalling, works and Civil Engineering Directorates invited on the Zonal Railways/CORE, which are beyond the powers of acceptance of the G .M., are received in Railway Board for acceptance.

With a view to streamline the procedure for acceptance, Procedure similar to that of Appreciation committee for tenders of Stores Dte., as laid down in office order No .40 of 1988, is to be followed, as stated below.

The Appreciation Committee will consist of the Executive Director's of the concerned Technical Dte, and the associate Finance. The role of appreciation Committee would broadly be to highlight the important points for the benefit of the Accepting Authority. Any gross irregularity/mistake/deviations from the standard procedures/rules may be commented upon, and an Appreciation Note recorded for the benefit of the Accepting Authority.

The Railway should forward T.C, recommendations duly approved by G.M. to Railway Board in triplicate. After receipt of the minutes, the Executive Directorate will give a copy of the minutes to the associate Finance. E.D. of the Technical Dte thereafter will call for a meeting of the Appreciation Committee and their comments will then be put up to the Accepting Authority as indicated below.



The time schedule would be as follows ;\_

<u>S .No.</u>	<u>Time Period</u>
i) Receipt of T.C . recommendations	D
ii) TC Minutes to be sent to Asso- ciate ED/D{Finance} (3 days)	D + 3
iii) Appreciation Committee to meet (7 days)	D + 10
iv) Comments of the Appreciation Committee (4 days)	D + 14
v) Comments of Advisers(Tech.Dte. Finance/Budget) (7 days)	D + 21
vi) Acceptance of the TC by Com- petent Authority ( 7 days)	D + 28
vii) Communication of the acceptance or otherwise to the Railways (7 days)	D + 35

Where a clarification is necessary, the Appreciation Committee will decide the items of reference and a time period of 3 weeks may be kept for obtaining the necessary clarifications . Thereafter the Appreciation Committee will finalise the comments within 7 days. Where the clarifications received are not considered adequate by the Appreciation Committee, no second, back reference will be made, instead the representatives from the Railway/CORE as considered necessary will be called to Boards office giving another 7 days notice. The Appreciation Committee's final Note shall be prepared in another 7 days' time after meeting the representatives of the Railway/Core

(S.M. Singla)  
Exec. Director, Civil Engg.(C),  
Railway Board

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAY  
(RAILWAY BOARD)**

No.2001/CE.I/CT/14

New Delhi, dated 6.1.2002

The General Managers,  
All Zonal Railways.

The Chief Engineers,  
All Zonal Railways.

The GM(Construction)  
N.F. Railway, Maligaon, Guwahati

The CAOs (Cost)  
All Zonal Railways.

The FA & CAOs  
All Zonal Railways.

Sub: Works Tenders to be accepted at Board's level.

----

It has been desired by Board that all Works Tenders, which are required to be sent to the Board for acceptance, will henceforth be dealt with by a Tender Committee at PHOD level. However Finance members can be of SAG level.

These instruction would not be applicable in case of Northeast Frontier Railway(Construction).

This issues with the concurrence of Finance Directorate of Ministry of Railways.

Exec.Director, Civil Engineering(G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.2004/CE-I/CT/13

New Delhi dated 24.8.04

Addressed to:

As per list attached.

Sub: Improper use of Schedule of Powers (SOP) in finalization of tender.

----

It has come to notice of the Board that some railways are still not following the instructions issued from Board vide letter No.88/CE-I/CT/76 dated [23.12.88](#).

In all tender cases, recommendation of Tender Committee (T.C.) should be put up to next higher authority for acceptance. The practice of putting up the T.C.'s recommendations to a colleagues in the same grade/Level is in gross violation to the instructions issued vide Board's letter referred to above and Vigilance Directorate has taken a serious view of such irregularity.

It is therefore reiterated that the instructions issued in above mentioned letter may strictly be followed.

Receipt of this letter may please be acknowledged.

PARMOD KUMAR  
Exec Director, Civil Engg. (G)  
Railway Board

**GOVERNMENT OF INDIA (Bharat Sarkar)**  
**(MINISTRY OF RAILWAY'S (RAIL MANTRALAYA)**  
**(RAILWAY BOARD)**

No.74/ACIII/30/6

New Delhi  
dated 11-3-1977.

The General Managers,  
All Indian Railways, including CLW, DLW, ICF &  
MFPs (Railway at Madras, Bombay & Delhi.

The D.G./RDSO  
Lucknow

Sub: Tender Committee Proceedings.

----

One of the Railways had sought Board's decision on the following points:-

1. Since the decisions with regard to tenders involve financial consideration, is the accepting authority competent to decide the tender against the advice of the Finance Member without consulting the higher Finance Officer and

2. Can such a decision involving financial commitments and payment be admitted in the internal check by the internal check authority?

(2) The Board have considered the matter and have decided as under:-

1. As the Tender accepting authority has to take final decision on the Tender Committee's recommendations after considering the view points of all members of the committee including the Finance Member, the accepting authority should invariably record his reasons in writing for not accepting the recommendation of any Member.

2. If the Finance Member as an internal check authority feels that some gross financial impropriety is involved in the award of the work, he can report the matter to FA & CAO and seek his further instructions.

3. Kindly acknowledge receipt of this letter.

(This disposes off FA & CAO, Central Railway (Const)'s letter-  
No. AC//711/Con/F(X)II dated 1.3.74)

Sd/-  
(J.K. Mathur)  
Addl. Director, Civil Engg. Railway Board  
New Delhi dated 11-3-77.

Copy to The FA & CAO All Indian Railways. incl. Construction,

Copy of the letter No.74ACIII/30/6 dt.28.12.1983 from Railway Board to The General Managers, All Indian Railways.

Sub:- Tender Committee Proceedings.

---

Board vide their letter No.74ACIII/30/6 dated 11.3.1977 while clarifying the role of finance as a Member in a Tender Committee had stressed that if Accepting Authority does not accept recommendation of any Member, the reasons should invariably be recorded in writing. Similarly if Finance Member finds some financial impropriety in the award of the contract he can report the matter to the FA & CAO. In spite of these obvious instruction, in one of the Draft Paragraphs on one of the Zonal Railways it has been contended by Associate Finance that since Accepting Authority has to make a final decision the Tender Committee's recommendations, further reference to the Associate Finance is considered redundant. In this context it is reiterated that though final decision would rest with the Accepting Authority yet there is no reason at all why such authority should be precluded from obtaining the opinion of Associate Finance at the appropriate level. It is only where the FA&CAO is a Member of the Tender Committee that further consultation with him may be unnecessary but even in such a case the Accepting Authority is not precluded from further financial advice.

SD\  
(URMILA SHARMA)  
Joint Director Finance Accounts-II  
Railway Board.

No.W.496/F/O FA & CAO's Office  
Madra-3, Dated: 12.1.84.

Copy together with a copy of Board's letter No.74ACIII/30/6 dated 11.3.1977 forwarded for information to:-

FA&CAO/WST/PER  
FA&CAO/CN/MS,  
Addl.FA&CAO/RE/MS.  
Dy.FA&CAO/MTP/MS,  
Dy.CAO/W/PER, S/PER,  
Sr.DAO/MAS, TPJ, SBC,  
DAO/MYS, MDU, TVC & PGT  
SAO/W&S/GOC, W&S/MYS, W/PTJ,  
SAO/T/MAS, SAO/T/TPJ, AAO/XC.

for F.A. & C.A.O.

Copy of Railway Board letter No. 83-BC-SE/7 dated 18.6.1985 to the General Managers, All Indian Railways.

-----

Sub:- Tender Committee Proceedings.

-----

It had been clarified in Board's letter No.74/ACIII/ 30/6 KW dated 28.12.1983, that though the final decision on a tender Committee's recommendation would rest with the accepting authority, there is no reason at all why such an authority should be precluded from obtaining the opinion of associate finance at the appropriate level. Arising out of this letter certain apprehensions have been expressed that this may adversely affect the system of delegated powers and could also encourage evasion of responsibility in decision making.

2. The matter has been examined by the Board. While an administrative system should provide for a higher financial advice being sought, it has to be understood that this should be resorted to only in exceptional cases involving a major policy deviation or monetary implications. Wherever higher financial advice is required, the reference seeking such a higher financial advice should be made through a higher administrative authority.

3. In the case of tenders in which Divisional Railway Manager or a Head of Department is the accepting authority this request should be routed to the FA&CAO with the approval of the General Manager personally.

4. In cases, where the accepting authority is less than a DRM or a Head of the Department, since the Finance Member on the Tender Committee would have been at best in Jr. Administrative Grade, the higher financial advice should be sought from the Addl. FA&CAO or the FA&CAO with the approval of the DRM-HOD as the case may be. These instructions will apply to both open line and construction and the administrative approval to be accorded is to be done personally by the authorities specified and is not to be delegated.

5. While working with reference for a higher financial advice, the points on which this advice is required should be specially indicated and the reference should not be made in a general way. The higher financial advice in reply to the specific points should also be given for each question raised and should not be made general.

Sd/-  
(B.C. BALASUBPAMANIAM )  
Addl. Director, Finance(S)  
Railway Board.

## **Role of Tender Committee**

The system of Tender Committee consists of an officer of the user Department, a Finance Officer and an officer of some other department. It is expected to obtain value for money. In the case of Private Sector, the system of buying and selling is regulated presumably to achieve utmost economy and improve profitability. There is no question of public accountability. However, in case of Public Sector Undertaking, Railways and the Government of India, the concept of Public accountability flows from the provisions of the Constitution. All Railway earnings flow into the Consolidated Fund of India and all expenditures are incurred from the Consolidated Fund of India. Under the circumstances, utmost economy is to be observed in expenditure. The system of tendering is expected to ensure this.

Under the system of tendering followed in the Government, adequate opportunities are to be given to all eligible contractors/suppliers to undertake work or supply materials to the Government. Normally, open Tenders are invited for works. In the cases of urgency, limited tenders are invited. Only in very extreme cases to be recorded in writing and with the prior approval of the General Manager, Single Tender can be invited (Para 1211-E).

## **FORMATION OF TENDER COMMITTEE:**

The tender Committee consists of three members:-

One from the User Department concerned with the work, the Finance Officer concerned with the work, and, the third member to be nominated by the competent authority. In cases where General Manager is the competent authority to accept tenders, the General Manager's approval should be taken for the nomination of the 3rd member. So far as the member of the User Department and the Associate Finance Officer are concerned, there can be no variation. The Tender Committee, to consider tenders, will have to be so constituted that an authority holding powers for recommending the tenders by virtue of his position as a member of the Tender Committee, shall not be the accepting authority also for such tenders (Board's letter No. 70/W1/CT/32 dated [7th/9th September 1970](#)). In such cases, the Executive member of the Tender Committee shall put up the Tender Committee's proceedings to the next higher authority for acceptance, notwithstanding the fact, that the value of the offer is within the powers of the Executive members of the Tender Committee.



## **CONSIDERATION OF TENDERS:**

In brief, the following important points should be borne in mind, in the consideration of tenders:

(i) Tenders should be considered without delay.

(ii) Tenders should be finalised within the period of validity as has been obtained. Clarification from the tenderers should not be sought piece-meal. All the information necessary for consideration of offers should be called for together leaving no occasion for seeking further extension of time.

(iii) In the case of open tenders, if the lowest tenderer is not on the approved list of contractors kept by the Railway, but his tender is otherwise satisfactory, he should be asked to produce evidence of his capacity to carry out the proposed work or supply efficiently and of his sound financial position. If he is unable to produce this evidence, and it is proposed to pass over his tender and consider the next higher one, the fact of the lowest tenderer having failed to produce necessary evidence of his capacity and sound financial position should invariably be placed on record (Board's letter No.52/W/229 dated 9th May 1952). Undue emphasis should not, however, be placed on previous experience of contractors, as it would cut across the very principle of inviting open tenders and by shutting off all new comers, it would tend to create monopolistic tendencies (board's letter No. 59.B (C) 2498/11/4th Report/8 dated 27th/[30th May, 1958](#))

(iv) In all cases where the lowest or lower tenders are rejected, full reasons for the rejection should be recorded as provided for in Paras 342-S and 402(vi)-So that the reasons for the rejection would be available on file (Board's letter No. 68/W1/CT/15 dated [July 1968](#)).

(v) The officers concerned who are empowered to open and accept tenders should be particularly careful the matter of application of rules and regulations pertaining to tenders. The members of the Tender Committee at the time of considering tenders for any works should invariably go through all the instructions on the subject issued from time to time and record a certificate to that effect (Board's letter No. 761/G/V/ 63. Policy dated 11th/18th May, 1971).

(vi) The Tender Committee should go through the comparative statement briefing note and the tender papers carefully in order to see that all special conditions quoted by the tenderers, deviations from standard specifications and procedures etc have been taken into account and their recommendations should bring out clearly all such aspects so as to facilitate the approving authority to take them into consideration while according his decision on the tender. The Proceedings of the Tender Committee should be signed by the members of the Tender Committee on each and every page (Board's letter No. 78/W1/CT/47\ (Task Force) dated 3.3.79).

(vii) (i) The selection of contractors by negotiation is an exception rather than the rule and may be resorted to (a) Where all the tenders are considered to be unreasonably high in value and it is felt that retendering would not secure better

advantage to the Railway; and /or (b) Where the lowest tender is technically not acceptable is rejected because of unsatisfactory credentials, inadequacy of capacity or unworkable rates and next higher offer to be considered in accordance with the established procedure is found to be unreasonably high: (c) Where is the case of proprietary items of stores, the price quoted is considered to be unreasonably high.

(ii) It should be ensured that except where a single quotation has been received in response to all open tenders, the number of tenderers to be called in for negotiation is not less than two.

(iii) The decision whether to invite fresh tenders or to negotiate and in the latter case, with whom to negotiate should be taken by the competent authority after obtaining the recommendations of the Tender Committee.

(iv) After the competent authority has decided to call specific tenderers for negotiation, the following procedure should be adopted. (a) The tenderers to be called in for negotiations should be addressed as laid down in Board's letter No. 61/WII/CT/24 dated [31st Oct. 1965](#), so that the rates originally quoted by them shall remain open for acceptance in the event of failure of negotiations;

(b) The tender committee after obtaining clarification wherever necessary from each tenders separately, should ask the tenderers to give their sealed quotations which should be opened by the tender committee and read out in presence of the tenderers or their representatives who choose to be present (Board's letter No.73 W1/CT/15 dt: [15-3-74](#)).

(c) In case however, any of the selected tendered prefers to send a revised bid instead of being present at the negotiation the offer should be taken into account.

(d) In no case, including where a ring is suspected, should negotiation be extended to those who had either not tendered originally or whose tender was rejected because of unsatisfactory credentials, inadequacy of capacity or unworkable rates or (in the case of other than stores tenders only) whose tender was not accompanied by earnest money.

(e) While conducting negotiations with tenderers and obtaining revised rates and recommending the same for acceptance, the tender committee should ensure that the fundamental requirements of safeguarding Railway's Financial interest, have been fully observed (Board's letter No. 77/W1/CT/20 of [29.4.77](#)).

Note:(1) The above instructions regarding negotiations should be followed in respect of all contracts Works, Stores, Commercial, etc.

(2) The above instructions may not be applied rigidly to tenders for specialised works or equipment where tenderers may quote according to their own specifications and designs for various reasons such as improvement in technology etc and it may become necessary to discuss technical and other details with them to select the most suitable offer. Such cases would necessarily be very few and far between and the procedure of conducting negotiations should be decided on the merits of each case in consultation with the Financial Advisor and Chief Accounts Officer (Board's letter No.67/W1/CT/32 dated [25th, May, 1968](#)).

(viii) In addition to the generally known responsibilities of Tender Committees they have a special responsibility to scrutinise carefully the rates tendered with reference to the scope of the various provisions in the agreement governing the contracts. Such a scrutiny should be done with the object of ensuring that no undue benefit accrues to the contractors on the basis of certain clauses in the agreement which may be appropriate for one kind of contract and may not be so far another category (Board's letter No. 57-B (C) 3024 dt. [28th May 1959](#)).

(ix) In cases where specifications in a tender have undergone any major change before the tenders are finalised, fresh tenders should be called for giving sufficient notice to the tenderers (Board's letter No. 58-B (C) 2498/11/4th Report/8 dated [27th/30th May, 1958](#)).

(x) When in response to call of 'limited tenders' (as distinct from Single or Open tenders under the rules in force) only one tender is received, fresh tenders should be invited except in very urgent cases (Board's letter No. 50/145/3/5 dated [4th August 1951](#)). The discretion to class a work 'very urgent' for this purpose should vest in an officer not lower in status than a Divisional Superintendent and full reasons should be recorded justifying such a course of action) Board's letter No. 49/145/1/S dated [10th /12th January, 1950](#))

(xi) Even in the case of Open tenders when only one tender is received, the Tender Committee should examine inter-alia whether the rate quoted is reasonable, as the only tender received need not necessarily be accepted straightway merely because it is in response to a call of open tenders.

(xii) The rules regarding price preference to indigenous products for Public Sector Undertaking should be ensured.

(xiii) Purchase and Price preference to Public Sector Enterprises. Railway Board vide their letter No.77/W1/CY/30 of 20-8-77 has directed that Public Sector Enterprises would continue to get purchase preference (preference in awarding works contracts).

(xiv) Tender Committee should examine, while making their recommendations, all relevant factors, such as the existing work load on the lowest two or three tenderers their capacity to execute further work and also whether the rates quoted are reasonable and workable (Board's letter No. 60/Wo/DMF/10 dt. 4th November 1968).

(xv) In the evaluation and consideration of tenders, the tender documents should be carefully scrutinised, particularly in regard to the reasonableness of the rates and specially when changes have been made in the form of invitation of tender (Board's letter No. 61/B/C.N/ 27 dated 28th February [1st March, 1962](#)).

(xvi) Particular care should also be taken to ensure that the rates quoted for individual items are realistic and are not abnormal and unworkable in respect of any item of work (Board's letter No. 63/TC./11/6 dated [13th September 1963](#)).

(xvii) When the work is spread over various places on the Railway it would be advantageous if the Railway Administration, while inviting tenders for such work,

invites quotations for the work at each place or groups of places fairly close to each other (Railway Board's letter No. 61-B (C) NE/9 dated [23rd Sep, 1960](#)). This aspect should be kept in view by the Tender Committee at the time of examining the tenders. Instructions regarding 'Late' and 'Delayed' tenders contained in Board's letter No. 59/77/RS (G) dated [4th May, 1960](#) modified by RB's letter No.71/RS(G)/777 dt. [19-4-1984](#) will have to be borne in mind while considering 'Late and Delayed' tenders.

Even postal stamps cannot straightway be accepted as conclusive evidence of bona fide offer and any tendency, therefore, to accept 'Delayed' tenders as a normal feature of accepting tenders should be curbed and all possible steps taken to reduce the number of delayed tenders by reducing the interval between the closing time fixed for receipt of tenders and actual opening of tenders to the maximum extent possible (board's letters No. 67/RS/G/777/1 dated [18th Sept. 1967](#)).

(xviii) Tender Committee while accepting conditions stipulated by the tenderers particularly conditions involving extra payment should make a realistic and practical assessment of the full utilisation of the benefit which should be adhered to (Board's letter No.63/747/20/ Track dated [5 July 1968](#)). (xix) In the case of works contracts, as distinct from Stores contracts, tenders unaccompanied by the requisite earnest money should, under no circumstances be entertained and should be summarily rejected (Board's letter No.66/W1/CT/22/A dated [20th May 1967](#)).

(xx) As regard stores contracts the relaxation in the matter of earnest money and security deposit mentioned in Board's letter No.56/148/1/RE dated [17 December, 1956](#) and No.57/155/1/RS/G/ dated [12th April 1961](#) may be allowed these relaxation would also apply to sale of materials by tender in terms of paras 2310-S, 2320-S and 2321-S.

(xxi) The Tender Committee may use their discretion for considering tenders not accompanied by a valid I.T.C.C. (on the revised preformed) subject to the condition that in the event of such a tender being accepted no payment shall be made to the contractor until and unless a valid I.T.C.C. (on the revised preformed) is subjected this should be clearly brought out in the letter of acceptance and agreement. (Board's letter No.(i)69/W1/CT/38 dated [18-9-69](#) and (ii) 75/W1/CT/13 dated 28-5-75/6-6-75).

(xxii) the capacity, credentials and financial status of the tenderers should be investigated and only if these are found satisfactory, the contract should be awarded (Para.1104-E and also Boards letter No.68/B/(C) PAC/IV23/20 dated [25th October, 1968](#)).

(xxiii) In regard to contracts for earthwork on important projects like new lines etc. special attention would be paid to the selection of contractors for trying out such works, in order to avoid risks of failures (Board's letter No. 67/W5/RP-2/9 dated [4th December, 1968](#)).

It is of paramount importance that in consideration of tenders there should be no procedural lapses particular attention is invited to the instructions contained in Railway Board's letter No.62 AC 111/28/4 dated [13th June, 1963](#)).

The Tender Committee has to make a careful examination of all aspects including physical and financial capacity on the various tenderers, their technical competence etc. and to record in details the reasons for which particular tenderers are overlooked and only certain tenderers are called for negotiations (Board's letter No. 67-B (C)/PAC.111/12/13 dated [8th April, 1970](#)).

(xxv) In the case of tenders for construction of staff quarters for purpose of judging the reasonableness of the tendered rate, a comparison with the ceiling cost fixed for the construction of staff quarters should be made (Board's letter No.70/W2.21.14 dated [13th July 1970](#)).

(xxvi) While evaluating tenders the tender documents should be carefully scrutinised by the Tender Committee particularly to ensure that the rates quoted for individual items are realistic and are not unreasonable in respect of any item of work. (Board's letter No. 72/W1/CT/42 dated [17-11-72](#)).

(xxvii) Tender Committee, while examining the credentials and partnership deeds, etc of the tenderers, should see whether a group of persons or firms having different names but controlled by the same management have submitted separate tenders and should ensure that real and fair competition exists in response of the tender notice before they recommend acceptance to one of the tenders (Board's letter No. 72/W1/CT/32 dt [14-5-74](#)).

## **AWARD OF CONTRACTS:**

The acceptance or rejection of tenders is left entirely to the discretion of the authority empowered to do so. The reasons for departing from the recommendations of the Tender Committee should invariably be recorded by the authority. Similar reasons must also be recorded when the Tender Committee is asked to either enter into negotiations with the tenderers.

2. In case where the terms and conditions incorporated in the letters of acceptance/purchase orders are different from those originally offered but modified by the tenderers subsequently during the course of negotiations, discussions or otherwise, the contractors should be asked to return one copy of the letter of acceptance/purchase order duly signed by the same persons who signed the original offers against the tenders in token of his acceptance of the contract to the revised conditions (Board's letter no. 67/RS/G/779/11 dated [23rd June, 1967](#)). When the letters of acceptance purchase orders are placed on the basis of terms and conditions originally stipulated by the tenderer, the procedure laid down in Board's letter No. 62/Rs/(G)/77/9 26 dated [27th December, 1962](#) shall be followed.

## **GENERAL PRINCIPLES TO BE FOLLOWED IN ENTERING INTO CONTRACTS**

1. The fundamental principles for the guidance of authorities who have to enter into contracts or agreements are laid down in Para 402 of the Indian Railway Code for the Stores Department which is reproduced below for ready reference:-

(i) The terms of contract must be precise and definite, and there must be no room for ambiguity or misconception therein.

(ii) As far as possible, legal and financial advice should be taken in the drafting of contracts before they are finally entered into.

(iii) Standard forms of contract should be adopted wherever possible, the terms to be subject to adequate prior scrutiny.

(iv) The terms of contract once entered into should not be materially varied except in consultation with the competent financial authority.

(v) No contract involving an uncertain or indefinite liability or any condition of an unusual character should be entered into without the previous consent of the competent financial authority.

(vi) In selecting the tender to be accepted, the financial status of the individuals and firms tendering must be taken into consideration in addition to all other relevant factors.

(vii) In selecting the tender to be accepted, the financial status of the individuals and firms tendering must be taken into consideration in addition to all other relevant factors.

(viii) Even in cases where a formal written contract is not made, no order for supplies etc should be placed without at least a written agreement as to price.

(ix) Provision must be made in contracts for safeguarding Government property entrusted to a contractor.

(x) In entering into long term agreements or contracts, consideration should be given to the desirability of providing for the Railway unconditional power to cancel the agreement at any time after the expiry of six month's notice to that effect.

(xi) The Auditor General and under his direction, other Audit authorities have power to examine contracts and to bring before the Public Accounts Committee any cases where competitive tenders have not been sought or where high tenders have been accepted or where other irregularities in procedure have come to light.

II. Based upon the recommendations of the Public Accounts Committee, the estimated Committee, the Review Committee on Arbitration and the Task Force on vigilance, the Railway Board have been issuing supplementary instructions from time in regard to the special points to be borne in mind while drafting agreements or entering into contracts. Some of the orders issued by the Railway Board on this subject are summarised below for the guidance of authorities entering into agreements:-

(1) Railway Board's letter No. 58-B (C) 3072 dated [15th May, 1958](#). In this letter dated 15th May, 1958, a case has been pointed out whereas, as a result of insertion of protective clause in a contract to the effect that the delivery date quoted by the firm was contingent on the firm not being delayed as a result of non-delivery of raw materials or by any other cause beyond their control, the Railway was unable to enforce risk purchase against the firm and had to incur an additional expenditure to the extent of over Rs. 45,000/- over and above the loss incurred on the salaries of idle staff in view of this, the Railway Board have issued instructions that all Railway Administrations while entering into such contracts should see that protective clause of this nature do not find their way into the contract.

(2) Railway Board's letter No. 58-B (C) 2498/11/7th Report dated [12th September, 1956](#).

Based upon the recommendations of the Public Accounts Committee, Board in their letter of 12th September, 1956 have suggested that in all cases involving advance payment to private firms the agreement should invariably contain a penalty clause and payment of liquidated damages by the defaulting firms by way of interest on the money advanced to it.

(3) Railway Board's letter No. 58-B (C) 6000/II/11th Report dated [10th June, 1959](#). Based on the Estimated Committee's suggestion, the Railway Board have issued instructions that while examining the implications of various clauses contained in agreements which Government might enter into with foreign firms or



consultants, a contemporary record of the discussions leading to the acceptance of the provisions contained therein should invariably be kept.

(4) Railway Board's letter No. 59-B (C)/PAC/II/15th Reported dated [29th June, 1959](#).

The Railway Board have pointed out a case where supplies from a firm had to be paid for, at the original rate even after the expiry of the original contract. This became necessary as the original agreement had to be treated as operative even after the date of expiry of the original contract on account of the failure of either party to issue the prescribed notice. This prevented the Railway Administration from taking advantage of certain favorable conditions which were in the meantime being negotiated with the same party or a fresh agreement. As a result of this some avoidable additional expenditure was incurred by the Railway over a certain period. The Railway Board, have therefore, issued instructions that all agreements involving payments to outside agencies should be reviewed with a view to see that whenever it is necessary either to renew the agreement on terms more favorable to the Railway Administrations than the existing terms or to terminate the agreement, action is initiated sufficiently in advance and completed in time before the date of expiry of the agreement.

(5) Railway Board's letter No. 59-B (G) PAC/II/15th Reported dated [27th May, 1959](#) and No. 59-B (C)-PAC/II/XV.32 dated [5th November, 1959](#). Railway Board have pointed out that it should be ensured that when substantial sums of money are involved, the terms of agreement are always negotiated with legal guidance. They also clarified that it is not necessary to take legal guidance in each individual case of contract, where the standard conditions of contract are adopted.

(6) Railway Board's letter No. 61/746/56/Track dated [6th April, 1963](#). Based upon the recommendations in the public Accounts Committee's Report, the Railway Board have laid down a standard clause for adoption in cases of contracts where the contractors have secured raw materials with Government assistance with a view to safeguard against the contingency of the contractors diverting the raw materials to works other than those for which they were intended.

(7) Railway Board's letter No. 68/W1/CT/25 dated [12th July, 1968](#).

In order to avoid disputes in respect of additional lead and lift for taking Railway materials to the site of work, it has to be made clear in all contracts where Railway materials are to be supplied, the special conditions of contracts should specify the place where material are to be handed over to the contractor and it should be made clear that all lead and lift from the place to the site of work would be at the expense of the contractor.

(8) Railway Board's letter No. 78/W6/TK/O dated 2-9-78. Based on the recommendations of the Task Force on vigilance, the Board have issued instruction that greater stress should be laid at the highest level on proper and realistic estimation of quantities of works provided in the tender schedule so as to achieve better management control of variation in quantities of one or more items.



(9) Railway Board's letter No.78/W1/CT/37 (Review Committee) dated 19-1-1979. Based on the recommendations of the Review Committee on Arbitration instructions have been issued that whenever it is proposed to terminate a contract which has sufficiently advanced to whenever a contract is running into trouble a departmental committee may be appointed to discuss the progress of the contract with the contractor with a view to ascertaining as to what are his problems and recommend measures to solve these problems to the extent possible.

(10) Railway Board's letter No.78/W1/CT/19 dated [27-5-1978](#). In this letter instructions have been issued that for the purpose of working out the amount of earnest money against a work, the cost of the work should be assessed realistically taking into account the current prevalent rates of similar works.

(11) Railway Board's letter No. 78/W1/CT/43 (Policy) dated 22-12-1978. In this letter Board have directed that while calculating the earnest money against works, the amount should be rounded off to the next higher ten rupees for amount of earnest money less than Rs.1000/- and to the next higher hundred rupees for amount of earnest money more than Rs. 1000/-

## **ANNEXURE I**

### **CHECK LIST FOR THE GUIDANCE OF FINANCE OFFICERS ATTENDING WORKED TENDER COMMITTEE MEETING**

#### **HAVE YOU SEEN AND ENSURED THAT:-**

1. The comparative statement of tabulated tenders has been duly vetted by Finance.
2. A briefing note accompanies the tabulated statement.
3. Estimate cost of the work has been given.
4. Special conditions have been duly evaluated for purpose of comparison.
5. There are no unusual conditions.
6. Land acquisition has been completed or is in the final process of acquisition.
7. Rates obtained compare favorably with adjacent section/ sections.
8. The tenders have been advertised with sufficient notice period, and competent authority's approval exists in case limited tenders have been invited.
9. Special conditions of contract, if any, have been vetted by Finance prior to the invitation of tenders. Otherwise, they should be critically reviewed during the Tender Committee Meeting.
10. The tenders have been invited after site and plans for the work are ready, and, land has been acquired.
11. The Railway Board's approval has been obtained where foreign exchange for more than Rs. 50,000 is involved.
12. The tenders unaccompanied by the requisite Earnest Money or where Earnest money is not in acceptable form are summarily rejected.
13. The estimate for the tendered work has been sanctioned and funds exist through its stipulated completion period.
14. The tenders costing more than Rs. 10,000/- are opened by the nominated officer in the presence of an Accounts representative, and the 'delayed' and 'late' tenders opened are marked as such on both the envelope and the tender paper.
15. The tender committee has been constituted as per Schedule of Powers.

16. Has the lowest tender been recommended for acceptance. otherwise, full reasons are recorded for rejecting lowest/lower tenders.

17. If the tenderer being recommended for acceptance is new or is not on the approved list of contractors, his capacity, technical ability, and financial position have been examined.

18. Any special conditions, deviations from standard specifications and procedures etc., quoted by the tenderers have been examined from all angles evaluated where possible, and clearly brought out in the TC proceedings.

19. Fresh tenders are normally invited where specifications or scope of work has altered substantially before tender is finalised or where response is very poor.

20. Negotiations are recommended in exceptional cases (in situations where, e.g., all the tenders are unreasonably high retendering is not possible, etc.) and all the initially acceptable tenderers are invited for negotiations. 'delayed' and 'late' tenderers are not considered as a rule. 'Delayed' tender means tender received after the stipulated time or closing but before the time of opening and reading out of tenders. 'Late' tender means tender received after the time of opening.

21. However, if there is no other option, sanction at competent level should be taken for doing so. That while considering the various offers, the following aspects, inter alia, are examined:-

(i) Tender's technical and financial capacity to execute the work in view of his existing workload.

(ii) In considering conditions, especially those involving extra payment, a realistic and practical assessment of the full and timely utilisation of their benefits are assessed and commented upon.

(iii) Rates, unit and quantities quoted for every individual item of work are scrutinised so that the tender is not vitiated in case of subsequent.

(iv) Quantities, especially for earthworks have been correctly estimated.

(v) Completion dates are unequivocal and not contingent on other factors.

(vi) Where possible, quotations are collectively invited for a work at all places especially if the places are close to each other.

(vii) The place where railway materials, if any, will be supplied, should be specified.

(viii) Building cost index is kept in view in tenders for staff quarters, and contracts for multi-storeyed building as a whole, rather than floor-wise, should be considered.

(ix) Public Sector Enterprises are given an opportunity to reduce rates to the extent of the lowest tender received.

(x) In the absence of a valid ITCC, the tender can still be considered with the condition that no payment will be made until its submission.

(xi) Board's escalation clause has been included where necessary.

## **ANNEXURE - II**

### **CHECK LIST FOR THE GUIDANCE OF FINANCE OFFICERS ATTENDING STORES TENDER COMMITTEE MEETINGS**

#### **HAVE YOU SEEN AND ENSURED:-**

1. that a briefing note has been received together with a copy of all comparative statements indicating all inclusive cost duly checked by the Section Officer (A/Cs) of Finance Section? In the case of unequal and unusual conditions the tenders have to be brought at par for correct evaluation.
2. that in respect of advertised tenders, there has been proper publicity in the local news papers with adequate notice.
3. that in respect of limited tenders, whether there is a sanction of the competent authority and tenders have been issued to all firms on the approved list? If rotational system is followed, has it has been checked with reference to the cycle of rotation.
4. that the purchase being made is covered by a proper demand, in the form of a requisition/estimate sheet duly vetted by the Workshop Accounts Officer/Associate Accounts Officer at the appropriate level, for all demands exceeding Rs. 25,000/-in respect of N.S. items; and Rs. 10,000/- in respect of Stock items.
5. that the item proposed for purchase is a Workshop Manufacture item or not and in the case of the former, why this is being off-loaded to trade. The non-availability of the shop capacity in such cases will have to be certified by the technical member in the tender proceedings and the amount being paid is advantageous with reference to 'make or buy' decision.
6. that the offers received in response to tenders are attested by the Accounts representative at the time of opening of the tenders and delayed and late tenders, if any, are marked as such writing the time and the date of receipt.
7. that the items proposed for purchase, do not appears in the latest computer statements and also non-moving items statements.
8. that the rate proposed for acceptance is invariably the lowest. If the lowest rate is not acceptable, reasons for by passing the same will have to be recorded in the Tender Committee proceedings.
9. that in the case of request for advance payments raging from 90% onwards, whether the firms are of repute and commercial standing and their past performances justify 'acceptance of payment of such advances on inspection and proof to despatch.
10. that in the case of purchase involving foreign exchange, whether the items are not indigenously available and there is proper clearance for importing such items from DGTD keeping in view of the Prime Minister's latest instructions on conservation of valuable foreign exchange."

11. that in the case of single tenders, whether the indent is covered by the issue of PAC signed by an Officer at the appropriate level and the same on scrutiny can be accepted.

12. that in case purchases are at the risk and cost of another contractor, whether the risk purchase action is legally tenable as on the procedure laid down for inviting risk purchase tenders has been strictly followed including the aspect that the defaulter has also been given the necessary opportunity to quote for the tender.

13. that the tenders do not contain unusual conditions relating to delivery terms, warranty etc. and if so whether the same will not affect the interest of the Railway Administration adversely.

14. Whether the purchases recommended come under the price preference clause in respect of small scale industries etc. and if so they are within the limits laid down by the Railway Board.

15. Whether the lowest offer/offers are by-passed in preference to earlier delivery date and whether time preference to earlier delivery date and whether time preference terms are included in acceptance of offer involving higher rates.

16. that the requirements of earnest money deposits black- listed/suspended or removed from the approved list of suppliers.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No. 98/W-2/DL/SC/3/TP

New Delhi, dt 30/12/1999

The General Managers  
All Indian Railways

The Chief Administrative Officer  
All Indian Railways

While considering a tender case, MSR(B) has expressed concern at the wide variation between the estimated tender value and the rates actually received, which were much lower. It was seen that this variation was due to the rates for various materials having been taken on higher side, based on the rates obtained in earlier works/tenders.

It is desired that since total reliance upon such criterion can be misleading and can lead to inflated estimates, which is likely to result in loss to Public Exchequer and malpractices, comparison should also be made with prevailing materials like Steel, etc. with standard agencies, like SAIL and others to reflect realisticity in the estimates and also to check the scope of malpractices. This may be brought to the notice of all concerned.

This issues with the concurrence of Finance Directorate of the Ministry of Railways.

(V.K. Duggal)  
Jt. Director (Works)  
Railway Board

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.2001/CE.I/CT/3

New Delhi, dated 12.4.2001

Addressed to:

As per list attached.

Sub: Irregularities in award of work to the Contractor –  
Issue of instructions.

----

In the course of investigation of a case, certain irregularities were noticed in the award of the works to the contractors. To avoid these irregularities in future, Board (ME) has suggested following steps:

- 1) if sub-sectioning has been done with a view to expedite the work, then only one tender will be awarded to one firm. Or alternatively,
- 2) If the same firm becomes L-1 in all the sub-sections, then evaluation of the firm for its fitness for award of all the works should be done for the work as a whole. This will avoid over-loading of the firms beyond their financial capability.

The above instructions should be strictly adhered to.

Receipt of this letter may please be acknowledged.

(PARMOD KUMAR)  
Exec Director, Civil Engineering (C)  
Railway Board.



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.2003/CE.I/CT/14

New Delhi, dated 15.10.2003

Addressed to:

As per list attached.

Sub: Issue of instructions in regard to drawing up of self-contained and self-explanatory TC Minutes.

-----

While investigating one of the Vigilance cases on zonal railways, it has been noticed by Vigilance Branch that the lowest bidder (L-1) was bypassed on the ground of unsatisfactory credentials and tender was awarded to second lowest tenderer (L-2) at a higher rate. Although, the decision of Tender Committee was considered justified, the decision was not adequately substantiated with reasoning in the tender minutes. In this connection, Central Vigilance Commission has also observed that Tender Committee should have brought out, in more details, the reasons for considering the credentials of L-1 as unsatisfactory and also the reasonability of rates, counter-offered to L-2.

Incidentally, the estimated value of the work was shown as 2.06 lakh in the minutes whereas the offer recommended for acceptance was more than one crore & even the T.C. members did not put dates under their signature. The actual estimated cost, as per tender notice and briefing note, was Rs. 1,04,11,500/-.

Therefore, it is reiterated that T.C. minutes should be self-contained and TC should clearly bring out the reasons, in detail for bypassing the lowest/lower offers & T.C. should do thorough check of the figures indicated in Minutes & members should also put dates under their signature.

This issues with the concurrence of Finance and Vigilance Directorates of Railway Board.

(PARMOD KUMAR)  
Exec. Director, Civil Engg. (G)  
Railway Board

**Government of India  
Ministry of Railways  
(Railway Board)**

No. 2004/V-I/CVC/1/18

New Delhi, dated January 02, 2006

The General Managers,  
CR, ER, ECR, ECOR, NR, NCR, NER,  
NFR, NWR, SR, SCR, SER, SECR,  
SWR, WR, WCR, CLW,  
DLW, ICF, RCF, RWF, CORE,  
METRO & NF/Const.,

The Directors,  
IRIEEN, IRIMEE, IRICEN, IRISEF  
& IRITM

Chief Administrative Officers,  
DLMW & COFMOW

Director General,  
RDSO & RSC

The Managing Directors,  
RITES, IRCON, KRCL, CONCOR,  
IRFC, MRVC, IRCTC, RAILTEL,  
CRIS, RVNL & IRWO.

Others  
CCRS/LKO

Sub: Undertaking by the Members of Tender Committee / Agency.

----

In continuation of the CVC's directives regarding transparency in Tendering process, issued vide their letter dated 16/03/2005 (circulated by Railway Board vide letter of even No. dated 13/04/2005) the CVC vide their letter No.005/VGL/66 dated 09/12/2005 (Office Order No.71/12/05), have advised that the Members of the Tender Committee should give an undertaking at the appropriate time, that none of them has any personal interest in the companies/agencies participating in the tender process and that any member having interest in any company should refrain from participating in the tender committee.

This may be brought to the notice of all concerned to ensure strict compliance of these provisions.

(A.K. Madhok)  
Deputy Director/Vigilance-I  
Railway Board

### III. TENDERS

#### H. GENERAL GUIDELINES FOR TENDER COMMITTEE

S. No	Subject in Brief	Letter Date
1	Selection of Contractors inviting Open Tenders	30/05/58
2	Non-Mentioning of Working Capacity/Credentials of the Firm by the Tender Committee	16/05/88
3	Recommendation No 20 of the 23rd Report (Fourth Lok Sabha of the Public Accounts Committee on Para 33 of the Audit Report (Railways) 1967 Western Railway Extra Expenditure due to Failure of A Contractor	25/10/68
4	Role of T.C in Finalising the Works Tenders/ Contracts	19.11.03
5	Acceptance of Tenders-Reasons for Accepting Higher Rates to Be Recorded	21/12/61
6	Finalisation of Tenders within the period of Validity of the offers	13/02/60
7	Finalisation of Tenders within the period of Validity of the offers	14/09/60
8	Recommendations No 16 &17 of 72nd Report of the Public Accounts Committee Need for Finalisation of Tender within the Validity Period	29/07/67
9	Finalisation of Tenders	13/01/83
10	Delays in Finalisation of Tenders	28-07-83
11	Delays in Finalisation of Tenders	03/06/92
12	Timely Settlement of Tenders	24.08.00
13	Appointment of Works Contractors- Finalisation of Tenders	04.06.03
14	Appointment of Works Contractors- Finalisation of Tenders	11.06.03
15	Minimum Eligibility Criteria in Works Tenders	21.6.06
16	Procedure for Dealing with Tenders by Tender Committee	00006.11.877
17	Procedure for Dealing with Tenders by Tender Committee	11.03.93
18	Rules Regarding Constitution of Tender Committee - Southern Railway.	
19	Two Packet System of Tenders	17.08.95
20	Inclusion of Joint Venture/Partnership Firm in Tender Condition and NIT	02.08.06

Copy of letter No.58/B(C)/2498/II/4th Report/8 dt. 27/30.5.58 from the Director, Finance, Railway Board to GM/Indian Railways (including C.L.W.) and etc. etc.

Sub:- Selection of contractors inviting open tenders.

----

A reference is invited to Railway Board's letter No. 55/B(C)2498/(35 & 36)/XII dated 13.1.1956 copy of which together with a copy of enclosure there to is enclosed for ready reference. The question of allowing free play to a competitive Tender system and of ensuring for this purpose that the prescribed period of notice is generally allowed when inviting tenders, was brought to the notice of Railway Administrations in the aforesaid instructions of the Board.

2. The general principles in this connection have again been discussed by the Public Accounts Committee in connection with a paragraph in the Audit Report, Railways, 1956 & a copy of the Committees Recommendation No.8 contained in Appendix II of the 4th Report (end Lok Sabha) of the Public Accounts Committee which is self-explanatory, is reproduced below:-

"The Committee feel that undue emphasis on previous experience of contractors would cut across the very principle of inviting open tenders and by shutting of all new comers, it would tend to create monopolistic tendencies. The Committee trust that the instructions is used by the Railway Board in January 1956 in pursuance of para 72 of their Thirteenth Report should be strictly adhered to. The Board have impressed therein the need for allowing the prescribed period of notice or submission of tenders. The Committee desire that sufficient notice should also be given in cases where the specifications in a tender have undergone changes and fresh tenders called for in cases there the modifications are major in character warranting such a course".

3. In bringing to the notice of Railway Administrations again these essential aspects (amongst others) in the matter of inviting tenders and considering them, the Board desire that the importance of these instructions may once again be impressed on all authorities subordinate to you who are empowered to invite and deal with tenders.

Sd/-  
(C.T. Venugopal)  
Director, Finance, Rly. Board.  
Encl: As stated.  
/copy/

## SOUTHERN RAILWAY

No.W.496/P/O

Headquarters Office,  
works Branch, Madras-3.,  
Dated: 9.6.88.

DRMs/W/MAS, PGT, TVC, SBC, MYS, TPJ & MDU  
CE/CN/MS, CE/CN/BNC.

Sub: Non-mentioning of working capacity/credentials of the  
firm by the Tender Committee.

-----

A copy of Railway Board's letter No.87/WI/CT/56 dt.16.5.88 together with a copy of Board's earlier letter No,68 B(C)-PAC/ HQ/28/20 dt.25.10.68 is enclosed for information and guidance.

Receipt may please be acknowledged.

Encl: As above for Chief Engineer.

---

Copy with a copy of Board's letter No.87/WI/CT/56., dt.16.5.88., from Arimardan Singh, Jt.Director Civil Engg(G)., Railway Board, addressed to The General Managers, All Indian Railways.

Sub: Non-mentioning of working capacity/credentials of the  
firm by the Tender Committee

----

A case has come to the notice of the Vigilance Directorate wherein Tender Committee had not mentioned about the working capacity/credentials of the firm in their minutes. Central Vigilance Commission had objected to this and have advised that this important point should have been discussed in the minute of the Tender Committee.

2. In this connection attention is invited to Board's letter No.68 B(C)-PAC/IV/23/20 dt.25.10.68(copy enclosed) and Para 1215 of the Engineering Code wherein it is clearly mentioned that no work or supply should be entrusted for execution to a Contractor whose capacity, credentials and financial status have not been investigated before hand and found satisfactory.

3. Ministry of Railways desire that Tender Committee should also take the above instructions into their connection while finalising their recommendations.

4. The receipt of this letter may please be acknowledged.

Copy of letter No.68 B(C)-PAC/23/20 dated 25.10.1968 from Director (Civil Engineering) Railway Board, New Delhi addressed to General Managers, All Indian Railways, etc.

Recommendation No.20 of the 23rd Report (Fourth Lok Sabha) of the Public Accounts Committee on Para 33 of the Audit Report (Railways) 1967 Western Railway Extra Expenditure due to failure of a Contractor.

In a case reported in para 33 of the Audit Report (Railways) 1967, a Railway Administration awarded a contract for supply of ballast at a cost of Rs.5.46 lakhs to a Contractor, who was not on the approved list without formally verifying his credentials before accepting his offer. As a result of subsequent failure of the Contractor, the Railway Administration had to make alternative arrangements resulting in an extra expenditure of about Rs.1.86 lakhs. The public Accounts Committee in their comments on this para have criticized the award of such a big contract to a Contractor whose credentials were not properly verified. Para 1104 of the Indian Railway Code for the Engineering Department as well as Para 2 of the standard regulations for tenders and contracts require that no work or supply should be entrusted for execution to a Contractor whose capabilities and financial status have not been investigated before hand and found satisfactory. The instructions laid down are sufficiently elaborate and there should be no occasion for any lapse or failure to follow the prescribed procedure. The attention of all concerned should be drawn to standing orders in order to ensure that such instance do not occur in future.

**Policy letter No.RB/CE/15/2003**

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.94/CE.I/CT/4 (Pt.II)

New Delhi, dated 19.11.2003

All General Managers & Others  
(As per list attached)

Sub: Role of Tender Committee (T.C.) in finalizing the Works Tenders  
/Contracts.

- Ref: (i) Board's letter No.52/W/229 dated 9.5.1952  
(ii) Board's letter No.87/W.I/CT/56 dated 16.5.88  
(iii) Board's letter No.94/CE.I/CT/4 dated 17.10.2002.

----

During the regular works review meeting with the railways, an impression has been gathered that having prescribed the **"Minimum Eligibility criteria"** by the Board vide their letter at (iii) above, Tender Committee need not examine the financial capacity & capability to undertake the proposed work. This is leading to a situation where works are getting awarded to a firm/agency who has already got number of works in hand and the new work may be beyond its capacity to undertake further work(s).

The matter has been examined in the Board's office and it is clarified that it is one of the important role of T.C. to examine the financial capacity & capability of a intending tenderer vis-à-vis the workload in his hand in order to ensure that he/she can undertake and execute the new work if assigned to him/her successfully. In this regard, attention is invited to **Para 1215** of Engineering Code (Reprint-1999) which stipulates **"no work or supply should ordinarily be entrusted for execution to a contractor whose capability and financial status has not been investigated and found satisfactory....."**

Similarly, **para 617** of Indian Railway Finance Code, Volume-I (Reprint-1998) provides that **"in the case of open tenders, if the lowest tenderer is not on the approved list of contractors kept by the Railways, but his tender is otherwise satisfactory, he should be asked to produce evidence of his capacity to carry out the proposed work for supply efficiently and of a sound financial capacity. If he is unable to produce this evidence, and it is proposed to pass over his tender and consider the next higher one, the fact of the lowest tenderer having failed to produce necessary evidence of**

**his capacity and sound financial position should invariably placed on record.”**

Therefore, it is amply clear from the above Codal provisions that T.C. should examine the financial capacity, capability and past performance of an intending bidder before awarding him/her the work.

These instructions were also circulated to Railway by Board letter nos. referred to at (i) & (ii).

It is, therefore, once again reiterated that the financial capacity, capability and past performance of the tenderer/contractor should be investigated/examined in detail by the Tender Committee before recommending him/her for awarding a contract duly considering the existing work load with the tenderer(s).

This issues with the concurrence of Vigilance & Finance Directorates of the Board.

Letter may please be acknowledged.

(PARMOD KUMAR)  
Exec. Director, Civil Engg. (G)  
Railway Board.



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.610W5/LCT/A1

NEW DELHI Dated: 21.12.61.

To  
G.M/N.F.Railway/Pandu.

Sub: Acceptance of Tenders-Reasons for accepting higher  
rates to be recorded.

Ref: Your Chief Engineer(S&C)'s D.O.letter No./362/O/S&C/W1  
dt.10.11.61 to Additional Member/Works.

---

The Board have carefully considered the points raised in the above cited letter and wish to clarify that the object of the instructions contained in their letter of even No dated [23.10.61](#) was to ensure that tenders committees whose constituent members are not always the same, do not act while forming their recommendations without knowledge of the rates and conditions accepted in the recent past for similar works or supplies in the same area or contiguous areas.

2. The Board desire, therefore, that along with the tabular statement of Tenders which is invariably prepared for the consideration of the Tender Committee, a short briefing note should be furnished for their information indicating the last accepted rate for similar works of supplies in the same area or contiguous areas and also any special conditions attached to the said works or supplies seem a briefing note could be readily vetted by the Accounts Dept. as it will be based only on information available with the Railway. It should be ensured that the preparation and vetting of one briefing copy is carried out promptly so that the acceptance of tenders is not delayed on this account. You may kindly consider laying down a suitable time table for this purpose.

sd/-  
M.R. Reddy.  
Director, Civil Engineering.  
Railway Board.

Copy of Railway Board's letter No.60/777RS(G) dated 13th February, 1960, addressed to G.Ms, All Indian Railways etc.

----

Sub:- Finalisation of tenders within the period of validity of the offers.

---

A case has come to the notice wherein a contract could not be concluded within the period for which the tender's offer was open for acceptance. In the result, the contract had to be finalised at a higher price, as the tenderer when extending the period of validity of his offer enhanced his quotation.

2. It is very essential that contracts are placed within the period of validity of the offers. Extension of the validity period should be asked for from Tenderers only when it is considered that for inescapable reasons the contract cannot be finalised within the validity period and extension should be asked for well ahead of the expiry of the subsisting offers. In the case of tenders issued by the Board or for which the Board's approval is required but in respect of which the detailed examination is done by the Railway Administration, the Board should be addressed is done by the Railway Administration, the Board should be addressed sufficiently in advance.

In respect of tenders issued by the Railways, Projects or production Units, the approval of the authority `next above' should be obtained by the officer in whose powers, the purchase lies. In respect of cases falling within the powers of the General Manager of a Railway, the personal approval of the Controller of Stores should be obtained.

3. To ensure that every effort is made to place contracts within the period of validity offers, the date of expiry of the offer should be indicated prominently at every stage in all notings on the purchase file. The last sentence of purchase proposal for instance should always be (in capital) "OFFERS EXPIRE ON....." and there should be an immediate or priority slip where necessary indicating "OFFERS EXPIRE ON....." when purchase files have to be sent to other Branches such as Finance, Law, Technical Departments etc. the date of expiry of the offers should also be brought out or stamped prominently at the end of notings and letters, so that they are not lost sight of.

In certain cases, it may happen that tenderers when extending the validity of their offers at the request of the purchaser, qualify the extension by price increase or other stipulation regarding delayed delivery or completion etc. Such qualified extensions should also be highlighted along with the date of expiry of the offers in all notings on the purchase file, so that action on the file is processed at every stage by all concerned with due regard to the urgency called for.

Copy of Railway Board's letter No.60/777/RS(G) dated 14th September, 1960 addressed to General Managers, All Indian Railway.

Sub:- Finalisation of tenders within the period of validity of the offers.

-----

In sub para 2 of para 2 of the Board's letter of even number dated 13th February, 1960, it has been laid down that the approval of the authority 'next above' should be obtained by the officer in whose power the purchase lies before asking for the extension of the period of validity of a tender and that in respect of cases falling within the powers of the General Manager of a Railway the personal approval of the Controller of Stores should be obtained.

2. In this connection, it is hereby clarified that the instructions under reference are to apply to tenders issued from other Departments also and that the authority vested vide sub para 2 of para 2 of Railway Board's letter under reference in regard to tenders falling under the powers of the General Manager is to be exercised by the respective Heads of Departments personally i.e. by the head of Department from which a particular tender is issued.

----

**Government of India  
Ministry of Railways  
(Railway Board)**

No. 67-B(C)-PAC/III/72(16-17)

New Delhi, dated 29-7-1967.

To  
The General Manager,  
All Indian Railways,  
C.L.W., D.L.W., I.C.F., R.E.,  
& C.A. O.&C.E., D.B.K.R. Project.

The Director General,  
R.D.S.O.,  
Lucknow.

Sub:- Recommendations No. 16 & 17 of 72nd Report of the  
Public Accounts Committee- Need for finalisation of  
tenders within the validity period.

----

Commenting on para 14 of Audit Report (Railways)1966 in their 72nd Report, the Public Accounts Committee have, inter alia, observed (i) that it should be ensured that tenders are processed expeditiously and within the prescribed time limit to avoid the possibility of loss due to the expiry of the validity period of the tender, and (ii) that clarifications should not be sought piecemeal from tenderers.

2. The Board desire that the above observations of the Committee should be carefully noted and would draw the Railway's attention to the marginally noted letters issued from time to time in which the need for avoiding delay in the finalisation of tenders had been stressed. The Board particularly desire that, as recommended by the Public Accounts Committee, even in cases where the period of validity quoted is less than the period notified by the Railway in the tender documents, every effort should be made to persuade the tenderer to extend the validity period suitably and also decide on the offers within the limited validity period itself. Further, the scrutiny of the terms and conditions offered by all the tenderers should be done in all details at the initial stage itself, so that all the information necessary for consideration of offers is called for at one time and leaving no occasion for seeking further extensions in regard to any one of the offers at a later stage, on this account.

(Sd)  
(S.K. Ramanathan)  
Dy. Director Finance (BC),  
DA/Nil. Railway Board.

Copy of Railway Board's letter No. 82/W6/PRW/1/ New Delhi, Dated 10/13/1/83 from K.B. Goyal, Jt. Director, Civil Engg. (TM) Railway Board to The General Managers, All Indian Railways including C.L.W.D.L.W., D.C.W. & ICF.

Sub: Finalisation of tenders.

---

A case has come to the notice of the Board where there was delay to the extent of over two years in finalising a single tender for the procurement of imported spare parts. This occurred due to inordinate delay in getting the indent vetted by associated finance. This resulted in substantial increase in the prices which could have been avoided by expeditious completion of the requisite formalities.

Board would, therefore, like to reiterate that the tenders should be finalised within minimum possible time since any delay in purchase action only adds to the cost in an inflationary situation and all out efforts must be made to avoid such delays in future.

The receipt of this letter may please be acknowledged.

## SOUTHERN RAILWAY

No.S.314/P/Vol.6

Office of the Controller of Stores.  
Ayanavaram,  
Madras 600 023.  
Dt: 22-8-1983

### NOTE

Sub: Delays in finalisation of Tenders.

Ref : Railway Board's letter No.79/RS/G/  
779/16 of 28.7.83.

---

A copy of Railway Board's letter quoted above on the above subject is reproduced below for information and strict adherence.

sd/-  
Controller of Stores./22/8

All Purchase Officers at HC/PER and outstation.

-----  
Copy of the letter No.79/RS(G)/779/16 dt. 28.7.83 from Sri Joginder Singh, Deputy Director Railway Stores (G) Railway Bd., New Delhi to The General Managers, All Indian Railways and Production Units.

Sub: (i) Delays in finalisation of tenders etc. para 28(i) to (vi) of Advance C&AG's Report on the Railways for 1981-82.

(ii) Injudicious Procurement: Para 24 of Advance C&AG's report on the Railways for 1981-82.

Ref: DRS' D.O. No.79/RS(G)/779/16 dt. 21.1.83 addressed to all Controllers of Stores.

----

In the above noted paras, Audit had occasions to observe cases of failures on the Railways in assessment of demand, finalisation of tenders within validity etc. resulting in additional expenditure by the Administration. The specific failures observed by Audit in these cases are of the following nature:

1. Failure to finalise tender within the validity resulting in additional expenditure.
2. Non-observance of prescribed procedures for constitution of tender committee of appropriate level resulting in delay in finalisation.
3. Non-finalization of risk purchase within 6 months of the breach contract.
4. Incurrence of air-freight charges while the air-lifted materials were not used for quite some time after its receipt.
5. Incorrect assessment of stock position and the requirement resulting in additional expenditure.

Although instructions in the past have been issued on the subject of expeditious finalisation of tenders, constitution of tender committees and assessment of requirements, Board desire that these instructions be again brought to the notice of all officers dealing with tenders in orders to avoid the recurrence of such cases.

In view of the observations of Audit where material air-freighted were not utilized for quite some time after their receipt, Board further desires that cases for air lifting of materials should be meticulously scrutinized and air-lifting resorted to only in absolutely unavoidable circumstances.

Receipt of this letter may be acknowledged.

-----  
No.S.236/CN/MS/SF/O/Vol.II

Office of the FA & CAO,  
(Construction)Egmore,  
Madras-600 008,  
Dated: 20-10-1983.

Copy to: Addl. FA & CAO/RE/MS  
Dy.FA&CAO/CN/BANC  
SAO/CN/ERS &  
AAO/CN/MS (Bills) for information.

for FA & CAO/CN/MS

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 90/CEI/CT/1

New Delhi, dated 03-06-92

Addressed to:

As per list attached.

Sub: Delay in finalisation of tenders -  
Need to finalise within validity period.

----

Cases have been brought to the notice of the Board by Audit vide para 46 of C&AG's Report 1989-90 that Railway finances were adversely affected due to non-finalisation of tenders within the validity period and thereby diminished the emphasis laid down in para 1202-E and 1210-E in respect of economy in expenditure and best utilisation of Railway funds. Instructions have been issued from time to time that the tenders should be finalised as early as possible and within the validity period of the offers.

In this connection, instruction contained in Board's letter mentioned below may be referred to (copies enclosed for ready reference).

60/777/Rs(G) dt. 13.2.60

60/777/Rs(G) dt. 14.9.60

67/B(G)-/FAC/III/72/16-17 dt. 29/31.7.67.

Board desire that these instructions should be strictly adhered to in order to avoid recurrence of such lapses.

Receipt of this letter may kindly be acknowledged.

(S.M. Singla)  
Exec. Director, Civil Engg.(G)  
Railway Board.



**Government of India  
Ministry of Railways  
(Railway Board)**

No.2000/CE-I/CT/1 Pt

New Delhi, dated: 24.8.2000.

Addressed to:

As per list attached:

Sub: Timely settlement of Tenders

\*\*\*

An extract of directions received from Hon'ble Minister of Railways in regard to timely settlement of tenders is reproduced below for necessary compliance.

"Despite repeated instructions on the file, I am observing that tender files are getting considerably delayed before it is put up to the competent authority, after bids are opened. I would like all the tender files to be put up to the appropriate authority for final decision within 3 months of the receipt of offers. All concerned may be advised to adhere to this time limit strictly."

Sd/-  
(MR) 18.6.2000

Please acknowledge receipt.

(Madan Lal)  
For Exec. Director, Civil Engg (G)  
Railway Board.

**RB/CE/5/2003.**

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.94/CE-1/CT/4.

.....  
New Delhi, the 4-6-2003.

To,

As per list A' attached.

Reg: Appointment of Works Contractors — Finalisation  
of tenders.

Ref : Board's letter of even number dated **17-10-2002**

\*\*\*\*\*

Board vide their letter referred above issued certain instructions based on the recommendations made by Sudhir Chandra Committee. The matter has been re-examined in the light of the emerging field requirements and Board has approved the following amendments to the above-referred letter.

**(I) Limited Tenders (LT):**

Add a new clause below Clause 2.4.4.6

In respect of tenders between Rs. 1 crore and Rs.8 crores, GMs may, if considered necessary, prepare an approved list as per instructions as in Annexure-I and resort to Limited Tenders from parties borne in this list. These powers may be delegated by GMs, if considered necessary, in consultation with Finance. However, instructions are valid only till 31-3-2004 as an experimental measure.

(2) Two Packet System:

The existing Clause No. 2.8.5.1 will stand deleted. In place of this, following clause should be inserted

GMs may call the tenders based on Two Packet System wherever they feel necessary. However, for the works tenders having value of more than Rs. 1 crore and upto Rs.8 crores, they may, as far as feasible, call the tender on Two Packet System. These powers may be delegated by GMs, if considered necessary.

(3) Eligibility Criteria (Clause 2.3.4.1):

Item 2 in the table should be read as follows:-

Should have completed in last 3 Financial years (i.e. current and 3 previous financial years).	At least one similar single work for a minimum value of 35% of advertised tender value.
--	---

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

Corrigendum

No.94/CE-I/CT/4.

New Delhi, date 11-6-2003.

To,

As per list 'A' attached.

Reg: Appointment of Works Contractors — Finalisation of tenders.

Ref : Board's letter of even number dated **04-6-2003**.

---

Kindly refer to Board's letter of even number dated 04-6-2003 wherein certain amendments in the Board's letter of even number dated 17-10-2002 were notified. Annexure-I to the above referred letter is now enclosed herewith.

Also, the following corrigendum is made in Para (2) — Two Packet System — of Board's letter of even number dated 04-6-2003:-

In 4<sup>th</sup> line, delete the words "Rs.1 crore and upto". After correction, the Para would read as follows

**(2) Two Packet System :**

The existing 'Clause No.2.8.5.1 will stand deleted. In place of this, following clause should be inserted:-

"GMs may call the tenders based on Two Packet System wherever they feel necessary. However, for the works tenders having value of more than Rs.8 crores, they may, as far as feasible, call the tender on Two Packet System. These powers may be delegated by GMs, if considered necessary.

This issues with the concurrence of Finance Dte. of Ministry of Railways.

Encl: Annexure-I (4 pages).

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.

## **Annexure I**

Approved list for calling limited tenders may be prepared for the following monetary slabs;

Class	Value	Eligibility Criteria
D1	Upto Rs 1 Crore	<p>(i) They should have an Engineering Organisation with at least a (one) Graduate Engineer having 10 years experience plus an Engineering Diploma Holders having 5 years experience in relevant discipline and, maintain a minimum complement of transport equipments and construction tools and plants commensurate with the nature of works being done by them.</p> <p>(ii) At the time of enlistment, they should have satisfactorily executed at least two similar works each individually costing not less than Rs.25 lakhs.</p> <p>(iii)Should have received at least Rs.75 Lakhs as the contract payment during the last 3 financial years and in the current financial year.</p>
C1	More than Rs.1 crore and upto Rs. 3 crores.	<p>(i) They should have an Engineering Organisation with at least a (one) Graduate Engineer each having 10 years experience plus two Engineering Diploma Holders each having 5 years experience in relevant discipline and maintain a minimum complement of transport equipments and construction tools and plants commensurate with the nature of works being done by them.</p> <p>(ii) At the time of enlistment, they should have satisfactorily executed at least two similar works each individually costing not less than Rs. 75 Lakhs.</p> <p>(iii)Should have received at least Rs.3 crores as the contract payment during the last 3 financial years and in the current financial year.</p>

Class	Value	Eligibility Criteria
B1	More than Rs 3 crores and upto Rs. 5 crores	<p>(i) They should have an Engineering Organisation with at least 2 Graduate Engineers each having 10 years experience plus 2 Engineering Diploma Holders each having 5 years' experience in relevant discipline and, maintain a minimum complement of transport equipments and construction tools and plants commensurate with the nature of works being done by them.</p> <p>(ii) At the time of enlistment, they should have satisfactorily executed at least two similar works each individually costing not less than Rs. 1.25 crores.</p> <p>(iii) Should have received at least Rs.6 crores as the contract payment during the last 3 financial years and in the current financial year.</p>
A1	More than Rs. 5 crores and upto Rs. 8 crores.	<p>(i) They should have an Engineering Organisation with at least two Graduate Engineers each having 10 years experience plus four Engineering Diploma Holders each having 5 years' experience in relevant discipline and maintain a minimum complement of transport equipment and construction tools and plants commensurate with the nature of works being done by them.</p> <p>(ii) At the time of enlistment, they should have satisfactorily executed at least two similar works each individually costing not less than Rs.2 crores.</p> <p>(iii) Should have received at least Rs.10 crores as the contract payment during the last 3 financial years and in the current financial year.</p>

(2) In respect of tenders of value more than Rs.5 crores and upto Rs.8 crores, GM would have the discretion to call limited tenders or open tenders for reasons to be recorded in writing.

(3) In respect of tenders of value upto Rs. 5 crores, the decision whether to call limited tenders or open tenders can be taken by the CAO(C)/East Central Railway personally duly recording reasons therefor and this power will not be further delegated to any lower level.

(4) It is further directed that all the open tenders which have already been floated should be opened and dealt with as per normal procedure.

(5) Following procedure should be followed for formation of approved list of contractors for 3 categories of works namely, (i) earth work in formation and cutting including construction of minor bridges, (ii) major bridges/ROBs/RUBs, and (iii) supply of ballast and boulders.

(I) Applications will be invited from the eligible contractors/firms through open advertisement in the newspapers and on websites of the Railway on the Internet/Railnet giving wide publicity.

(II) Applications can be submitted by the firms satisfying the eligibility criteria as mentioned under Para 1 for different categories of the contractors.

(III) To have better and large number of firms participating in the tenders, any tenderer registered for higher value of works will be automatically considered eligible for participating in the tenders for lower value of works.

(IV) The following documents will be required to be submitted by firms to judge working capability and capacity of the firms:-

- (a) List of works completed by the firm in last 5 years.
- (b) List of ongoing works awarded to the contractor but not completed.
- (c) Last Audit Report from registered Chartered Accountant.
- (d) List of tools and plants.
- (e) List of vehicles, heavy earth compactors, dumpers etc.
- (f) List of technical staff working for the firm.

#### **(v) Registration Charges:**

All the firms applying for enlistment will have to pay non-refundable registration charges in A/c Payee Demand Draft in favour of FA&CAO/FA&CAO(Con.) or cash to be remitted in the cash office of the Railway for different categories as under :-

<u>Category</u>	<u>Registration Amount</u>	<u>Category</u>	<u>Registration Amount</u>
D1	Rs. 15,000/-	B1	Rs. 25,500/-
C1	Rs. 20,000/-	A1	Rs. 30,000/-

The contractors desirous of registration should submit the application in the proforma prescribed by the Railway for each category of work in each slab. Registration charges shall be paid for each category separately. The registration will be valid upto 31-3-2004.

#### **(VI) Standing Earnest Money**

The contractors borne on the approved list will have the facility of Standing Earnest Money. They have to deposit a fixed amount of Rs 2,00,000/- (Rupees two lakhs) towards Standing Earnest Money before they are allowed to participate in the tenders.

## **(VII) Committee for Examining the Applications**

The applications received in response to open advertisement/Internet Notice will be screened by a Committee of 3 officers which will be formed in the same manner as the Tender Committee to deal with the tender of that value and its recommendations will be accepted by the same authority who is competent to accept the tender of that value of the category.

(VIII) Registration/enlistment in the approved category will be valid upto 31-3-2004. However, the names can be deleted earlier also on the basis of performance.

(IX) At least 6 contractors would be registered in each category.

(X) The Standing Earnest Money shall be counted as valid Earnest Money for open tenders also for works costing upto Rs.8 crores. This facility will also be available to the contractors for open tenders of other branches such as Electrical, S&T etc. within the same organization i.e. either Open Line or Construction Organisation.

(XI) For registration of contractors for work of supply of Ballast & Boulders, a suitable clause in eligibility criteria may be inserted by the Railway in regard to Plant & Machineries and Licensing of Land/Quarry etc.

(XII) The phrase "Similar Works" in eligibility criteria should be defined unambiguously while notifying the tender notice.

The above procedure would be followed as an experimental measure only upto 31<sup>st</sup> March, 2004.

Zonal Railway has full powers to float high value tenders and process the same as per existing delegation of powers.

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.

**Policy letter No.RB/CEI/5/2006**

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAY  
(RAILWAY BOARD)**

No.94/CE-I/CT/4

New Delhi, dated 21.6.2006

AS PER LIST ATTACHED

Subject:- Minimum eligibility criteria in Works Tenders.

Reference:- (i) Railway Board's letter No.94/CE-I/CT/4 dated [17.10.2002](#)  
(ii) Railway Board's letter No.94/CE-I/CT/4 dated [4.6.2003](#).

-----

Ministry of Railways has decided to amend the minimum technical eligibility criteria for open tenders costing above Rs. 10 lakhs stipulated vide Item 2 of Clause 2.3.4.1 (reference (i)) and its subsequent modification vide Item 3 of Railway Board's letter number(reference(ii)). The amended criteria is enumerated below and has the approval of Finance Directorate.

- (i) Similar nature of works physically completed within the qualifying period, i.e. the last 3 financial years and current financial year should only be considered in evaluating the eligibility criteria.
- (ii) The total value of similar nature of works completed during the qualifying period, and not the payments received within qualifying period alone, should be considered.

In case, final bill of similar nature of work has not been passed, paid amount including statutory deductions is to be considered if final measurements have not been recorded OR if final measurements have been recorded and work has been completed with negative variation. However, if final measurements have recorded and work has been completed with positive variation but variation has not been sanctioned, original contractual value of work should be considered for judging eligibility.

iii) In the case of composite works involving combination of different works, even separate completed works of required value 'should be considered-while evaluating the eligibility criteria. For example, in a tender for bridge works where similar nature of work has been defined as bridge works with pile foundation and PSC superstructure, a tenderer, who had completed one bridge work with pile foundation of value at least equal to 35% of tender value and also had completed one bridge work with PSC superstructure of value at least equal to 35% of tender value, should be considered as having fulfilled the eligibility criterion of having completed single similar nature of work.



(iv) Similar nature of works should be clearly defined by the PHODs of the Zonal Railways and it should be strictly followed by the concerned Zonal Railways and the same should be indicated in the NIT/Tender document also. In case of any deviation/modification in the list of similar nature of works, prior approval of PHODs should be obtained.

(N.K.SINHA)  
EXECUTIVE DIRECTOR CIVIL ENGG (G)

Copy of: Headquarters Office,  
'Stores Branch'  
Ayanavaram, Madras-23  
No.S 314/P(Vol 7)

Dt. 13.1.1988

Sub: Procedure for dealing with Tenders by the  
Tender Committee.

-----

Contents of the Railway Board's letter No. 87/RS(G)/777/3 dt. 6.11.1987 issuing instructions as to how process the tender committee proceedings is reproduced below for strict adherence.

Sd/-  
For controller of Stores.

---

Board's letter No.87/RS(G)777/3.

New Delhi, dt. 6.11.1987

To The General Managers, All Indian Railways and Pr.Units.

Tender Committee have a vital role to play in deciding the action on tenders received for procurement of material and execution of works. In accordance with the extent procedure, after the tenders are opened, a detailed comparative statement and a briefing note (in the case of works tenders) are to be prepared by the Stores/Technical Department and vetted by the Accounts Dept. The convenor of the tender committee (who has to fix date(s) in consultation with other members for holding meeting (s) for a joint and through discussion of the offers received, and framing recommendations for the accepting authority. The recommendations of the tender committee are to be put up direct to the accepting authority, without further recommendations or comments from anyone.

It has come to the notice of the Board that, in some cases, the above mentioned procedure is not being followed. The tender committee members do not meet to deliberate on the offers and to arrive at common recommendations. Instead the minutes are framed by the convenor or some other member (or even by some officer or staff under them) without any meeting and mutual consultations. These are then sent to the other members of the tender committee, who frequently record their views on the files which are different from the drafted minutes. Also, in some cases, when the minutes drafted after the holding of the tender committee meeting are sent to other members for approval/signature, they, in turn refer the entire case for scrutiny/to their junior officers/staff who give their own comments on the tender file, or on a separate check note. Needless to add that such procedure adopted by the members of the tender committee are violative of their instructions of the Board and defeat the very purpose of formation of the tender committee.

This also leads, at times, to loss of tender files, manipulations therein, loss of confidentiality and excessive delay in dealing with the tender. The delay in some cases had led to the validity of the offers having expired and the Railway being compelled to purchase stores or execute works at much higher rates.

In view of the foregoing, Board desire that after opening of the tenders, their tabulations, preparations of detailed comparative statement and briefing note in case of works tender (which must be vetted by the Finance Branch, the convenor should taken immediate steps to hold tender committee meetings in consultation with the other members. The tender Committee members must hold meeting(s) to examine the various offers, deliberate upon them and arrive at their recommendations. The minutes should be drafted by the convenor at the earliest thereafter and sent to other members for their approval, and signature. Under no circumstances, any of the members of the tender committee should refer the tender case to any officers/staff under him or to anyone also for scrutiny and /or comments. The members of the tender committee are expected to have adequate knowledge and confidence to deal with the tenders, on their own instead of referring it to others. Any significant changes in the minutes should be one jointly in consultation with other members. Notings on the tender file by the members of the tender committee as a substitute for meetings and airing of views should be strictly avoided. Dates, on which tender committee meetings are held, should be displayed prominently in the minutes of the tender committee. All concerned must also ensure that the tenders are dealt with expeditiously and within the time schedule laid down by the Railway.

----

Copy of Railway Board's letter No.93/RS(G)/645/1/PAC - 165 DT. 11.03.1993

SUB: Procedure for dealing with tenders by the Tender Committee.

----

The independent Committee of Experts set up by Railway Board in February 1991, as recommended by the PAC (8<sup>th</sup> Lok Sabha), for investigating inconsistencies and irregularities committed in two cases of purchases in 1979 by Board's office have observed that while evaluating offers received against the tenders floated by Railway Board through a number of clarifications on technical and commercial conditions given by the firm were asked from the firm and in certain cases deviations as stipulated by the firm were accepted but one of the most important technical deviations from the specifications quoted by the firm was lost sight of during the examination of the offer and also at the time of issuing advance acceptance of the offer. The said lapse on the part of the tender Committee has resulted in great inconvenience, as the firm was reluctant in accepting the stipulation mentioned in specifications which was incorporated in the formal order placed on the tenderer.

In view of the above, the said committee has recommended that evaluation of tender, preparation of briefing notes, technical notes etc, need to be done with greater care and attention. The committee has also recommended that the Tender Committee Members should carefully scrutinize the offer of atleast the bidder recommended for award of contract. It should further be ensured that utmost care is taken to examine all technical as well as commercial aspects especially technical deviations quoted by the tenderer. The procedure for dealing with the tenders by the tender committee has already been laid down vide Railway Board's letter No.87/RS(G)/777/3 DATED [06.11.87](#).

Tender Committee has a vital role to play in deciding the action on tenders received for procurement of material and execution of works. In accordance with the extant procedure, after the tenders are opened, a detailed comparative statement and a briefing note (in the case of works tenders) are to be prepared by the Stores/Technical Department and vetted by the Accounts Department. The convener of the tender committee (who has to be from the Department that called the tenders) has to fix date(s) in consultation with other members for holding meeting(s) for a joint and thorough discussion of the offers received, and framing recommendations for the accepting authority. The recommendations of the tender committee are to be put up direct to the accepting authority without further recommendations or comments from anyone.

It has come to the notice of the Board that, in some cases, the above mentioned procedure is not being followed. **The tender committee members do not meet to deliberate on the offers and to arrive at common recommendations.** Instead, the minutes are framed by the convenor or some other member (or even by some officer or staff under them) without any meeting and mutual consultations. These are then sent to the other members of the tender Committee, who frequently record their views on the files, which are different from the drafted minutes.

Also in some cases, when the minutes drafted after the holding of the tender committee meeting are sent to other members for approval/ signatures, they, in turn, refer the entire case for scrutiny to their junior officers/ staff who give their own comments on the tender file or on a separate check note. Needless to add that such procedures adopted by the members of the tender committees are violative of the instructions of the Board and defeat the very purpose of formation of tender committee. This also leads, at times, to loss of tender files, manipulation therein, loss of confidentiality and excessive delay in dealing with the tender. The delay in some cases has led to the validity of the offers having expired and the Railways being compelled to purchase stores or execute works at much higher rates.

3. In view of the foregoing, Board desire that after opening of the tenders, their tabulation, preparation of detailed comparative statement and briefing note in case of works tender (which must be vetted by the Finance Branch). The convener should take immediate steps to hold tender committee meetings in consultation with the other members. The tender committee members must hold meeting(s) to examine the various offers, deliberate upon them and arrive at their recommendations. The minutes should be drafted by the convener at the earliest thereafter and sent to other members for the approval and signature. Under no circumstances any of the members of the tender committee should refer the tender case to any officers/staff under him or to anyone else for scrutiny and/or comments. The members of the tender committee are expected to have adequate knowledge and confidence to deal with the tenders on their own instead of referring it to others. Any significant changes in the minutes should be done jointly in consultation with other members. Noting on the tender file by the members of the tender committee as a substitute for a meetings and airing of views should be strictly avoided. Dates on which tender committee meetings are held should be displayed/prominently in the minutes of the tender committee. All concerned must also ensure that the tender are dealt with expeditiously and within the time schedule laid down by the Railway.

4. Board desire that the above instructions should be followed strictly.

5. This issues with the concurrence of the Finance Directorate of the Railway Board.

Please acknowledge receipt.

## **CONTENTS**

### Part I -Rules regarding constitution of Tender Committees

- I. Call of tenders
- II. Opening of tenders
- III. Formation of Tender Committees
- IV. Consideration of tenders
- V. Award of the contract
- VI. General instructions

### Part II - General principles to be followed to enter into contracts or agreements

#### Annexures

(Copies of Railway Board's letters and others letters)

## **PART I**

### **RULES REGARDING CONSTITUTION OF TENDER COMMITTEES**

#### **I-CALL OF TENDERS**

1. Para 323-S provides that the primary duty of the Executive is to obtain the best value possible for the money spent and the tender system, in one form or another, should be given very careful and serious consideration in all cases as one of the most effective methods for keeping down rates. A similar provision is also made in the Note under Para 1111-E. Under the extant rules, all contracts for purchases, sales, works and services should be let out on the basis of tenders.

#### **Note.**

The award of goods, parcels and coal handling, removal of coal ashes, ash-pit cleaning, cinder picking contracts to available and willing genuine co-operative societies of actual workers with not more than 2 outsiders should be without call of tenders, so long as value of the contract in each case does not exceed Rs. 1,20,000 per annum. (Authority : Board's letter No. 66-E(Co-op.)/L/2/4 dated [27th November 1968](#) reproduced as Annexure I).

This limit of Rs. 1,20,000 per annum may be relaxed upto Rs.2. lakhs per annum at the discretion of the General Manager based on the merits of each case. (Authority : Board's letter No. 66-E(Co.op.)/L/2/4 dated 28th December 1971.)

2. The `Single' tender system may be adopted in cases other than those for the purchase of stores arranged for by the Controller of Stores, provided the value does not exceed Rs. 200 in the case of non-proprietary items, as provided for in Para 330-S. In the case of purchase of stores arranged for by the Controller of Stores, the `Single' tender system may be adopted in cases where the value does not exceed Rs. 2000 in the case of non-proprietary items and Rs. 10,000 in the case of proprietary items (Board's letter No. 70-F(S)I/PW-7/1 of [17th July 1971](#) reproduced as Annexure 2).

3. The `Limited' tender system may be adopted in cases other than those for purchase of stores arranged for by the Controller of Stores, where the value is below Rs.10,000 as provided for in Para 328-S. In the case of purchase of stores arranged for by the Controller of Stores, the Limited tender system may be adopted in cases where the value is below Rs. 25,000 in normal circumstances and upto Rs. 1 lakh in emergencies at the discretion of the Controller of Stores (Board's letter No.70- F(S)I/PW-7/1 dated 17th July 1971 reproduced as Annexure 2).

4. In all other cases, `Open' tenders should be invited as prescribed in Para 324-S and Board's letter No.68/W1/CT/46 dated [31st January 1969](#) (reproduced as Annexure 3), unless otherwise sanctioned by the General Manager, with the concurrence of Finance, in exceptional cases, as provided for in Paras 331-S and 332-S.

5. Only standard forms of contracts should be adopted vide Paras 402(ii)-S and 402(iii)-S. Where the tender documents have not so far been standardized, these should be got standardized after having been vetted by Finance and Law

Branches, before they are adopted in terms of General Manager's letter No. W 496/P dated [19th December 1964](#) (reproduced as Annexure 4).

6. The tender forms sold should be initialed by an Upper Subordinate of the Branch concerned and all the tender forms sold should be recorded in an appropriate register kept for the purpose, (General Manager's letter No. W.496/II dated [14th October 1968](#) reproduced as Annexure 5).

7. In cases of tenders involving foreign exchange expenditure in excess of Rs.50,000 prior reference to the Board shall be made for their approval before tenders are called for (Board's letter No. 71/F(Ex.)/1 dated [18th August 1971](#) reproduced as Annexure 6.)

In respect of contracts where the foreign currency component is estimated to be in excess of Rs. 2 lakhs, the special procedure provided in the matter of invitation of tenders etc. (Board's letter No.F(LN)64/36 dated [6th January 1965](#) reproduced as Annexure 7) should be followed.

8. Sufficient notice should be given for the submission of tenders which in case of large works should not be less than a month and in case of supply of stores not less than 14 days, (Para 1113-E and the Board's letter No.55-B/C/2498/35 & 36/XIII dated [13th January 1956](#) reproduced as Annexure 8).

Note:- The term 'Large Works' covers service contracts like handling etc., also.

9. Tenders should be invited sufficiently in advance of the expiry of existing contracts so as to give sufficient time for negotiation and to call for fresh tenders where negotiation and re-tendering may become necessary and to fix up the new contract in time (Board's letter No. F(XII-56/Misc./27 dated [20th December 1956](#) reproduced as Annexure 9).

10. Even in cases where the Head of the Department or the General Manager is the competent to accept tenders, tenders may be called for by the Divisions under their powers and the tenders received together with tabulation statements and briefing note as required under Para II (9) set below, forwarded to Headquarters for utilization by a Tender Committee at Headquarters level.



## **II-OPENING OF TENDERS**

1. Tenders (other than those relating to Controller of Stores) should be opened at the specified time, date and place by the Officer nominated for the purpose. Where the amount involved is Rs. 10,000 or more, the tenders should be opened by the Officer nominated for the purpose in the presence of an Accounts Representative. The Accounts Representatives nominated for this purpose are indicated in Para 2 of Financial Adviser and Chief Accounts Officer's P.O.O.No. FB/X/11 dated [3rd June 1957](#) as amended up-to- date (extract in Annexure 10). Where the amount involved is less than Rs. 10,000 another Departmental Officer (not necessarily an Accounts Officer) at the station should be deputed to witness the Opening of Tenders. In the case of Stores Tenders in Controller of Store's Office the procedure laid down in Joint P.O.O. No. S. 236/S/PER/SF/TO dated [27th November 1969](#) (reproduced as Annexure 11) should be followed.

2. The Officer who opens the tenders and Accounts Representative who witnesses the opening of tender (i) should initial with date on the cover containing the tender, on the front cover page of the tender and also on every page of the tender on which the rates are quoted; (ii) should invariably date and initial all corrections in the Schedule of quantities, Schedule of materials to be issued and specifications and other essential parts of contract documents; (iii) should also mark all corrections and overwriting and number them in red ink. In case of a number of corrections, in any rate, either in words or in figures or in rate, the number of corrections marked should indicate corrections serially, that is to say, in case of say three corrections in rates of any one item, each of the three corrections should be allotted independent numbers serially and not one number to represent all the three corrections. In case of more than one correction where the correction is not legible, the rate should be written afresh in the hand of the Officer opening the tenders and attested by the Accounts Representative witnessing the opening of tenders. (iv) the number of such corrections and over writings must be clearly mentioned at the end of each page of the Schedule attached to the tender papers and attested with date. Any omission observed should also be brought out clearly on each page of the Schedule: (V) the corrections and over writings should be allotted separate numbers i.e., corrections should start from 1, 2, 3, etc. and over writing should similarly start separately from 1, 2, 3, etc (vi) any ambiguities in rates quoted by tenderers in words or figures must be clearly indicated on each page of the Schedule attached to the tender to which it concerns.

(Reference: Board's letter NO. 61/W2/CT/6 dated [4th April 1961](#))

3. All corrections, alterations or additions in the tender shall be initialled at the time of opening of the tenders, by both the Officers opening the tenders and the Accounts Representative witnessing the opening of tenders, in order not to have any room for doubt or ambiguity regarding the corrections, alterations or additions existing at the time of opening of tenders.

4. The names of the tenderers and the rates as quoted by each both in words and in figures should be read out, where practicable, to the tenderers or their Representatives who may be present at the time of opening.

5. While opening the tenders, no opportunity should be given to any of the tenderers to repudiate or later what has been already quoted in the tender i.e., the tenderers should not be asked to explain or go through the remarks regarding the rates already quoted or remarks already made by them in the tenders submitted by them.

6. Particulars of tenders received should be noted in a Register. The original tenders and the Register whether in the Divisional Offices or in the Head Office, should always be kept in the custody of a Gazetted Officer.

7. `Delayed' tenders i.e., tenders received before the time of opening but after due date and time of receipt of tenders should also be opened and dealt with in the same manner as in the case of tenders received in time as per Paras 1 to 6 above.

8. As regards `Late' tenders, i.e., tenders received after the specified time of opening, these should be opened by the concerned Branch Officer and marked as such in Red Ink prominently on the envelope and on the tender proper. These should also be included in the Register with suitable remarks.

9. The tabulation statement of rates, amounts etc., for the consideration of tenders should be prepared at the Divisional level itself by the Divisional Officer of the concerned Branch and signed by him and got verified by the Divisional Accounts Officer concerned (and signed by him in token of such verification) in all cases where the tenders are called by the Division.

10. In the case of tenders called for at Headquarters, the tabulation statement of rates should be prepared by the Branch Officer deputed to open the tenders and got verified by the Accounts Officer nominated to the opening of tenders and the tabulation statement should be signed both by the Branch Officer and the Accounts Officer.

11. The tabulation statement should be prepared in duplicate in the proforma attached ([Annexure 12](#)).

12. `Late' and `Delayed' tenders should be entered in the tabulation statement prominently marked in Red Ink.

13. It must be ensured that all tenders receive are tabulated and put up to the Tender Committee of their consideration without any screening by any other official (Board's letter No.63//B/C/PAC/III/13(19) dated [9th October 1963](#) reproduced as Annexure 13).

14. Along with the tabulation statement a briefing note duly signed by the Branch Officer should be submitted clearly indicating the following details:-

(i) Complete and latest information in regard to the lowest contract rates for same or similar materials or work in the particular or contiguous area;

(ii) The conditions of supply or of undertaking the work with reference to information under item (i) above;

(iii) The latest data in regard to the availability of materials and prices thereof and the working conditions etc., to correlate the present quotation with those obtained earlier;

(iv) Any special conditions attached to the rates and works or supplies referred to in (i) above as well as the technical data required for dealing with the tenders under consideration ; and

(v) Any other relevant information worthy of consideration in the contract (Board's letters Nos. 61/W5/LCT/41 dated [23rd October 1961](#) and [21st Dec 1961](#) reproduced as Annexures 14 and 15).

15. The tabulation statement and the briefing note both in duplicate shall be scrutinized by the Departmental Officer nominated for consideration of tenders and signed by him. The tender papers shall be sent, thereafter, for scrutiny together with the Original tenders to the Accounts Officer nominated to attend the Tender Committee at least a week in advance of the date fixed for the consideration of tenders.

The tabulation statement and the briefing note should be completely verified by the Accountant deputed for the purpose with the original tenders and the tabulation statement should be signed by him in token of his verification. The tabulation statement and the original tenders should after being seen by the Accounts Officer nominated to attend the Tender Committee for consideration of tenders, be returned to the Branch concerned (Board's letter No. 63/AC.III/28/4 dated [13th June 1963](#) reproduced as Annexure 16).

The duplicate copies of the tabulation statement and briefing note should be retained by the Accounts Officer nominated to sit on the Tender Committee for his reference and filed thereafter in the Accounts Office.

16. The remarks furnished as a result of the prior scrutiny of tenders in the Accounts Office should be immediately attended to by the Branch Officer concerned, so as to ensure that matters are resolved sufficiently in advance of the Tender Committee meeting (Board's letter No. 59-B(C)-3129 dated [26th December 1960](#) reproduced as Annexure 17).

### **III-FORMATION OF TENDER COMMITTEES**

1. In the case of tenders involving Rs. 10,000 or more, other than for the purchase of Stores arranged for by the Controller of Stores, a Tender Committee to consider the tenders received should be generally constituted by the authority competent to accept the tenders (vide Note (1) under Para 1117 - E and 2322 - S).

2. In the case of tenders involving Rs. 25,000 or more for the purchase of Stores arranged for by the Controller of Stores, a Tender Committee to consider the tenders should be generally constituted by the authority competent to accept tenders (Board's letter No.70-F(S)I/PW-7/1 dated [17th July 1971](#) reproduced as Annexure 2).

3. When the General Manager is the authority competent to accept tenders, the Head of the Department concerned should arrange for the formation of the Tender Committees.

4. The ad-hoc Tender Committees for the consideration of tenders other than for Stores should consist of three members as under-

- (i) One from the department calling for tenders;
- (ii) Accounts Officer; and
- (iii) Another Departmental Officer. (Board's letter No. 72/WI/CT/12 dated 16th March 1972 reproduced as Annexure 18).

5. The ad hoc Tender Committees for the consideration of tenders for the purchase of Stores shall consist of three members as under-

- (i) One from the Stores Branch;
- (ii) One from the department indenting for the Stores in question and
- (iii) Accounts Officer.

Note: - The Tender Committees to be constituted at various levels for the purchase of stores is contained in Stores Branch Procedure Orders NO. S. 314/P dated 2nd February 1968 and S. 314/P dated 5th May 1972 (reproduced as Annexures 19 and 19-A).

6. The Departmental member of the Tender Committee shall be of a status not lower than Senior Scale.

7. The Accounts Officers nominated to attend the Tender Committee for consideration of tenders are specified in the Financial Adviser and Chief Accounts Officer's P. O. O. No. FB/X/11 dated 3rd June 1957 amended up-to-date, and summarized in Annexure 20. In case it is not possible for the Accounts Officer specified in this P. O. O. to attend the Tender Committee, the Financial Adviser and Chief Accounts Officer may be requested by the Departmental Officer who convenes the Tender Committee to nominate another Accounts Officer for this purpose.

8. The ad hoc Tender Committees for the consideration of tenders at Heads of Departments level shall be constituted as under-

(a) Tenders for engineering contracts valued at over Rs. 50 lakhs (Works, Electrical Signal and Mechanical Branches):

- (i) The Head of the Department concerned;
- (ii) The Financial Adviser and Chief Accounts Officer; and
- (iii) Another Head of a Department.

(b) Tenders for Stores valued at over Rs. 50 lakhs:

- (i) The Controller of Stores;
- (ii) The Head of the Department indenting for the Stores; and
- (iii) The Financial Adviser and Chief Accounts Officer.

(c) Tenders for the purchase of wooden sleepers (irrespective of monetary limit):  
(i) The Chief Engineer;  
(ii) The Controller of Stores; and  
(iii) The Financial Adviser and Chief Accounts Officer.  
(Board's letter No. 54/W/217/6 dated 28th May 1954).

(d) Tenders not covered by the above items viz.  
(a) to  
(c) Valued Rs. 50 lakhs:  
(i) The Head of the Department concerned;  
(ii) The Financial Adviser and Chief Accounts Officer; and  
(iii) Another Head of a Department.

9. The Tender Committees for consideration of tenders in respect of items not covered by the above will be constituted ad hoc by accepting authority and in cases where the General Manager is the accepting authority by the Head of the Department concerned.

10. The tender Committee to consider tenders will have to be so constituted that an authority holding powers for recommending the tenders by virtue of his position member of the Tender Committee, shall not be the accepting authority also, for such tenders (Board's letter No. 70/W1/CT/32 dated 7th/9th Sep 1970 reproduced as annexure 21)

In such cases the executive member of the Tender Committee shall put up the Tender Committee proceedings to the next higher authority for acceptance, not withstanding the fact that the value of the offer is within the powers of that executive member of the Tender Committee.

#### **IV - CONSIDERATION OF TENDERS**

1. Tenders should be considered without delay. (Board's letter No. 66/B(C)-PAC/III/53/10 dated 7th December 1966 reproduced as Annexure 22)

2. Tenders should be finalised within the period of validity of offers (Railway Board's letters Nos.60/777/RS (G) dated 13th February 1960 and 14th September 1960 reproduced as Annexures 23 and 24). Clarifications should not be sought piecemeal from the tenderers. All the information necessary for consideration of offers should be called for at one time, leaving no occasion for seeking further extension of time (Board's letter No. 67-B(C)-PAC/III/72/16-17 dated 29th/31st July 1967 reproduced as Annexure 25)

3. In the case of open tenders, if the lowest tenderer is not on the approved list of contractors kept by the Railway, but his tender is otherwise satisfactory, he should be asked to produce evidence of his capacity to carry out the proposed work or supply efficiently and of his sound financial position. If he is unable to produce this evidence and it is proposed to pass over his tender and consider in the next higher one, the fact of the lowest tendered having failed to produce necessary evidence of his capacity and sound financial position should invariably

be placed on record (Board's letter No. 52/W/229 dated 9th May 1952 reproduced as Annexure 26).

Undue emphasis should not, however, be placed on previous experience of contractors, as it would cut across the very principle of inviting open tenders and by shutting off all new comers, it would tend to create monopolistic tendencies (Board's letter No. 58-B(C) 2498/II/4th Report/8 dated 27th/30th May 1958 reproduced as Annexure 27).

4. In all cases where the lowest or lower tenders are rejected, full reasons for rejection should be recorded, as provided for in paras 342-S and 402 (vi)-S so that reasons for such rejection would be available on file vide also Board's letter No. 68/WI/CT/15 dated 15th July 1968 (reproduced as Annexure 28).

5. The officers concerned who are empowered to open and accept tenders should be particularly careful in the matter of application of rules and regulations pertaining to tenders. The members of the Tender Committee, at the time of considering tenders for any works should invariably go through all the instructions contained in this booklet as well as further instructions contained in this booklet as well as further instructions, if any, issued subsequently and record a certificate to that effect, (Board's letter No. 71/TG/IV/6/3 policy dated 17th/18th May 1971, circulated under Commercial Branch No.C. 302/VI dated 22nd June 1971/6th July 1971 reproduced as Annexure 29)

6. The proceeding of the Tender Committee should be signed by the members of the Tender Committee including the Accounts Officer. One copy of the proceedings of the committee signed by the members with the decision of the competent authority thereon should be forwarded to the Financial Adviser and Chief Accounts Officer or Divisional Accounts Officer or Senior Assistant Financial Adviser concerned, but in cases where the Financial Adviser and chief Accounts Officer or the Deputy Financial Adviser or Senior Assistant Financial Adviser is a member of the tender committee, two copies of the proceedings should be sent to the Accounts Office. The agreements executed or the purchase orders issued by the department eventually based on the tender committee's recommendations and the decision of the competent authority thereon should be checked by the Accounts Office with reference to the recommendations of the Tender Committee and the decision of the competent authority thereon and the original accepted tender. In cases where the advice of the Tender Committee is not accepted, it should be seen that full reasons for departing from the recommendations of the Tender Committee are recorded by the accepting authority in accordance with Para V(1) below. The Bills of the contractor should be passed by Accounts Officer with reference to the audited agreement and purchase order.

7.(i) The selection of contracts by negotiations is an exception rather than the rule and may be resorted to, only under the following circumstances :-

(a) Where all the tenders are considered to be unreasonably high in value and it is felt that re-tendering would not secure better advantage to the Railway; and/or

(b) Where the lowest tender is technically not acceptable or is rejected because of unsatisfactory credentials, inadequacy of capacity or unworkable rates, and the next higher offer to be considered in accordance with the established procedure is found to be unreasonably high;

(c) Where in the case of proprietary items of stores, the price quoted is considered to be unreasonably high.

(ii) It should be ensured that, except where a single quotation has been received in response to call of open tenders, the number of tenderers to be called in for negotiation is not less than two.

(iii) The decision whether to invite fresh tenders or to negotiate and in the later case, with whom to negotiate, should be taken by the competent authority after obtaining the recommendations of the Tender Committee.

(iv) After the competent authority has decided to call specific tenderers for negotiation, the following procedure should be adopted:-

(a) The tenderers to be called in for negotiations should be addressed as laid down in Board's letter No. 61/WII/CT/24 dated [31st October 1965](#) (reproduced as Annexure 30) so that the rates originally quoted by them shall remain open for acceptance in the event of failure of the negotiations;

(b) Revised bids should be obtained in writing from the selected tenderers at the end of the negotiations;

(c) The revised bids so obtained should be read out to those tenderers or such of the representatives of the tenderers may choose to be present, immediately after completing the negotiations (Board's letter No. 64/W5/DL/SE/6 dated [21st July 1964](#) reproduced as Annexure 31).

(d) In case however, any of the selected tenderer prefers to send a revised bid instead of being present at the negotiation, the offer should be taken into account.

(e) In no case, including where a ring is suspected, should negotiations be extended to those who had either not tendered originally or whose tender was rejected because of unsatisfactory credentials, inadequacy of capacity or unworkable rates or (in the case of other than stores tenders only) whose tender was not accompanied by Earnest Money.

Note:- (1) The above instructions regarding negotiations should be followed in respect of all contract Works, Stores, Commercial etc.

(2) The above instructions may not be applied rigidly to tenders for specialized works or equipment where tenderers may quote according to their own specifications and designs for various reasons such as improvement of technology etc., and it may become necessary to discuss technical and other details with them to select the most suitable offer. Such cases would necessarily be very few and far between and the procedure of conducting negotiations should be decided



on the merits of each case in consultation with the Financial Adviser and Chief Accounts Officer (Board's letter No. 67/WI/CT/32 dated [25th May 1969](#) reproduced as Annexure 32).

8. In addition to the generally known responsibilities of tender committees they have a special responsibility to scrutinize carefully the rates tendered with reference to the scope of the various provisions in the agreement governing the contracts. Such a scrutiny contractors on the basis of certain clauses in the agreement which may be appropriate for one kind of contract and may not be so for another category (Board's letter No. 57- B(C) 3024 dt. [28th May 1959](#) reproduced as Annexure 33).

9. In cases where specifications in a tender have undergone any major change before the tenders are finalised, fresh tenders should be called for, giving sufficient notice to the tenderers (Board's letter No. 58-B(C)2498/11/4th Report/8 dt 27th/[30th May 1958](#) reproduced as Annexure 27).

10. When in response a call of limited tenders (as distinct from Single or Open tenders under the rules in force) only one tender is received, fresh tenders should be invited except in very urgent cases (Board's letter No. 50/145/3/S dated 1st/[4th August 1951](#) reproduced as Annexure 34)

The discretion to classify a work 'very urgent' for this purpose should vest with an officer not lower in status than a Divisional Superintendent, and full reasons should be recorded justifying such a course of action (Board's letter No. 49/145/1/S dated 10th/[12th January 1950](#) reproduced as Annexure 35).

11. Even in the case of Open tenders, when only one tender is received the Tender Committee should examine inter alia whether the rate quoted is reasonable, as the only tender received need not necessarily be accepted straightaway merely because it is in response to a call of Open tenders.

12. The rules regarding price preference to indigenous products have been laid down in Railway Board's letter No.55/645/5/RE dt. 18th May 1956, summarized below --

(A) General Price Preference upto 15 Percent: The purchasing officers are authorized to decide the quantum of price preference on the merits of each case upto a limit of 15 percent. Even within this limit of 25 percent, those cases where the value of the orders exceeds Rs. 5,000 should be decided in consultation with the Financial Adviser and Chief Accounts Officer.

(B) Price Preference Between 15 percent and 25 percent for specified categories of items: - The categories of items for which price preference upto 25 percent may be allowed have been indicated in the lists given in Railway Board's letter No. 55/645/5/RS(G) dt. [25th July 1958](#), No. 55/645/RS(G) dt. [13th February 1959](#) and No. 60/768/4/RS (G) dt. 9th/[14th February 1961](#). Whenever the question of affording price preference upto 25 percent arises, it will have to be considered strictly on the merits of each case in consultation with Financial Adviser and Chief Accounts Officer and price preference to indigenous products should not be granted in such cases as a matter of course (Annexures 37, 38 and 39).



General Manager can accord price preference upto his powers of purchase in respect of indigenous stores or imported stores, subject to the other conditions stipulated in Board's letter No. 55/645/5/RE dated [18th May 1956](#) as amended in their subsequent letter No.55/645/5/RS(G) dated [25th July 1958](#) (Annexures 36 and 37).The above powers of General Manager have been re-delegated as under-

Assistant Controller of Stores ..	Upto Rs. 1,000 in each case
District Controller of Stores.	.. .. 5,000 ..
Deputy Controller of Stores ..	.. .. 10,000 ..
Controller of Stores .. . . .	.. .. 30,000 ..

(Based on Board's letter No. 55/645/5/RS(G) dated [7th February 1964 Annexure 40](#)).

The price preference for indigenous goods over imported goods should be with reference to the Stores offered on forward delivery and not over imported stored offered ex-stock. (Board's letter No.60/768/4/RS(G) dated [18th January 1962 vide Annexure 41](#)). As regards price preference for indigenous stores even where imported stores are available ex-stock, each case of this nature should be examined on its own merits and where it is likely to get the requirements of imported stores ex-stock at rates lower than those of indigenous stores and without a replacement of Import Recommendation Certificate, such offer should be considered favourably (Board's letter No. 55/645/5/RS(G) dated [4th August 1962 reproduced as Annexure 42](#)).

The comparison of prices of indigenous products and imported products should be made on the basis of F. O. R. place of manufacture and F. O. R. Port of entry respectively. In other words the element of freight F. O. R. ex-works of Port of entry to destination station is not to be taken into account for the purpose of determining the quantum of price preference (Board's letter No. 60/768/4/RS(G) dated [4th August 1962 reproduced as Annexure 43](#)).

As regards price preference for ex-stock imported stores over imported stores requiring import licence on forward delivery basis, the price preference may be given, after a decision is taken by the officers as under -

(1) Cases upto 15 percent: By the purchasing officers within their respective powers of purchase. However, those cases where the value of the likely order exceeds Rs. 5,000 should be decided in consultation with the Financial Adviser and Chief Accounts Officer.

(2) Cases between 15 per cent and 25 percent: Personal sanction of the General Manager in consultation with Financial Adviser and Chief Accounts Officer is necessary.

(3) Cases exceeding 25 percent: Railway Board's sanction is required (Board's letter No. 55/645/5/RS(G) dated [19th January 1961 reproduced as Annexure 44](#)).

Note:- In case where the Stores are proposed to be procured on grounds of urgency, Board's approval is not necessary even if price preference of more than 25 per cent might be involved. (Board's letter No. 62/RS (G)/768/9 dated [26th October 1962 reproduced as Annexure 45](#)).

13. A price preference not exceeding 10 per cent will be admissible to public sector undertakings, subject to the conditions laid down in Ministry of Finance Memorandum No. BPE/1/52/Adv.(F)71 dated 19th June 1971 (copy received under Board's letter No.69/RS/G/779/24 dated [21st August 1971 reproduced as Annexure 46](#)).

14. Tender Committee should examine, while making their recommendations, all relevant factors, such as the existing work load on the lowest two or three tenderers, their capacity to execute further work and also whether the rates quoted are reasonable and workable (Board's letter No.60/WI/DMF/10 dated [4th November 1960 reproduced as Annexure 47](#)).

15. In the evaluation and consideration of the tenders, the Tender documents should be carefully scrutinised, particularly in regard to the reasonableness of the rates and specially when changes have been made in the form of invitation to tender (Board's letter No. 61/B/C-N/27 dated 28th February/[1st March 1962 reproduced as Annexure-48](#)).

16. Particular care should also be taken to ensure that the rates quoted for individual items are realistic and are not abnormal and unworkable in respect of any item of work (Board's letter No.63/TG II/6 dated [13th September 1963 reproduced as Annexure 49](#)).

17. When the work is spread over various places on the Railway, it would be advantageous if the Railway Administration, while inviting tenders for such work, invites quotations for the work at all places collectively as well as for the work at each place or groups of places fairly close to each other (Railway Board's letter No. 61-B(C)-NE/9 dated [23rd September 1960 reproduced as Annexure 50](#)). This aspect should be kept in view by the Tender Committee at the time of examining the tenders.

18. Instruction regarding 'Late' and 'Delayed' tenders. contained in Board's letter No. 59/777/RS(G) dated [4th May 1960 \(reproduced as Annexure 51\)](#) will have to be borne in mind while considering 'Late' and 'Delayed' tenders. Acceptance of 'Late' tenders will be exercised by the Heads of Departments upto their normal powers of acceptance of tenders, with their personal concurrence of the Dy. Financial Adviser and Chief Accounts Officer (Board's letter No.71/RS/G/777 dated [1st September 1971 reproduced as Annexure 52](#)).

Even Postal stamps cannot straight away be accepted as conclusive evidence of bonafide and any tendency, therefore to accept 'Delayed' tenders as a normal feature of accepting tenders should be curbed and all possible steps taken to reduce the number of delayed tenders by reducing the interval between the closing Time fixed for receipts of tenders and the actual opening of tenders to the maximum extent possible (Board's letter No.67/RS/G/777/1 dated [18th September 1967 reproduced as Annexure 53](#)).

19. In regard to tenders invited for the supply of Stores, the mode of inspection to be adopted and the clause whether materials will be subject to the inspection of the D.G.S.& D. or by the Railway must be clearly incorporated in the tenders themselves. While deciding the mode of inspection it has to be borne in mind whether Railway has the necessary facilities to inspect the materials supplied by the tenderers. Where such facilities exist, inspection of the materials by the Railway only will have to be arranged and inspection by D.G.S. & D. will have to be resorted to only in cases of materials for which Railway does not have adequate inspection facilities or where departmental inspection is not financially advantageous.

20. The tender committee while accepting conditions stipulated by the tenderers particularly conditions involving extra payment, a realistic and practical assessment of the full utilization of the benefit should be worked out for being adhered to (Board's letter No. 63/747/29/Track dated [15th July 1968 reproduced as Annexure 54](#)).

21. In the case of works contracts, as distinct from Stores contracts, tenders unaccompanied by the requisite earnest money should, under no circumstances, be entertained and should be summarily rejected (Board's letter No. 66/WI/CT/22/A dated [20th May 1967 reproduced as Annexure 55](#)).

22. As regards, stores contracts, the relaxation in the matter of earnest money and security deposit mentioned in Board's letter No. 56/148/1/RE dated [17th December 1956](#) and NO.57/155/1/RS/G dated [12th April 1961](#) (reproduced as Annexure 56 and 57) may be allowed. These relaxations would also apply to sale of materials by tender in terms of Paras 2310-S and 2321-S.

23. The tender committee may use their discretion for considering tenders without I.T.C.C. subject to the condition that in the event of such a tender being accepted, no payment shall be made to the contractor until and unless a valid I.T.C.C. is submitted (Board's letter No. 69/WI/CT/38 dated [18th September 1969 reproduced as Annexure 58](#)). This should be clearly brought out in the letter of acceptance and the Agreement.

24. The capacity, credentials and financial status of the tenderers should be investigated and only if these are found satisfactory, the contract should be awarded (Para 1104-E and Board's letter No. 68/B(C) PAC/IV/23/20 dated [25th October 1968 reproduced as Annexure 59](#)).

25. In regard to contracts for earthwork on important projects like new lines etc., special attention should be paid to the selection of contractors for carrying out such works, in order to avoid risks of failures (Board's letter No. 67/W5/RP-2/9 dated [4th December 1968 reproduced as Annexure 60](#)).

26. It is of paramount importance that in consideration of tenders there should be no procedural lapses. Particular attention is invited to the instructions contained in Railway Board's letter No. 63-AC..III/28/4 dated [13th June 1963](#) (reproduced as Annexure 16).

27. The tender committee has to make a careful examination of all aspects including physical and financial capacity of the various tenderers, their technical competence etc. and to record in detail the reasons for which particular tenders are overlooked and only certain tenderers are called for negotiations (Board's letter No. 67-B-(C)/PAC.III/72/13 dated [8th April 1970 reproduced as Annexure 61](#)).

28. In the case of tenders for construction of staff quarters for purposes of judging the reasonableness of the tendered rate, a comparison with the ceiling cost fixed for the construction of staff quarters will have to be made (Board's letter No. 70/W2/21/4 dated [13th July 1970 reproduced as Annexure 62](#)).

29. In the case of tenders for supplies of materials (as for example, supply of ballast), when samples are required to be submitted along with the tenders, the samples shall be tested and the tender committee proceedings should contain their specific comments on the samples.

30. In the case of contracts for handling of goods, parcels, and coal and for removal of coal ashes, ash-pits cleaning and cinder picking, where the value of the contract exceeds Rs.1,20,000 per annum and tenders have been called for, cases of such co-operative labour contract societies as have tendered may be considered sympathetically (Board's letter No. 66E(Co- op.)/I/2/4/ dated [27th November 1968 reproduced as Annexure 1](#)).

31. Where tenders for zonal contracts are received, they are to be initially considered at the divisional level, so that a decision may be taken at the divisional level, whether to accept the tender for one year or for two years. Where it is proposed to accept tenders for a period of two years, this will be within the powers of the division, if the contract value does not exceed Rs.4 lakhs. Only in cases where it is proposed to accept tenders for a period of 2 years and the value exceeds Rs. 4 lakhs, the prior approval of the Chief Engineer, with the concurrence of the Financial Adviser and Chief Accounts Officer would be necessary, for which purpose, the Divisional Tender Committee should make their recommendations and after getting approval of the divisional Superintendent to the recommendations, send the papers to Chief Engineer for further action.

### **V-AWARD OF THE CONTRACT**

1. The acceptance or rejection of tenders is left entirely to the discretion of the authority entrusted with this duty. Reasons for departing from the recommendations of the Tenders Committee should invariably be recorded by the authority. Similar reasons must also be recorded when the Tender Committee is asked to enter into negotiations.

2. In cases where the terms and conditions incorporated in the letters of acceptance/purchase orders are different from those originally offered but modified by the tenderers subsequently during the course of negotiations, discussions or other-wise, the contractors should be asked to return one copy of the letters of acceptance/purchase orders duly signed by the same persons who signed the original offers against the tenders in token of his acceptance of the contract to the revised conditions (Board's letter No. 67/RS/G/779/17 dated [23rd June 1967 reproduced as Annexure 63](#)). When the letters of acceptance/purchase

orders are placed on the basis of terms and conditions originally stipulated by the tenderers, the procedure laid down in Board's letter No. 62/RS(G)/779/26 dated **27th December 1962 shall be followed (reproduced as Annexure 64)**.

## **VI-GENERAL INSTRUCTIONS**

1. In cases where tenderers send letters to offices or officers of the Railway advising about change in rates or deleting conditions, or clarifying the points in the original tender, etc. all such communications received either before or after the date and time fixed for submission of tenders or after opening of the tenders should be dealt with in the following manner :-

(a) Communications received before the opening of tenders in other than sealed or registered covers should not be taken into consideration.

(b) Communications in sealed or registered covers sent by a tenderer after submission of his tender, but before the last date fixed for the submission of tenders should also be taken into account along with the tenders at the time of opening and consideration of tenders.

(c) Communications received in sealed or registered covers after the last date for the submission of tenders but before opening of tenders, from those who have already tendered, should be dealt with by the Tender Committee as under -

(i) Where the subsequent communications quotes a rate which is advantageous to the tenderer or alters to the advantage of the tenderer, any condition given in the original tender, the tender should be treated as revoked and should not be given any further consideration. However, even after such alteration, if the quotation is still the lowest, it may be given due consideration by the committee depending upon the merits of the case.

(ii) Where the subsequent communication quotes a rate more favourable to the Administration or alters any other condition given in the tender to the advantage of the Administration, this should be given due consideration by the committee.

2. The procedure to be adopted for receipt of tenders in the Divisions is outlined in the Joint Circular No. W.496/P dated **10th June 1957** issued by Financial Adviser and Chief Accounts Officer and Chief Engineer (reproduced as Annexure 65).

3. Every tender committee constituted for the consideration of a particular set of tenders must meet, consider the tenders and frame their recommendations ; and it should be ensured that the minutes are also signed by the members of the tender committee before they disperse, so that there is no further delay in passing papers (General Branch Circular No. W. 496/II dated **31st March 1965** again reiterated in their subsequent letter No. W.496/II dated **15th May 1968** reproduced as Annexure 66 and 67 respectively).

4. The instructions given in this circular are only supplementary to the Code Rules and the orders issued by the Railway Board from time to time and do not in any way alter or amend them.

## **PART II**

### **GENERAL PRINCIPLES TO BE FOLLOWED TO ENTER INTO CONTRACTS OR AGREEMENTS**

I. The fundamental principles for the guidance of authorities who have to enter into contracts or agreements are laid down in Para 402 of the State Railway Code for the Stores Department which is reproduced below for ready reference --

"(i) The terms of contract must be precise and definite, and there must be no room for ambiguity or misconstruction therein.

(ii) As far as Possible, legal and financial advice should be taken in the drafting of contract as before they are finally entered into.

(iii) Standard forms of contracts should be adopted wherever possible, the terms to be subject to adequate prior scrutiny.

(iv) The terms of contract once entered into should not be materially varied except in consultation with the competent financial authority.

(v) No contract involving an uncertain or indefinite liability or any condition of an unusual character should be entered into without the previous consent of the competent financial authority.

(vi) Whenever practicable and advantageous contracts should be placed only after tenders have been openly invited and in cases where the lowest tender is not accepted, reasons should be recorded.

(vii) In selecting the tender to be accepted, the financial status of the individuals and firms tendering must be taken into consideration in addition to all other relevant factors.

(viii) Even in cases where a formal written contract is not made, no order for supplies etc. should be placed without at the least a written agreement as to price.

(ix) Provision must be made in contracts for safeguarding Government property entrusted to a contractor.

(x) In entering into long term agreements or contracts consideration should be given to the desirability of providing for the Railway unconditional power to cancel the agreement at any time after the expiry of six months' notice to that effect.

(xi) The Auditor General and under his direction, other Audit authorities have power to examine contracts and to bring before the Public Accounts Committee any cases where competitive tenders have not been sought or where high tenders have been accepted, or where other irregularities in procedure have come to light"

II. Based upon the recommendations of the Public Accounts Committee and the Estimates Committee the Railway Board have been issuing supplementary instructions from time to time in regard to the special points to be borne in mind while drafting agreements or entering into contracts. Some of the latest orders issued by the Railway Board on this subject are summarized below for the guidance of authorities entering into agreements—

(1) Railway Board's letter No. 58-B(C) 3072 dated [15th May 1958 \(reproduced as Annexure 68\)](#).

The Railway Board in their letter dated 15th May 1958 have pointed out a case where, as a result of insertion of protective clause in a contract to the effect that 'the delivery date quoted by the firm was contingent on the firm not being delayed as a result of non-delivery of raw materials or by any other cause beyond their control', the Railway was unable to enforce risk purchase against the firm and had to incur an additional expenditure to the extent of over Rs. 45,000 over and above the loss incurred on the salaries of idle staff. In view of this, the Railway Board have issued instructions that all Railway Administrations while entering into such contracts should see that protective clauses of this nature do not find their way into the contract.

(ii) Railway Board's letter No. 58-B-(C)2498/II/7th Report dated [12th September 1956 \(reproduced as Annexure 69\)](#)

Based upon the recommendations of the Public Accounts Committee, Board in their letter of 12th September 1956 have suggested that in all cases involving advance payment to private firms the agreement should invariably contain a penalty clause and payment of liquidated damages by the defaulting firm by way of interest on the money advanced to it.

(3) Railways Board's letter No. 58-B-(C) 6000/II/11th Report dated [10th June 1959 \(reproduced as Annexure 70\)](#)

Based on the Estimates' Committee's Suggestion, the Railway Board have issued instructions that while examining the implications of various clauses contained in agreements which Government might enter into with foreign firms or consultants, a contemporary record of the discussions leading to the acceptance of the provisions contained therein should invariably be kept.

(4) Railway Board's letter No. 59-B(C)/PAC/II/15th Report/23 dated [29th June 1959 \(reproduced as Annexure 71\)](#)

The Railway Board in their letter of 29th June 1959 have pointed out a case where supplies from a firm had to be paid for at the original rate even after the expiry of the original contract this became necessary as the original agreement had to be treated as operative even after the date of expiry of the original contract on account of the failure of either party to issue the prescribed notice. This prevented the railway Administration from taking advantage of certain favourable condition which were in the mean time being negotiated with the same party for a fresh agreement.



As a result of this some avoidable additional expenditure was incurred by the Railway over a certain period. The Railway Board have, therefore, issued instructions that all agreements involving payments to outside agencies should be reviewed with a view to see that whenever it is necessary either to renew the agreement on terms more favourable to the Railway Administration than the existing terms or to terminate the agreement, action is initiated sufficiently in advance and completed in time before the date of expiry of the agreement.

(5) Railway Board's letters No. 59-B(C)/PAC/11/15th Report/32 dated [27th May 1959](#) and No. 59-B(C)-PAC/II/XV/32 dated [5th November 1959](#) (reproduced as Annexures 72 and 73 respectively).

Railway Board have pointed out that it should be ensured that when substantial sums of money are involved, the terms of agreement are always negotiated with legal guidance. They have also clarified that it is not necessary to take legal guidance in each individual case of contract, where the standard conditions of contract are adopted.

The procedure for obtaining legal advice in drafting the conditions of contracts etc., are laid down in the Joint Procedure Office Order No. W. 496/F/O dated 15th February 1962 (reproduced as Annexure 4)

(6) Railway Board's letter No. 61/746/56/Track dated [6th April 1963 \(reproduced as Annexure 74\)](#).

Based upon the recommendations in the public Accounts Committee's Report the Railway Board have laid down a standard clause for adoption in cases of contracts where the contractors have secured raw materials with Government assistance with a view to safeguard against the contingency of the contractors diverting the raw materials to works other than those for which they were intended.

(7) Railway Board's letter No. 68/W1/CT/25 dt [12th July 1968 \(reproduce as Annexure 75\)](#).

In order to avoid disputes in respect of additional lead and lift for taking Railway Materials to the site of work, it has be made clear in all contracts where Railway materials are to supplied, the special conditions of contracts should specify the place where materials are to be handed over to the contractor and it should be made clear that all lead and lift from that place to the site of work would be at the expense of the contractor.



## **ANNEXURE I**

Copy of letter No. 66/E(Co-op) L/2/4 dated 27th November 1968 from Dy. Director (Co-op)., Railway Board, New Delhi addressed to General Managers, All India Railways.

Sub: Co-operative labour contract societies-Award of handling contracts of goods, parcels, coal, coal-ashes, cinder picking ash-pit cleaning etc.-policy regarding

(Ref: Board's letter Nos. 58/TGII/6/9 dt 8th March 1958 and 61/E (Co-op.)21/9 dated 17th November 1962)

----

The orders contained in the above quoted letters, which were initially on experimental basis, came up for a review in the board's office recently. After taking into consideration all aspects the Board have decided that -

(a) the award of goods, parcels, coal handling, removal of coal ashes, ash-pit cleaning, cinder picking contracts to available and willing genuine Labour Co-operative Societies of actual workers, with not, more than two outsiders, should be without call of tenders so long as the value of the contract does not exceed Rs. 1,20,000 per annum. In such cases, the rates should be recommended with due regard to the local conditions, taking into consideration the minimum wages rate fixed for labour by the local authority or where it does not exist, the market rate, the statutory obligations such as weekly off, bonus etc., the value of work and all other relevant factors, by a committee of three officers not below the rank of Senior Scale, one of whom should be an Accounts Officer, and put up to the competent authority for approval. The rates so fixed would be deemed to have satisfied the financial considerations and should be taken as the most reasonable workable rates. Contracts of the type should be given to genuine Co-operative Societies and tenders should not be called for.

(b) the genuineness of the Labour Co-operative Society should be carefully verified to the satisfaction of the Personnel Branch terms of the extant orders ; and

(c) for contracts of an annual value exceeding Rs. 1,20,000 tender should be called for in the usual manner. However, the cases of such Co-operative Societies as have tendered may be considered sympathetically. The concessions extended to labour Co-operative in the matter of earnest money, Security Deposit etc. in Board's Letters No. 58-TGII/6/9 dt 26th November 1959, No. 57/116/17/coal dated 6th August 1959, No. 63E (Co-op.) 40/35 dated 13th May 1964 and No, 61-TGIII/6 dated 1st March 1961 will continue.

2. This is in partial modification of the orders contained in Board's letter dated 8th March 1958 and 17th November 1962 referred to.

## **ANNEXURE 2**

Copy of Board's letter No. 70 - F (S) I/PW -7/1 dated 17th July 1971 from Asst. Director, Finance (Stores), Railway Board, New Delhi, addressed to General Managers, etc. (circulated in G.M./G/Memorandum No. G. 203/P/III/Vol III dated 10th August 1971.)

Sub: Enhancement of the purchase powers of the Controller of Stores and revision of purchase procedures

---

The question of enhancement of the powers of purchase of stores of the Controllers of Stores and revision of the purchase procedures had been under the consideration of the Board for some time. The Board have now decided that the existing purchase powers of the Controllers of Stores may be enhanced and the existing purchase procedures revised to the extent indicated in the appended statement (Annexure I).

2. This has the sanction of the President.

Annexure I

Statement showing delegation of enhanced purchase powers to the Controllers of Stores on the Zonal Railways/Production Units and revision of purchase procedures vis-à-vis existing powers procedures.

Existing purchase powers Controllers of Stores / Code Existing purchase procedures	Reference to stores/ General Paras and / or Board's Directives	Enhanced purchase Powers of the controllers of stores Revised purchase procedures
1	2	3
I. Purchase of non D.G.S. & D items. Upto RS. 50,000 for each Individual item.	Item 1 of Schedule below para 132-S and Board's letter No. F(PM)-64-PW/4/3 dated 17 <sup>th</sup> December 1965.	Upto Rs. 1,00,000 for each individual item.
II. Purchase of non D.G.S. & D items in emergencies upto Rs. 50,000 in each Case.*	Para 706-S and Board's letter No F(PM)-64-PW/4/3 dated 21 <sup>st</sup> January 1967 read with Para 1(iv) of Board's letter No.69 F(S) I-PW 4/3 dated 8 <sup>th</sup> July 1969 and 2 <sup>nd</sup> September 1969.	"Upto Rs. 1,00,000 in each case.s

Existing purchase powers Controllers of Stores / Code Existing purchase procedures	Reference to stores/ General Paras and / or Board's Directives	Enhanced purchase Powers of the controllers of stores Revised purchase procedures
1	2	3
<p>III. Purchase of D.G.S &amp; D item covered by rate of running contracts, in emergencies-Upto Rs. 50,000 in each case</p> <p>IV. Purchase on Single Tender basis-</p> <p>(a) Non-Proprietary articles upto Rs. 1,000 in each case</p> <p>(b) Proprietary articles Upto Rs. 2,000 in each case.</p> <p>V. Purchase of Limited Tender basis-</p> <p>(a) Upto Rs. 20,000 in normal circumstances</p> <p>(b) Upto Rs. 50,000 in emergencies.</p> <p>VI. Local Purchase of items on cash payment Upto Rs. 400 in each case.</p> <p>VII. Acceptance of deviations from I.R.S conditions of contract without prior finance concurrence – Upto Rs. 2,000 in each case.</p> <p>VIII. Constitution of Tender Committees- Tender Committees are constituted to deal with tender of the value of 20,000 or above in each case.</p>	<p>Para 707-S and Board letter No. F(PM) 64 PW-4/3 dated 21st January 1967 read with Para 1(iv) of Boards Letter No. 69 F(S) PW 4/3 dated 8<sup>th</sup> July 1969 and 2<sup>nd</sup> September 1969.</p> <p>Para 330-S and Board's letter No. 71F(S) I/ PW 7/1 dated 14<sup>th</sup> May 1971.</p> <p>Para 330-S and 331 (c)-S</p> <p>Para 328-S and Paras 1(i) and 1(iv) of Board's letter No. 69 F(S) PW 4/3 Dated 8<sup>th</sup> July 1969 and 2<sup>nd</sup> September 1969.</p> <p>Do</p> <p>Para 711-S and Board's letter No.F(S) I/ PW 7/1 dated 2nd May 1970.</p> <p>Para 439-S and Para 1(iii) of Board's letter No.69-(FS) I PW 4/3 dated 8<sup>th</sup> July 1969.</p> <p>Item I of Schedule below Para 132-S read with Para 341-S and Para 1(ii) of Board's letter No.69-(FS) I PW 4/3 dated 8<sup>th</sup> July 1969.</p>	<p>*Upto Rs. 1,00,000 in each case.</p> <p>(a) Upto Rs.2,000 in each case.</p> <p>(b) Upto Rs.10,000 in each case.</p> <p>a) Upto Rs.25,000 in normal circumstances.</p> <p>a) Upto Rs.1,00,000 in emergencies at the discretion of the Controllers of Stores.</p> <p>Upto Rs.2,000 in each case.</p> <p>Upto Rs.10,000 in each case.</p> <p>Tender Committees do deal with tenders of the value of Rs. 25,000 Or above in each case.</p>

Existing purchase powers Controllers of Stores / Code Existing purchase procedures	Reference to stores/ General Paras and / or Board's Directives	Enhanced purchase Powers of the controllers of stores Revised purchase procedures
1	2	3
<p>IX. Concurrence by Associate Finance prior to issue of purchase orders beyond Rs. 2,000 each case.</p> <p>X. Quantity vetting by Finance prior to purchase-(i) beyond Rs. 5,000 per item at depot level.</p> <p>(ii) Beyond Rs.20,000 per item at H.Q level (bulked demands)</p> <p>(XI) Petty Local purchase of stationery stores- Heads of Departments Divisional Superintendents -(a) Upto an overall limit of Rs. 5,000 per annum.</p> <p>(b) Dy.CME holding independent charge of workshops-Upto to an overall limit or Rs. 2,500 per annum.</p> <p>The above powers may be re-delegated to District or Divisional Officers H.Q away from Railway/Divisional/H.Q to the extent necessary, upto a limit of Rs. 20 in each case and subject to a maximum of Rs.500 per year.</p>	<p>Para 1(iii) of Board's letter No.69-F-(S)I-PW-4/3 dated 8<sup>th</sup> July 1969.</p> <p>Para 1(v) of Board's letter No.69-F-(S)I-PW-4/3 dated 8<sup>th</sup> July 1969</p> <p>Do.</p> <p>Paras 1326-G1, 1110-S and Board's letter No.F(X) II-60-PW4/1 dated 19<sup>th</sup> January 1962.</p> <p>Paras 1326-G1, 1110-S and Board's letter No.F(X) II-60-PW4/1 dated 19<sup>th</sup> January 1962.</p>	<p>Beyond Rs. 10,000 in each case.</p> <p>(i) Beyond Rs. 10,000 per item at depot level.</p> <p>Beyond Rs.25,000 per item at H.Q level (bulked demands)</p> <p>(a) No Change</p> <p>(b) No Change</p> <p>These powers may be re-delegated to lower authorities to the extent considered necessary.</p>

Existing purchase powers of the Controllers of Stores Existing purchase procedures	Reference to stores General Code Paras and / or Board's Directives	Enhanced purchase Powers of the Controllers of Stores Revised purchase procedures
1	2	3
XII. Sanction to purchase of typewriters and other office machines-Head of Departments are authorized to sanction purchase of typewriters etc. of approved types but any addition to the number of typewriters etc. sanctioned by the the General Manager for any particular department or officer shall require the sanction of General Manager.	Paras 1328-GI and 1137-G	Heads of Departments may be authorized to sanction purchase of additional typewriters etc. required for any particular department or office. Divisional Superintendents may also be given the same powers.

### **ANNEXURE 3**

Copy of letter No.68/WI/CT/46 dated 31st January 1969 from Railway Board, New Delhi, addressed to General Managers, All Indian Railways, etc.

Sub : Powers to dispense with the calling of Tenders for Works contracts

----

The question regarding the raising of limit of Rs. 5,000 upto which the General Managers of Railways can, at present, dispense with the need for calling of tenders for works contracts to Rs.10,000 was under the consideration of the Board.

It has now been decided that the limit of Rs.5,000 provided in line 4 of Para 1111-E may be raised to Rs.10,000 though in such a case the powers to dispense with the calling of tender cannot be delegated to an officer of less than administrative rank.

Necessary correction slip to Para 1111-E will be issued in due course.

(This disposes of Northern Railway's letter No.770-W/O/3 dated 8th August 1968)

### **ANNEXURE 4**

Copy of Headquarters Works Branch letter No.W.496/P dated 19th December 1964.

Sub : Vetting of tender documents by Finance before calling for Tenders

---

I. The documents which form a contract are as follows : -

- (1) Instructions to parties tendering;
- (2) Tender form, if any;
- (3) Specifications-Standard and special;
- (4) Schedule of items and quantities, rates etc.;
- (5) Conditions of contract-Standard and special;
- (6) Agreement form;

vide Para 416-S

2.(i) In terms of Paras 402(ii)-S, and 402(iii)-S only standard forms of contracts should be adopted and the terms so adopted are to be subject to adequate prior scrutiny from the legal and financial angles with a view to ensuring that the contract documents are complete and self-contained and that the terms therein are precise and definite. Even if any one of the documents listed in Para 1 above is defective, the contractual obligations might become ambiguous and hence, it is necessary, that the contract documents should be correctly prepared. For this purpose these documents should be standardized after being vetted by Finance and Law Branch before they are adopted.

(ii) The general conditions of contract and the special conditions of contract together with the agreement form, instructions to parties tendering and the tender form have in many cases of contract been already vetted by Finance and Law Branches and standardized. Only such standardized forms should invariably be used.

(iii) Where standardized forms mentioned in Para 2 (ii) above have not so far been standardized, arrangements should immediately be made to have them vetted by Finance and Law Branches.

(iv) Where standardized forms mentioned in Para 2 (ii) above have to be altered, revised or added to in order to suit a particular case of work or supply, or when such alteration or addition or deletion becomes necessary consequent on subsequent orders from the Board of General Managers, the same should be arranged to be got vetted by Finance and also by Law Branch as indicated in the Joint P.O.O.No. W.496/F/O dated 15th February 1962 (Copy enclosed for ready reference), bringing out in a self-contained note the particulars of changes proposed with reasons for each of them.

(v) Where a change in the scope of the work is contemplated, e.g., stipulating that the entire steel required for fabrication of steel work will be supplied by the Railway in the case of structural steel work contracts instead of the Railway supplying only tested steel and the contractor procuring untested steel required for the work, or dividing the existing zone for piece-work or ballast into two or more zones or combining two or more existing zones into one zone for purposes of calling for tenders, the full implications of the proposed change or departure in the existing procedure should be furnished to associated Finance and their prior concurrence obtained for the same and also the tender documents should be revised to suit the change in consultation with associated Finance before tenders are called for.

3. Where tender documents are finalised in the Division the changes in standard forms to suit a particular case of work or supply as envisaged in Para 2(iv) and the changes in the scope of the work covered by Para 2(v) should be made in consultation with the Divisional Accounts Officer, while in regard to tender documents finalised at Headquarters level, these changes should be made in consultation with the associated Finance at Headquarters.

4. The above instructions should be implemented with immediate effect.

5. This issue with the concurrence of Financial Adviser and Chief Accounts Officer.

## **SOUTHERN RAILWAY**

Joint Procedure Office Order No.W.496/F/O dated 15th February 1962 by General Manager and financial Adviser and Chief Accounts Officer.

Sub : Vetting pf agreements/Work Orders/Store Orders etc, by  
Law Officer

----

Attention is invited to provisions of Para 402(II) of the Indian Railway Stores Code and Para 2049 of the Indian Railway General code, Vol.I which inter alia provide, that legal advice should be taken in the drafting of contracts before they are finally entered into. In the implementation of these general orders, the following procedure should be followed : -

(a) In drafting any standard form of tender notice or conditions of contract for execution of work or supply of stores, legal advice should invariably be taken.

(b) Where the standard tender notice/conditions of contract for execution of work or supply of stores has once been vetted by the Law Officer and adopted, it not necessary to send each individual tender notice conditions of contract to the Law Officer (as per Railway Board's letter No.59-B(C)-PAC/II/XV/32 dated 5th November 1959).

(C) Legal advice should be obtained only if any deviations, amendments, alterations or substitutions, deletions etc. to the standard conditions are proposed in any particular contract document for works or Stores Purchase Order. In making such a reference to the Law Office, the department concerned is responsible to specifically bring out the variations which are proposed, together with a justification for the same in order to enable the Law Officer to readily appreciate the reasons for the same and give his opinion.

## **ANNEXURE 5**

Copy of letter No.W.496/II dated 14th October 1968 from General Manager, Madras to all concerned.

Sub:- Tenders and Agreements.

---

1. A suggestion had been received recommending that serial numbers should be allotted to the tender forms and that the tender papers should be initialled by a Gazetted Officer. It has been decided that an upper subordinate in the Branch concerned should be entrusted with the duty of initialling all the tender forms sold and all the entries of the tender forms sold as recorded in the appropriate register kept for the purpose.



2. It would appear that late and delayed tenders are being generally reckoned as normal tenders and disposed off accordingly. This is contrary to rules of their disposal, vide Annexure IV of Confidential letter No.W.496/II dated 14th February 1961 [Para IV (12) to IV(17)] of the "Rules for the constitution of the Tender Committees". It is necessary that the procedure prescribed should be rigidly acted upto, to avoid possible future complications.

## **ANNEXURE 6**

Copy of letter No.71/F(Ex)/1 dated 18th August 1971 from Joint Director, Finance (L.&F.) Railway Board, New Delhi, addressed to General Managers, All Indian Railways and Production Units, Director General, R.D.S.O.

(Circulated in Dy. Chief Accounts Officer (W.&S.)/PER No. s..140/SF (PER)/Indents/II/F2/P.O.O. dated 3rd September 1971).

Sub : Permission to invite Tenders involving Foreign  
Exchange

1. As per extant instructions, Railway Administrations are required to obtain Board's approval before calling for tenders involving foreign exchange estimated to exceed Rs.50,000 vide Board's letter No. F (Ex)57/1 dated 23rd March 1957. It is noticed that some Railways are not following the instructions and are inviting tenders involving foreign exchange without obtaining prior approval of the Board. It is also noticed that in some cases global tenders have not been called to I.D.A. procurement procedure as laid down in Board's letters No. F (LN)64/36 dated 6th January 1965 and 5th December 1967. Such deviations from prescribed procedure lead to difficulties in finding suitable source or financing for purchase against such tenders and in some cases even fresh tenders have had to be invited resulting in delay and extra expenditure.

2. Ministry of Finance (Department of Economic Affairs) have also reiterated this aspect in their office Memorandum No.2 (67)FEBI/70 dated 30th March 1971.

3. Board, therefore, desire that the above instructions should be strictly adhered to.

No.71/F(Ex)/I New Delhi, 18th August 1971.

Copy to Financial Adviser and Chief Accounts Officer (All Indian Railways and Production Units). They will kindly ensure strict compliance with this requirement while dealing with tenders involving foreign exchange.

## **ANNEXURE 7**

Copy of letter No. F(LN)64/36 dated 6th January 1965 from M.S. Nanjundiah, Jt. Director, Finance(Accounts), Railway Board, New Delhi, addressed to General Managers, All Indian Railways, etc.,

-----

Sub : Procedure for procurement of goods and services to be financed by the World Bank or I.D.A

-----

The Foreign Exchange requirements of Railways are at present being generally covered by loans from the International Bank for Reconstruction and Development. (The World Bank) or its affiliate the International Development Association(I.D.A.) Diesel Locomotives and certain items are, however, being covered under U.S.A.I.D. funds or other bilateral assistance or trade and payments arrangements, but these are more in the nature of exceptions.

For financing the Foreign exchange cost involved under the World Bank and I.D.A. funds, goods and services have to be obtained on international competitive basis except when the prescribed procedure permits a variation. It has now been decided that the procedure for procurement of goods and services to be financed under the World Bank or I.D.A. funds should be as indicated below-

In respect of contracts which have a foreign currency component is estimated to be in excess of Rs.2 lakhs or less, the prescribed Railway procedure, as laid down from time to time, should be followed.

In respect of contracts where the foreign currency component is estimated to be over Rs.40 lakhs, even at the stage of approaching the Board for permission to invite tenders in accordance with the extant orders, a copy of the complete tender documents along with the specifications, etc. should be submitted to the Board for scrutiny.

Exception to the procedure referred to above will be permitted in the case of those proprietary components which are required for manufacture in India of Railway equipment under licensing agreements. In case of doubt, the Board should specifically consulted.

The existing instructions in regard to obtaining the permission of the Railway Board before invitation of tenders involving foreign exchange beyond the Financial Adviser and Chief Accounts Officer's powers of sanction, and of making references to the Railway Board for release of foreign exchange will continue to apply. While approaching the Railway Board for actual release of foreign exchange, Railways should give a self-contained note indicating, inter alia, particulars of the firms from whom offers have been received, a comparative statement in regard to the evaluation of the bids, copy of the tender committee's proceedings and the recommendations of the Railway. Copies of the formal orders or contracts placed with the parties, after being obtaining the foreign exchange release, should also be endorsed to the Board immediately after the orders are placed in all cases where the foreign currency components is over Rs.5 lakhs. In respect of contracts where the foreign currency components is over Rs.5,000 but below Rs. 5 lakhs, they may be furnished along with the monthly statement of orders placed, which are now being transmitted by Railways in accordance with the existing instructions.

## **Annexure I**

- |                            |                       |                             |
|----------------------------|-----------------------|-----------------------------|
| 1. Afghanistan             | 35. Gautemala         | 69. Niger                   |
| 2. Algeria                 | 36. Guinea            | 70. Nigeria                 |
| 3. Argentina               | 37. Haiti             | 71. Norway                  |
| 4. Australia               | 38. Honduras          | 72. Pakistan                |
| 5. Belgium                 | 39. Iceland           | 73. Panama                  |
| 7. Bolivia                 | 40. India             | 74. Paraguay                |
| 8. Brazil                  | 41. Indonesia         | 75. Peru                    |
| 9. Burma                   | 42. Iran              | 76. Philippines             |
| 10. Burundi                | 43. Iraq              | 77. Portugal                |
| 11. Cameroon               | 44. Ireland           | 78. Rwanda                  |
| 12. Canada                 | 45. Israel            | 79. Saudi                   |
| 13. Central African Public | 46. Italy             | 80. Senegal                 |
| 14. Ceylon                 | 47. Ivory Coast       | 81. Sierra Leone            |
| 15. Chad                   | 48. Jamaica           | 82. Somalia                 |
| 16. Chile                  | 49. Japan             | 83. South Africa            |
| 17. China                  | 50. Jordan            | 84. Spain                   |
| 18. Colombia               | 51. Kenya             | 85. Sudan                   |
| 19. Congo (Brazzaville)    | 53. Kuwait            | 87. Syrian Arab Rep         |
| 20. Congo (Leopoldville)   | 54. Laos              | 88. Tanganyika              |
| 21. Costa Rica             | 55. Lebanon           | 89. Thailand                |
| 22. Cyprus                 | 56. Liberia           | 90. Togo                    |
| 23. Dahomey                | 57. Libya             | 91. Trinidad and<br>Tobago  |
| 24. Denmark                | 58. Luxembourg        | 92. Tunisia                 |
| 25. Dominican Republic     | 59. Malagasy Republic | 93. Turkey                  |
| 26. Ecuador                | 60. Malaysia          | 94. Uganda                  |
| 27. El. Salvador           | 61. Mali              | 95. United Arab<br>Republic |
| 28. Ethiopia               | 62. Mauritania        | 96. UK                      |
| 29. Finland                | 63. Mexico            | 97. USA                     |
| 30. France                 | 64. Morocco           | 98. Upper Volta             |
| 31. Gabon                  | 65. Nepal             | 99. Uruguay                 |
| 32. Germany                | 66. Netherlands       | 100. Venezuela              |
| 33. Ghana                  | 67. New Zealand       | 101. Viet-Nam               |
| 34. Greece                 | 68. Nicaragua         | 102. Yugoslavia.            |

## **Annexure II**

The following guidelines should be generally adopted in the bidding and contracting procedures relating to cases of international competitive bidding, in respect of contracts with a foreign currency component of over Rs. 2 lakhs:-

(1) International Competition and Advertising.- In order to ensure widespread international competition member countries of the Bank (listed in Annexure I) and Switzerland should be canvassed for bids. The invitations to tender should be transmitted to the local official representatives (Embassies and /or Trade

Commissioners) of these countries and also advertised in at least one news paper of general circulation in India.

(2) Time Interval between Advertising and Bid Opening.- The time allowed for preparation of bids will depend to a large extent upon the magnitude and complexity of the contract involved and the remoteness of the project from areas from which bids may be expected. Where large civil works are involved, generally about 90 days should be allowed for contractors to conduct investigations at the site. The time allowed, however, should be governed by the circumstances relating to each project.

(3) Currency.- The Bank and I.D.A. require that their borrowers make reasonable efforts to assure that payment for goods and services procured under the Bank loans and I.D.A. credits be made in the currency of the country of origin. It should accordingly be stipulated in the tender document that payments would be made in the currency of the country from which goods are acquired. (Any exceptions to this would require the prior approval of the Railway Board).

When expenditure in both local and foreign currency are involved, the tender documents should require that the amounts of these expenditure be shown separately. For purposes of comparison, quotations may be obtained in a specified currency.

(4) Clarity of Specifications.- Every effort should be made to ensure that specifications and conditions of contract are clearly drawn to include all necessary details and conditions and that plans are consistent therewith. They should be so worded as to permit and encourage free and full international competition.

(5) Standards.- If national standards to which equipment or materials must comply are cited, the specifications should state that goods meeting other authoritative standards, which ensure an equal or higher quality than the standards mentioned, will also be accepted.

(6) Use of Brand Name and Phrase " or equal" - Descriptions contained in specifications should not prescribe brand names, catalogue numbers or types of equipment of a specific manufacturer unless it has been determined that this is necessary to ensure inclusion of certain essential, features. In such a case the reference should be followed by the words "or equal". The specifications should as a rule, restore offers of alternative equipment or articles or materials which have similar characteristics and provide equal performance and quality to these specified.

(7) Settlement of disputes - It is desirable that the provisions dealing with the settlement of disputes be included in the contract documents. (The Standard "arbitration" Clause, incorporated in the general conditions of contract would cover this.)

(8) Advanced Payments - Where advance payments are to be made on the signature of the contract, the percentage of such advance to the total payment should be reasonable.

(9) Escalation clauses- In appropriate cases there may be provision for escalation. (The extant procedure on the Railways will continue to apply).

(10) Retention Money - The percentage of the total payment to be held as retention money and the conditions for its ultimate payment should be stipulated in contract documents.

(11) Penalty Clauses - Provisions for penalty, sometimes called liquidated damage clauses, should be contained in contracts when delays in completion will result in extra cost or inconvenience to the Railway. (The Standard General Conditions of Contract applicable on Railways, according to extant orders already provide for this.)

(12) Bid Bonds - If used, Bid Bonds or other bidding guarantees should not be set so high as to discourage able bidders. Bid Bonds or guarantees should be released to unsuccessful bidders as soon as possible after the bids have been opened.

(13) Performance Bonds: Specification for Civil Works should require Performance Bonds or other surety adequate to guarantee that the work will be carried on to completion. The amount required varies with the type of work, but it should be sufficient to protect the Railway in case of default by the contractor in performance. The life of the bonds or surety should extend sufficiently beyond completion of the contract to cover a reasonable warranty period. If desired, performance bonds or sureties may be required in connection with contracts for the supply of equipment. (The extant procedure on Railways, in this regard, will continue to apply).

(14) Bid Opening Procedure - The date, hour and place of bid opening shall be announced in the invitations and all bids should be opened publicly at the stipulated time. The amount of each bid should be read aloud and recorded. Late bids should not be considered.

(15) Clarifications or Alterations of Bids - No bidder shall be permitted to alter his bid after the bids have been opened, but clarifications not changing substance of the bids may be accepted. While a bidder may be asked to furnish any clarification required, he should not be asked or permitted to change the substance of his bid. (In cases where all the bids received are considered high or all the bidders do not comply with the requirements of the specifications, a re-bid may be obtained. In cases of doubt, the Board may be consulted).

(16) Examination of Bids -Following the opening, it should be ascertained whether material errors in computation have been made in the bids, whether the bids are fully responsive to the terms of the specifications, whether the required guarantees and sureties have been provided, whether documents have been properly signed and whether the bids are otherwise generally in order. If a bid does not substantially conform to the specifications or is not otherwise substantially responsive to the invitation, it should be rejected. A technical analysis should then be made to evaluate each responsive bid and to enable bids to be compared.

(17) Evaluation of bids - For determining the lowest evaluated bid, price and other factors such as efficiency and the reliability of the equipment offered, time of delivery,, time of completion of construction etc. may be considered.

(18) Award of contract - The contract should be awarded to the bidder whose bid has been determined to the lowest evaluated bid and who meets the appropriate standards of capability and financial responsibility.

Copy of D.O. letter No. N.F(LN)/64/36 dated 7th January; 1965 from Shri M.S.Nanjundaiah, Jt. Director, Finance, Railway Board, New Delhi to Shri J.Rama Rao, Financial Adviser and Chief Accounts Officer, Southern Railway.

My Dear Rama Rao,

For financing the foreign currency portion of the cost of goods acquired, under the World Bank and I.D.A assistance to the Railways, the procedure for procurement laid down has to be followed. Instructions in this regard have been issued to the Railways separately, vide Board's letter of even number dated 6th May 1965.

There are certain aspects of this matter which have to be particularly noted e.g., the procedure for advertising tenders, the currency of payment in respect of the foreign exchange involved and the stipulations in regard to clarifications or alteration of bids. Further, in cases involving foreign exchange over Rs. 40 lakhs, the Railways should not issue tenders unless the specifications and draft tender documents are forwarded to the Board and the specific approval of the Board obtained to the issue of such tenders. It is, therefore, necessary that all these procedural requirements are carefully studied and understood by all the Finance Officers and the implementation of the prescribed procedure ensured.

### **ANNEXURE 8**

Copy of letter No. 55 B(C) 2498/(35 and 36)/XIII dated 13th January 1956 from Jt. Director, Finance(B), Railway Board addressed to General Managers, All Indian Railways etc.

Sub: Insufficient time allowed for submission of Tenders

\*\*\*

A copy of the Para 28 of the Railway Audit Report, 1953 on the above subject along with the relevant remarks thereon by the Public Accounts Committee, are enclosed. It has been observed, that, in certain cases, time allowed for submission of tenders fell short of the prescribed period and the Public Accounts Committee have commented on the advisability of guarding against the danger of contractors, freed from the restraint of a competitive tender system, holding out for unjustifiably high rates. The Board therefore desire that in future the Railway Administrations must ensure that the prescribed period of notice is given in all cases barring only in the most exceptional circumstances.

## **ANNEXURE 9**

Copy of letter No.F(X)II-56/Misc/27 dated 20th December 1956 from Dy. Director, Finance(P.&p), Railway Board, New Delhi, addressed to General Managers, All Indian Railways.

Sub : Delays in dealing with Tenders

It has come to the notice of the Railway Board that in a particular case, where retendering became necessary, the time lag between the receipt of fresh tenders and their acceptance, and the termination of the old contract resulted in a loss of revenue. The Board desire that the tenders should be invited sufficiently in advance of the expiry of contracts so as to give time to call for fresh tenders where retendering may become necessary.

## **ANNEXURE 10**

Extract of Para 2 of F.A.& C.A.O.'s P.O.O.No. FB/X/II dated 3rd June 1957 as corrected upto Correction Slip No 11.

2. Opening of Tenders- The opening of tenders in the different offices will ordinarily be witnessed by the Accounts Officers as indicated below -

Madras (Head Offices)... A.A.O./X/Central (for General Accounts A.A.O/F.B./T.A.(for Traffic Accounts matters such as opening of out-agencies etc.).

A.A.O./CN. in regard to opening of tenders relating to Construction Branch.

Preambur -Mechanical .. S.A.O./W

Perambur Stores .. A.A.O./S

Divisional Offices .. D.A.O.

Note -(i) In cases where the Divisional Accounts Officer cannot be present for the opening of tenders due to his being on leave etc., he will nominate the senior most Accountant of the Division for the witnessing of the opening of tenders in the Divisional Office.

(ii) The above procedure in regard in opening of tenders apply to the opening of revised quotations also.

3. In cases where the opening and consideration of tenders are taken up together, the Accounts Officer deputed to represent the Financial Adviser and Chief Accounts Officer on the Tender Committee, vide Page 5 of the P.O.O. contract of which reproduced as Annexure 20 will witness the opening of tenders also.

**ANNEXURE 11**

Joint Procedure Order No. S.236/S/PER (SF)/Tender Opening dated 27th November 1969 issued by Controller of Stores and Financial Adviser and Chief Accounts Officer.

Sub: Opening of Limited/Bulletin Tenders in Controller of Stores' Office

-----

1. It has been decided that with effect from 1st December 1969 the Opening of Limited/Bulletin Tenders in Controllers of Stores' Office should be witnessed by an Accounts Representative deputed for the purpose similar to the opening of Open Tenders and Special Limited Tenders witnessed by Accounts Officers.

2. The following phases of work connected with the opening of the Tenders should be completed on the day of opening of the Tenders:-

- (a) Opening of Tender Covers;
- (b) Machine numbering and date stamping of all the quotations;
- (c) Dated initialling (with the date of opening being the date of initialling) of Tenders by Assistant Controller of Stores/and Accounts representative who should also attest the alterations, corrections, etc., if any. The tenders will be affixed with the facsimile of the Assistant Controller of Stores.

3. The above phases of work should be commenced by 15-00 hours in the presence of the Accounts representative.

4. The Accounts representative for witnessing the opening of the Tender should be present in the Tender Opening Section of the Controller of Stores Office at 15-00 hours daily.

**ANNEXURE 12**

Pro forma of Tabulation Statement of Tenders

Department.....

Tender Committee Meeting in .....room on.....

(1) Tender for ..... (Description of work of supply).

(2) (A) Estimated cost of the work.....

(B) Sanction No.....and date.....

(C) Approximate value of the contractor's portion of work....  
.....

(D) Approximate foreign exchange element involved, if any.....



- 3) Tenders invited on.....
- (4) Last date of submission.....
- (5) No. of form sold.....
- (6) No. of tenders received.....
- (7) Opened in this presence of.....
- (8) Date of opening.....
- (9) Detailed Estimate No.....
- (10) Reference to last tender for similar work.....
- (11) Amount of Earnest Money fixed.....
- if sanctioned, date.....

(By whom) G.M./C.E./O  
C.O.S./D.S.etc.

-----

- 1. Serial No. of tender .....
- 2. Name of firm/contractor.....
- 3. Whether Earnest money has been remitted or not .....  
(particulars of remittance should be furnished).
- 4. Whether valid Income-tax clearance certificate.....  
attached (the date upto which the I.T.C.C. is  
valid should also be indicated).
- 5. Previous experience on similar work/supply.....
- 6. Certificate if any (in case of new contractor) .....
- 7. Whether the tenderer has been blacklisted .....
- 8. Rates quoted .....
- 9. Value of tender (excluding sales tax, freight etc.).....
- 10. Extras in rates such as sales tax etc .....  
freight etc.)
- 11. Total value of tender (cost including sales tax,  
freight etc.)

12. Order of tenders in terms of total cost (lowest to..... highest).
13. Foreign exchange element involved in the tender.....
14. Special conditions, in any, stipulated.....
15. Time quoted for completion of contract .....
16. Remarks of the executive.....
17. Tender Committee Recommendations.....

### **ANNEXURE 13**

Copy of Railway Board's letter No. 63-B(C)-PAC/III/13(19) dated 9th October 1963 from Shri C.T. Venugopal, Additional Member/Finance, addressed to General Managers, All Indian Railways and others.

Sub : Recommendation No.19 of the P.A.C. contained in their  
13th Report (1963-64)-Loss due to irregular rejection  
of a lower Tender

====

In a recent case reported in the Audit Report (railways) 1963 and brought before the Public Accounts Committee, it was noticed that an offer received from a firm prior to the consideration of quotations by the Tender Committee, in respect of an item of stores strictly conforming to the required specifications, was neither included in the abstract of quotations nor submitted to the Tender Committee for their consideration, on the ground that the earlier offer of the same firm were much cheaper than their last quotation and therefore there was no particular advantage in putting up the last offer to the Tender Committee. Actually, owing to the earlier offers of the firm at lower rates being technically not acceptable, the question of shelving the technically acceptable later offer did not arise; this apart, under the established procedure, all the tenders should have been put up to the Tender Committee for their consideration without any screening by any other official. The Board while reiterating the correct procedure trust that the Railway Administrations will ensure that such a lapse does not occur.

### **ANNEXURE 14**

Copy of letter No. 61/W5/LCT/41 dated 23rd October 1961 from Jt. Director, Civil Engineering, Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub: Acceptance of Tenders - Reasons for accepting higher  
rates to be recorded

----

A case has been brought to Board's notice wherein the Tender Committee did not record clear reasons in support of its proposal for the acceptance of a rate, higher than that accepted in the same area a short while earlier, for the same nature of work.

Tender Committees normally examine the reasonableness of the recommended rates and should, when recommending the acceptance of a higher offer, record clear reasons for overlooking the lower one. The Board believe that the Tender Committees satisfy the former requirement by taking into consideration factors like, lowest contract rate for the same or similar material or work in the particular of contiguous areas, the conditions of supply or of undertaking the work, the latest data regarding availability of materials and prices thereof, the working conditions etc.

In order, however, to facilitate the work of the Tender Committees, the Board desire that instructions should be issued by you directing that complete and latest information on the points mentioned earlier and on other aspects relevant for the consideration of the tenders, should be made available to the Tender Committee through an authenticated briefing note at appropriate level from the executive department concerned duly vetted by the Accounts Department so that the Tender Committee may suitably indicate in their recommendations, the grounds on which the rates proposed by them for acceptance are considered reasonable.

### **ANNEXURE 15**

Copy of Board's letter No. 61/W5/LCT/41 dated 21st December 1961 addressed to General Manager, Northern Railway with copy to All Indian Railways.

Sub: Acceptance of Tenders-Reasons for accepting higher rates to be recorded

Ref: Your Chief Engineer (S.&C.)'s D.O.letter No.W.362/O/SEC/W-1 dated 10th November 1961 to Additional Member/Works

1. The Board have carefully considered the points raised in the above cited letter and wish to clarify that the object of the instruction contained in their letter of even number dated 23rd October 1961 was to ensure that Tender Committees, whose constituent members are not always the same, do not act, while framing their recommendations without knowledge of the rates and conditions accepted in the recent past for similar works or supplies in the same area or contiguous areas.

2. The Board desire, therefore, that along with the tabular statement of tenders which is invariably prepared for the consideration of the Tender Committee, a short briefing note should be furnished for their information, indicating the last accepted rate for similar works or supplies in the same area or contiguous areas and also any special conditions attached to the said works or supplies. Such a briefing note could be readily vetted by the Accounts Department, as it will be based only on information available with the Railway. It should be ensured that the preparation and vetting of the briefing note is carried out promptly so that the acceptance of tenders is not delayed on this accounts. You may kindly consider laying down a suitable time - table for this purpose.

## **ANNEXURE 16**

Extracts of Paras 2 to 5 of Railway Board's letter No.63-AC.III./28/4 dated 13th June 1963.

Sub: Receipt, accountal and refund or Earnest Money paid by Tenderers

\*\* \*\* \*

2. The lapses noticed in the receipt and accountal of earnest money were as follows:-

(a) In response to a tender for earthwork in 5 zones(I to V) a contractor furnished earnest money of two different amounts stating that these might serve as earnest money for any two of the five zones. The Administration did not take steps promptly to ascertain from him for which specific zones he was tendering, so that at the very start he could have been ruled out from consideration for the other zones. In all cases of earnest money deposits for individual works(as distinct from the lump sum earnest money deposits), the tenderers should be asked to specify clearly the details of the details of the work to which earnest money deposit relates vide Paras 114-E and 339-S.

(b) The contractor paid the earnest money in two Deposit-at-call-receipts and partly as a cheque. The Railway should not have accepted the earnest money in the form of cheque vide Para 1115-E. The acceptance of earnest money partly by Deposit-at-call receipts and partly by cheque was also incorrect.

(c) There was a delay of six months in releasing the Deposit-at-call-receipt furnished by the contractor for one of the two zones, due to the Railway having adopted the unnecessary procedure of cashing the Deposit-at-call-receipt and crediting the amount to the Railway and then arranging the refund in cash, instead of endorsing the Deposit-at-call-receipt in favour of the contractor as soon as it was clear that he was an unsuccessful tenderer.

3. Attention in this connection is invited to Board's letter No.59AC.III/8/23 dated 18th March 1961, wherein the Board had advised all the Railway Administrations having a Divisionalized system to adopt the procedure followed on the Central Railway i.e., arrange for the remittance of the earnest money by the tenderers to the Divisional Pay Master/Chief Cashier and Pay Master instead of at the stations. This would cut short delays in the refund of earnest money. In spite of these instructions, it has been noticed during Additional Member, Finance's Inspection of certain Divisional Accounts Offices that the practice of the contractors paying the earnest money and security deposits at stations is still being followed. This, apart from complicating the procedure of accountal of earnest money received from contractors, also results in delay in arranging refund to the contractors.

It has, therefore, been emphasized again that the contractors should lodge such monies with the Divisional Pay Master rather than at stations, vide Para 3 (vi) of Additional Member, Finance's Inspection report sent with his D.O. letter No.62ACS.Insp./69 dated 28th January 1963. The Board desire that the procedure followed on your Railway should again be reviewed, and necessary arrangements made immediately to ensure that remittance of earnest money is

made by the contractors as a rule to Divisional Pay Masters and Chief Cashier and Pay Master, instead of at the stations, so that, credits for these amounts could be accounted for in the Deposits Register promptly and delay in arranging the refund of earnest money to the contractors avoided. The Board have also repeatedly emphasized that there should be no delay in arranging payments of contractor's bills and refunds of their security deposits etc. (vide Board's letter Nos.59 AC.III/28/3 dated 18th May 1960 and 21st September 1960) as such delay will almost certainly tend to put up the contract rates to the disadvantage of the Railway. Delay in refund of earnest money to the unsuccessful tenderers will also have the same effect.

4. The procedural lapses noticed in dealing with the tenders in the particular case referred to, were as follows:-

(a) When the tenderer tendered for only two zones (viz., III and IV) and had subsequently advised the Administration that he was interested only in one zone, the Administration as a matter of routine asked him to revalidate the tender for all the five zones without ascertaining for which zone he had tendered and had kept his offer open.

(b) When fresh tenders were invited, the contractor in question did not submit his fresh tender, but sent a telegram subsequently that he could tender for these zones at his old rates as a result of this he was called for negotiations, ignoring the fact that he had not submitted a formal fresh tender. Calling for negotiations a contractor who had not tendered at all should be resorted to only when a ring is suspected, and not otherwise vide Board's letter No. 56-B(C) 2983 dated 1st September 1956.

5. Some of these lapses at any rate could have been spotted if the officers on the tender committee as well as supervisory Class III staff who had been entrusted with tabulation of tenders in the Executive Office had exercised reasonable care while going through the tenders. Apparently an Accountant of the Finance Branch was not entrusted with the prior scrutiny of tender papers in this case. The officers on the Tender Committee in addition to their well defined responsibilities in regard to securing the most economical rate as well as a dependable contractor for the work, are precluded from exercising general scrutiny of tender papers to spot any incompleteness or indefiniteness in any of the tenders and accompanying documents.

## **ANNEXURE 17**

Copy of letter No.59-B(C)-3129 dated 26th/27th December 1960 from C.T. Venugopal, Additional Member, Finance(B), Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub: Importance of dealing with Tenders correctly.

===

1. A case has come to the notice of the Railway Board in which the officers of the Finance Branch, whose advice was sought in regard to the draft tender notice and tender conditions, couched their advice in far too general terms to be readily appreciated, with the result that the importance of the point sought to be made was lost sight of. The Tender Committee finalised the tender, on the basis of which the agreement was executed, ignoring in effect the advice of Finance. It appears that the Finance Branch did not also properly brief the Finance Officer concerned, before he went to attend the Tender Committee Meeting, or show him the point that was raised in the advice tendered by Finance.

2. Even though there may have been justification for not readily adopting the advice of Finance, on the ground that it was not readily intelligible, it was at least necessary for the officers of the department concerned, who received the letter from Finance, to clear up with the higher level Finance Officers what exactly the Finance advice sought to convey. An advice from Finance, which had been issued over the signature of the Dy. Financial Adviser, should have been given the fullest consideration, and the matters should have been resolved in discussion with him or, if necessary, even with the Financial Adviser and Chief Accounts Officer, sufficiently in advance of the Tender Committee Meeting, instead of proceeding without modifying the tender conditions. The lapse in the matter led to the contractor making a claim for payment which was not intended and which it proved difficult to resist.

3. The duty of the officers comprising the Tender Committee in the matter of appreciating the scope of the tender conditions, in relation to the rates offered, has already been stressed in Board's letter No. 57-B(C)-3024 dated 28th May 1959. It is also necessary for Railway Administration to ensure that any advice given by the Finance Branch in regard to draft tender notice and draft tender conditions is given the fullest consideration, so that clarification in all matters as necessary is obtained before the Tender Committee meets. The Finance Branch is also to ensure follow up action and check up the position immediately on receipt of the Tender Committee's proceedings or immediately on receipt of a copy of the agreement. Non-adoption of Finance advice if noticed could then be taken up promptly and matters remedied at the earliest opportunity, instead of acquiescing in an agreement which may give an unintended advantage to the contractor.

## **ANNEXURE 18**

Copy of Board's letter NO. 72/WI/CT/12 dated 16th March 1972 addressed to General Managers, All Indian Railways.

Sub: Constitution of Tender Committee consisting of Three Members

-----

Please refer to Recommendation NO. 20 of the Report of the Study Team on "Elimination of Lacunae and Improvement in Procedure-Construction and Supplies' forwarded to All Indian Railways under Board's letter No. 65-Vig. 1/1/102 dated 19th March 1971, reads as under-

"Tender Committee" It is considered essential that the Tender Committee should meet and after discussion, draw out the minutes, which should be jointly signed by all the Members. It is felt that a minimum of three members should be in the Tender Committee out of which one should be from the Accounts Department and one from the Executive Department concerned. The practice of having only two members in the Tender Committee is not considered desirable".

It has come to the notice of the Board that the practice of having only two members in the Tender Committee still continues on some of the Railways. The Board, therefore, desire that the procedure as laid down Recommendation No. 20 referred to above should be adhered to strictly for all future cases.

## **ANNEXURE 19**

Serial No. 1/68

Copy of Procedure Order No. S. 313/P dated 2nd February 1968 issued by Controller of Stores.

Sub: Tender Committee for Purchase of Stores  
(Serial No. 65/62)

-----

In supersession of the Procedure Order quoted above the following will be the procedure and set up, in respect of Junior and Senior Tender Committees:-

(A) Junior Tender Committees--

Stores (Conveners)	..	D.C.O.S./I, D. C. O. S./II, D.C.O.S./III.
Accounts	..	SAO./Stores PER.
Engineering	..	X. E. N./Sleeper Control/MAS.
Engineering/Construction	..	P. A. to C.E./CN./MS.
Signalling	..	S. S. T. E./Headquarters/MAS.

Electrical	..	S. E. E./Headquarters/MAS.
Mechanical	..	M. E./G/MAS.

Note--The Junior Tender Committee will consider Tenders of the value upto Rs. 50,000 (inclusive).

The District Controller of Stores/I, District Controller of Stores/II, District Controller of Stores/III will advise the departmental representatives sufficiently early, the date and time for convening the Tender Committee Meeting in respect of the classes of stores dealt with by them.

(B) Senior Tender Committees--

Stores (Conveners)	.. . . .	Dy. C. O. S./I or Dy. C. O. S./II.
Accounts	.. . . .	S.A.O./Stores/PER.
Engineering	.. . . .	Dy. C.E./G/MAS.
Engineering/Construction	..	Dy. C.E./CN./G/MS.
Signalling	.. . . .	Dy. C. S.T. E./CN./MAS.
Electrical	.. . . .	Dy. C. E. E./G/MAS.
Mechanical	.. . . .	Dy. C. M. E./G/MAS.

Note:- This Senior Tender Committee will consider Tenders of the value between Rs. 50,001 to Rs. 50 lakhs.

The Dy. Controller of Stores I & II will advise the departmental representatives concerned sufficiently in advance the date and time of the meeting in respect of the classes of stores dealt with by them.

For tenders valued upto Rs. 5 lakhs the Senior Accounts Officer/S/PER may represent the Accounts in the meeting and tenders valued above Rs. 5 lakhs and upto Rs. 50 lakhs the Dy. Financial Adviser will represent on the Committee.

(2) In cases where the proposed value of exceeds Rs. 50 lakhs the Tender Committee will consist of three heads of Departments, each drawn from stores, Accounts and the consuming department.

(3) This has reference to Procedure Order NO. S. 226/1 dated 22nd July 1967 (Serial NO. 39/67 restricting the powers of the General Manager to enter into contracts for supply of stores upto Rs. 50 lakhs only in each case.

(4) This issues with the sanction of G. M. and the concurrence of Finance.



## **ANNEXURE 19-A**

Copy of Procedure Order No. S. 313/P dated 5th May 1972 issued by Controller of Stores.

Sub: Constitution of Tender Committee--Senior Tender Committee

Ref : Procedure Order No. S. 314/P dated 2nd February 1968 (Serial No. 1/68)

-----

In partial modification of the Procedure Order quoted above, with immediate effect the Stores, Finance and consuming department representatives in the constitution of Senior Tender Committees for purchase of Stores will be as follows, according to the value of Purchases:-

I. Senior Tender Committee (to decide purchases above Rs. 50,000 and upto Rs. 5,00,000)-

- (1) Dy. C. O. S.
- (2) Dy. C. A. O.(W. & S.)/PER.
- (3) Dy. H. O. D. of the consuming department (as existing).

II. Senior Tender Committee (to decide purchases above Rs. 5,00,000 and upto Rs. 10,00,000)--

- (1) Dy. C. O. S.
- (2) Dy. F. A./MAS.
- (3) Dy. H. O. D. of the consuming department (as existing).

III. Senior Tender Committee--H. O. D. level (to decide purchases above Rs. 10,00,000 and upto Rs, 50,00,000)--

- (1) C. O. S.
- (2) Dy. F. A./MAS (F. A. & C. A. O. for cases of above Rs. 50 lakhs to be sent to Board with G. M.'s recommendation on the T. C. proposal).
- (3) H. O. D. of the consuming department.

The existing procedure of routing the recommendations of the Senior Tender Committees for G. M.'s sanction through C. O. S. will, however, continue.

This issues with the concurrence of Finance and sanction of G.M.

## **ANNEXURE 20**

Extract of Para 5 of P. O. O. No. FB/X/11 dated 3rd June 1957 issued by the F. A. & C. A. O. as corrected (Correction Slips NO. 1 to 11) included.

5. Consideration of Tenders.--The Financial Adviser and Chief Accounts Officer will ordinarily be represented by Accounts Officers as indicated below, on the Tender Committees for the consideration of Tenders—

Particulars	Monetary limit	Officer deputed
5. (i) Tenders relating to C.M.E. and C.O.S. – (1) Tenders relating to C.M.E.(C.S.No. 1,2,6 and 7).	(i) When the amount involved does not exceed Rs. 10 lakhs.	SAO./W.
	(ii) Above Rs. 10 lakhs and upto Rs. 50 lakhs.	Dy.F.A.
(2) Tenders relating to C.O.S No. 1,2,6 and 7).	(i) When the amount involved does not exceed Rs. 5 lakhs.	S.A.O./S.
	(ii) Above Rs. 5 lakhs and upto Rs.50 lakhs	Dy.F.A.
(ii) Tenders for works etc. relating to the works Branch—	(i) Upto Rs.5 lakhs (i.e. Upto D.S's powers) At H.Qs	D.A.O
(1) Open Line (C.S No.2,6 and 7)	(i) Over Rs.5 lakhs and upto Rs. 10 lakhs.	Sr. A.F.A./X
	(ii) Over Rs.10 lakhs and upto Rs. 50 lakhs.	Dy.F.A.
(2) Construction Branch (C.S No.2,6 and 7)	(i) Upto Rs.5 lakhs	Field Accounts Officers in independent charge of field office where there is a departmental officer with corresponding Powers.
	At Headquarters	J.A.O./CN.- A.AO/CN.
	(1) Upto Rs. 50,000 .. ..	S.A.O./CN
	(2) over Rs. 50,000 and Upto Rs. 10 lakhs	Dy.F.A. & C.A.O./CN.
	(3) over Rs. 10 lakhs and Upto Rs. 50 lakhs	

Particulars	Monetary limit	Officer deputed
(iii) Tenders for-(a) Coal handling etc. (C.S No.3,4 and 10)	At the Division	D.A.O.
	*Upto Rs.1 lakh (i.e., D.S.'s Powers)	
	*Over Rs.1 lakh upto Rs. 2 lakhs ..	Sr.A.F.A/X.
	*Over Rs 2 lakhs..	Dy.F.A.
	*Note:- For this purpose, the value of contract is to be decided on the estimated payment to be made for one year.	
(b) Sale of cinders and engine ashes	Dealt with in the Division (full powers to D.Ss. on tender basis)	D.A.O.
(iv) Transhipment or handling contracts etc. relating to the Traffic Branch (C.S.No.11)	Upto Rs.1 lakh (i.e., D.S's powers)	D.A.O.
	This limit will apply in respect of each contract where annual financial implications are upto Rs. 1 lakh. At Headquarters	
	Over Rs. 1 lakh and upto Rs. 2 lakhs..	Sr.A.F.A/X.
	Over Rs. 2 lakh	Dy.F.A.
(v) Contracts for Out Agencies, Street delivery services etc. (C.S.No.9).	Dealt with in the Division (full powers to the D.Ss on tender basis in consultation with the State Government	D.A.O.

Particulars	Monetary limit	Officer deputed
(vi) Contracts for purchase of provisions etc. relating to the Catering department (C.S.No.3).	Upto Rs. 2 lakhs..	Sr.A.F.A/X.
	Over Rs. 2 lakhs..	Dy.F.A.
(vii) Tenders for supply of diet stores to Railway Hospitals, conservancy services and washing of Hospital linen (C.S.No.8).	(i) For contracts pertaining to the Divisions—	
	Upto Rs.25,000 (i.e., D.S.'s powers)	D.A.O.
	Over Rs.25,000 and upto Rs. 1 lakh	Sr.A.F.A/X.
	25,000 will be considered at Headquarters level)	
	(ii) For contracts pertaining to Headquarters—	
	Upto Rs. 1 lakh..	Sr.A.F.A/X.
(iii) Over Rs. 1 lakh	Dy.F.A.	

This does not, however, preclude nominations of Accounts officer other than those mentioned above, being made, according to the exigencies of work and other circumstances, in individual cases.

## **ANNEXURE 21**

Copy of Board's letter No. 70/WI/CT/32 dated 7th/9th September 1970 addressed to General Manager, Northern Railway with copy to General Managers of other Railways.

Sub : Constitution of Tender Committee for consideration of  
Tenders

-----

It has come to the notice of the Railway Board that the constitution of the Tender Committee for consideration of tenders for works on your Railway at the Divisional level, comprise of officers who are also delegated with powers for accepting such tenders. The Board feel that the officer holding powers as the recommending authority by virtue of his position as a member of the Tender Committee being also the accepting authority for such tenders is not proper and desirable. It is, therefore, desired that for works of any magnitude pertaining to any Department, the Tender Committee to consider tenders may be so constituted that an authority holding powers for recommending the tenders by virtue of his position as a Member of the Tender Committee, shall not be the accepting authority also for such tenders. Suitable amendments may accordingly be made to the constitution of the Tender Committees.

## **ANNEXURE 22**

Copy of letter No. 66/B(C)-PAC/III/53/(10) dated 7th December 1966 from Director, Accounts, Railway Board, New Delhi, addressed to General Managers, All Indian Railways, etc.

Sub: Delay in the finalisation of Tenders

-----

Recently a case of delay in the finalisation of tenders for the construction of quarters on a Railway was reported in the Railway Audit Report and subsequently commented upon adversely by the Public Accounts Committee. The delay was explained by the Railway Administration as due to the following reasons:-

(a) At the initial stage between June 1962 and September 1962 the Tender Committee was trying to negotiate with the lowest tenderer to reduce his rates as the tendered rates exceeded the then ceiling cost of Type I quarters. Subsequently in early October 1962, the Tender Committee on reconsideration decided to recommend the lowest tenderer as in the meanwhile the building cost index had been revised upwards. But its final acceptance by the competent authority was delayed until November owing to various circumstances including the intervention of the emergency. Meanwhile the lowest tenderer had withdrawn his offer.

(b) Later when the lowest tenderer evinced renewed interest for executing the work and suggested additional payment the Railway took another three months to accept the new rates.

(c) When ultimately the Railway, finding no alternative, resorted to fresh open tenders they had to accept an offer in October 1963, nearly sixteen months after the initial tender was opened, at a rate far higher than that initially received.

2. Though there were certain extenuating factors to account for the abnormal delay, the Public Accounts Committee have observed that "if the matter had been dealt with, with a greater sense of urgency, the delays could have been avoided or at least minimized", and urged that "while observing all procedural requirements, the processing and consideration of tenders should be streamlined in such a systematic manner (particularly in respect of timely revision of Building cost indices and not holding up decisions till return of officers from long tours or leave) that no undue delay occurs at any stage". The Board while commending the Committee's observations would draw attention to their letter No. 65-B(C)-PAC. III/32 (29-30) dated 2nd June 1965 (copy attached) and suggest that instructions contained therein should be strictly followed.

### **ANNEXURE 23**

Copy of Railway Board's letter No. 60/777/RS(G) dated 13th February 1960 addressed to General Managers, All Indian Railways, etc. (circulated in F. A. & C. A. O./BUD/MAS D. O. letter No. A. 10/B/V/D. Para/G1Vol. III dated 14th June 1965).

Sub: Finalisation of Tenders within the period of validity  
of the offers

-----

1. A case has come to the notice wherein a contract could not be concluded within the period for which the tenderers' offer was open for acceptance. In the result, the contract had to be finalised at a higher price, as the tenderer when extending the period of validity of his offer enhanced his quotation.

2. It is very essential that contracts are placed within the period of validity of the offers. Extension of the validity period should be asked for from tenders only when it is considered that for inescapable reasons the contract cannot be finalised within the validity period and extension should be asked for well ahead of the expiry of the subsisting offers. In the tenders issued by the Board or for which the Board's approval is required but in respect of which the detailed examination is done by Railway Administration, the Board Should be addressed sufficiently in advance.

In respect of tenders issued by the Railways, Projects or Productions Units, the approval of the authority `next above' should be obtained by the officer in whose powers, the purchase lies. In respect of cases falling within the powers of the General Manager of a Railway, the personal approval of the Controller of Stores should be obtained.

3. To ensure that every effort is made to place contracts within the period of validity of offers, the date of expiry of the offers should be indicated prominently at every stage in all notings on the purchase file. The last sentence of a purchase proposal for instance should always be (in capital) "OFFERS EXPIRE ON....." and there should be an immediate or priority slip where necessary indicating "OFFERS EXPIRE ON....." when purchase files have to be sent to other Branches such as Finance, Law Technical Departments etc. the date of expiry of the offers should also be brought out or stamped prominently at the end of notings and letters, so that they are not lost sight of.

In certain cases, it may happen that tenderers when extending the validity of their offers at the request of the purchaser, qualify the extension by price increase or other stipulation regarding delayed delivery or completion etc. Such qualified extensions should be highlighted along with the date of expiry of the offers in all notings on the purchase file, so that action on the file is processed at every stage by all concerned with due regard to the urgency called for.

#### **ANNEXURE 24**

Copy of letter No. 60/777/RS(G) dated 14th September 1960 from Railway Board, New Delhi, addressed to General Managers, All Indian Railways.

Sub: Finalisation of tenders within the period of  
validity of the offers

-----

In sub-para 2 of para 2 of the Board's letter of even number dated 13th February 1960, it has been laid down that the approval of the authority 'next above' should be obtained by the Officer in whose power the purchase lies before asking for the extension of the period of validity of a tender and that in respect of cases falling within the powers of the General Manager of a Railway the personal approval of the Controller of Stores should be obtained.

2. In this connection, it is hereby clarified that the instructions under reference are to apply to tenders issued from other Department also and that the authority vested vide sub-para 2 of para 2 of Railway Board's letter under reference in regard to tenders falling under the powers of the General Manager is to be exercised by the respective Heads of Departments personally i.e., by the Head of the Department from which a particular tender is issued.

## **ANNEXURE 25**

Copy of Railway Board's No. 67-B(C)-PAC/III/62/16-17 dated 29th/31st July 1967 circularized under Headquarters Office, Stores Branch letter No. S.226/P/Vol.12 dated 11th September 1967.

Sub: Recommendations No.16 and 17 of 72nd Report of the tenders within the validity period.

---

Commenting on Para 14 of Audit Report (Railways) 1966 in their 72nd Report, the Public Accounts Committee have, inter alia, observed (i) that it should be ensured that tenders are processed expeditiously and within the prescribed time limit to avoid the possibility of loss due to the expiry of the validity period of the tender, and (ii) that clarifications should not be sought piecemeal from tenderers.

2. The Board desire that the above observations of the Committee should be carefully noted and would draw the Railway's attention to the letters (1) 66/777/RS(G) dated 13th February 1960; (2) 61B(C)-E/43 dated 19th March 1962; (3) 65PAC/III/32/(29-30) dated 14th May 1965 and (4) 65-B(C)PAC/III/32 (29-30) dated 2nd June 1965 issued from time to time in which the need for avoiding delay in the finalisation of tenders had been stressed. The Board particularly desire that, as recommended by the Public Accounts Committee, even in cases where the period of validity quoted is less than the period notified by the Railway in the tender documents every effort should be made to persuade the tenderer to extend the validity period suitably and also decide on the offers within the limited validity period itself. Further, the scrutiny of the terms and conditions offered by all the tenderers should be done in all details at the initial stage itself so that all the information necessary for the consideration of offers is called for at one time and leaving no occasion for seeking further extensions in regard anyone of the offers at a later state, on this account.



## **ANNEXURE 26**

Copy of letter No. 52 W 229 dated 9th May 1952 from Shri D. C. Baijal, Joint Director, (Civil Engineering), Railway Board, New Delhi, addressed to General Managers, All Indian Railways.

Sub: Acceptance of Tenders

-----

In inviting attention to Para 1106 of the Indian Government Railway Code for the Engineering Department, the Railway Board desire that in the case of open tenders if the lowest tenderer is not on the approved list of the Railway but his tender is otherwise satisfactory, he should be asked to produce evidence of his capacity to carry out the work under consideration efficiently and of his sound financial position. If he is unable to produce the evidence and it is proposed to pass over his tender and consider the next higher one, the fact of the lowest tenderer having failed to produce the necessary evidence of his capacity etc. should invariably be placed on record before the next higher quotation is taken up for consideration.

## **ANNEXURE 27**

Copy of letter No. 58-B(C)-2498/11/4th, Report 8 dated 27th/30th May 1958 from Shri C. T. Venugopal, Director, Finance, Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub: Selection of Contractors through inviting open Tenders.

---

A reference is invited to Railway Board's letter No. 55- B(C)2498(35) and (36) XIII dated 13th January 1956 copy of which together with a copy of enclosure thereto is enclosed for ready reference. The question of allowing free play to a competitive tender system and of ensuring for this purpose that a the prescribed period of notice is generally allowed when inviting tenders, was brought to the notice of Railway Administrations in the aforesaid instructions of the Board.

2. The general principles in this connection have again been discussed by the Public Accounts Committee in connection with a paragraph in the Audit Report, Railways, 1956 and a copy of the Committee's Recommendation No. 8 contained in Appendix II of the 4th Report (2nd Lok Sabha) of the Public Accounts Committee which is self-explanatory, is reproduced below—

"The Committee feel that undue emphasis on previous experience of contractors would cut across the very principle of inviting open tenders and by shutting of all new comers, it would tend to create monopolistic tendencies. The committee trust that the instructions issued by the Railway Board in January 1956 in pursuance of Para 72 of their Thirteenth Report would be strictly adhered to. The Board have impressed therein the need for allowing the prescribed period of notice for submission of tenders. The committee desire that sufficient notice should also be given in cases where the specifications in a tender have undergone changes and fresh tenders called for in cases where the modifications are major in character warranting such a course".

3. In bringing to the notice of Railway Administrations once again these essential aspects (amongst others) in the matter of inviting tenders and considering them, the Board desire that the importance of these instructions may once again be impressed on all Authorities subordinate to you who are empowered to invite and deal with tenders.

## **ANNEXURE 28**

Copy of Board's letter No.68/W1/CT/15 dated July 1968 from Joint Director (Civil Engineering), Railway Board, New Delhi, addressed to General Managers, All Indian Railways and others.

Sub: Tender - Rejection of lowest offer

-----

An instance has come to the notice of the Board where a Tender Committee rejected the lowest quotation on the recorded ground that the contractor did not submit either the credentials or the income-tax clearance certificate. On further examination it was found that the actual reasons for the rejection of this tender was that the Tender Committee did not consider the lowest tenderer suitable for the award of this contract, and the contract was correctly awarded to the next higher tenderer, whom the Tender Committee considered suitable.

The Board desire that suitable instructions should be issued so that in future, the Tender Committees should give their reasons in greater details while rejecting the lowest tenderer, for proper appraisal of the case later, if necessary.

## **ANNEXURE 29**

Copy of Headquarters Commercial Branch letter No. C. 302/VI dated 22nd June 1971/6th July 1971 addressed to D. Ss.

Sub: Handling contracts--Maintenance of Circulars File for  
guidance of Tender Committee

====

Board's letter No. 71/TGIV/6/3/Policy dated 17th/18th May 1971 on the above subject reads as under:-

" The Board desire that with immediate effect all Divisions on the Railways should maintain a file of circulars containing instructions issued from time to time in respect of awarding handling contracts for the guidance of Tender Committee. The members of the Tender Committee on Railways, at the time of considering tenders for any work should invariably go through the circular file and record a certificate to that effect".

Board's instructions may strictly be adhered to.

## **ANNEXURE 30**

Copy of Railway Board's letter No. 61/WII/CTG/24 dated 31st October 1965 addressed to General Managers, All Indian Railways, etc.

Sub: Negotiations with tenderers--Acceptance of original  
offers in cases where revised quotations are higher

The Board had under consideration certain aspects of cases when the rates submitted by the tenderers are considered high or conditions stipulated by them are considered unacceptable and it is decided to negotiate with the tenderers.

In such cases, there is the possibility that a tenderer may resile from his offer on the plea that the negotiations amount to a counter-offer in law and, therefore, amount to a rejection of the original offer. It has been considered that under the law, the original offer does not ordinarily survive, the moment a counter offer is made.

2. This matter has been examined in consultation with the Ministry of Law and they have advised that although the legal position stated above is correct, it is possible for a tenderer to revive his original offer after the negotiations fail and in that case the original tender becomes available again for acceptance. Such would be the case, if a tenderer before commencement of negotiations intimates that his original offer would be open for acceptance if the negotiations fail. The Ministry of Law have, therefore, suggested that when the tenderers are called for negotiations, they should be addressed

"The rates quoted in your tender are considered high. You are, therefore, requested to come for negotiations of rates on ..... (date). (or) It is proposed to discuss with you certain conditions of your tender. You are, therefore, requested to come for negotiations on ..... (date). You should, however, come for negotiations only in case you are prepared to furnish before such date the declaration appended herewith.

#### Form of Declaration

I, ..... do declare that in the event of failure of the contemplated negotiations relating to Tender No.....opened on ..... my original tender shall remain open for acceptance on its original terms and conditions".

The kind of procedure and communication to the tenderer mentioned above cannot, however, be included in the General Conditions of Contract, as a positive action has to be taken in each individual case.

3. The Ministry of Law have further advised that it must be understood that if the period of validity of the original offer expires before the close of the negotiations, the original offer will not be available for acceptance. The period of validity of the original offer must, therefore, be got extended wherever necessary.

4. A copy of the form in which the contractors might submit their offers after negotiations in use on one Railway is enclosed for adoption with suitable changes that may be considered necessary.

From .....

Full address.....

.....

To  
The President of India,  
Through the Chief Engineer (Con.),  
Eastern Railway, Calcutta.

Sir,  
Tender for  
.....

.....

1. On further discussions with your representatives on ....

I/We am/are not prepared to reduce the rates already  
quoted in the original tender, which remain valid  
upto.....

or

I/We reduce my/our rates as shown in the enclosed Schedule  
of items.

2. I/We am/are aware that the Instructions to Tenderers,  
Special and General Conditions of Contract and appendices to the  
original tender remain valid and binding on me/us.

3. I/We agree to undertake the work or complete the supply  
and complete in all respects by .....

4. I/We agree to abide by this tender on the revised rate quoted by me/us it is open for acceptance for a period of 60/120 days from date i.e., upto ..... and in default of my/our doing so, I/We will forfeit the earnest money deposited with the Chief Cashier, No. ....dated.....already attached with the original tender/attached herewith.

Eligibility of valid tenderer shall be deemed to be the consideration for the said forfeiture.

Yours faithfully,

DA : Schedules A,B,C.

Signature of witness to the Signature of Tenderers(s).

1..... Signature of Tenderer(s)

2..... Date.....

### **ANNEXURE 31**

Copy of letter No. 64/W5/DL/SE/6 dated 21st July 1964 from Joint Director (Civil Engineering), Railway Board, New Delhi, addressed to General Managers, All Indian Railways and others.

Sub : Negotiations with Contractors

---

It has come to the notice of the Railway Board that on certain Railways the revised rates obtained on negotiations are not read out to all the tenderers who are present at the time of the revised offers while on other Railways they are read out.

With a view to ensuring uniformity of practice, the Railway Board have decided that immediately after completing the negotiations, the revised rates (received as a result of negotiations) should be read out to the tenderers, who may be present.

### **ANNEXURE 32**

Copy of Board's letter No. 67/WI/CT/32 dated 25th May 1968 from Joint Director (Civil Engineer), Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub : Award of contracts-Procedure for conducting negotiations

The Board have had under consideration for some time past the question of laying down broad guidelines of the procedure to be followed for conducting negotiations as the procedure in this regard does not appear to be uniform on all the railways.

While some Railways call for fresh bids (as a preliminary step to the conduct of negotiations) from all the eligible tenderers out of those who had quoted originally, it is observed that on some other Railways negotiations are restricted to two or three of the lowest eligible tenderers without calling for any fresh bids (i.e., on the basis of their relative position against the original tender) as required in Board's letter No. 56-B(C)2983 dated 10th August 1961 and final bids are obtained from them only at the end of the negotiations.

2. The Board have carefully considered the matter and decided in supersession of all previous orders that negotiations with the tenderers should be conducted on the basis of the guidelines given below.

3. It should be clearly understood that selection of contractors by negotiation is an exception rather than the rule, and may be resorted to-

(a) Where all the tenders are considered to be unreasonably high in value and it is felt that retendering would not secure better advantage to the railway, and/or

(b) Where the lowest tender is technically unacceptable, or is rejected because of unsatisfactory credentials, capacity or unworkable rates, and the next higher offers to be considered in acceptance with the established procedure are found to be unreasonably high.

(c) Where in the case of proprietary items of stores, the price quoted is considered to be unreasonable high.

4. The decision whether to invite fresh tenders or to negotiate, and in the latter event, with whom to negotiate, should be taken by the competent authority after obtaining the Tender Committee's recommendations. The Board would, however, like it to be ensured that, except where a single quotation has been received in response to a call of tender, the number of tenderers to be called for negotiation is not less than two. In no case, including where a ring is suspected, should negotiations be extended to the tenderers who had either not tendered originally or whose tender was rejected because of unsatisfactory credentials, capacity or unworkable rates, or (in the case of other than stores tenders only) whose tender was not accompanied by earnest money.

5. After the competent authority has decided to call specific tenderers for negotiations, the latter should be addressed as laid down in Board's letter No. 61/W2/CT/24 dated 31st October 1965 so that the rates originally quoted by them shall remain open for acceptance in the event of failure of the contemplated negotiations.

Revised bids should be obtained in writing from the selected tenderers at the end of negotiations, and read out to such of the representatives of the tenderers as may choose to be present. In case, however, any of the selected tenderers prefers to send a revised bid instead of being present at the negotiations, the offer should be taken into account.

6. The foregoing instructions may not be applied rigidly to tenders for specialized works and equipment where the tenderers may quote according to their own specifications and designs for various reasons such as improvement in technology

etc. and it may become necessary to discuss technical and other details with them to select the most suitable offer. Such cases would necessarily be very few and far between and the procedure of conducting negotiations should be decided on the merits of each case in consultation with your Financial Adviser and Chief Accounts Officer.

7. Board desire that these instructions should be followed in respect of all contracts- works, stores, commercial etc.

(This disposes of Western Railway's letter No.W.623/5 Vol. III dated 10th July 1967)

This letter may please be substituted for the Board's letter of even number dated 28th March 1968.

### **ANNEXURE 33**

Copy of Railway Board's letter No. 57-B(C)-3024 dated 28th May 1959 from Director, Finance, Railway Board, New Delhi, addressed to General Managers, All Indian Railways.

Sub : Handling Contracts-General and Policy matters-Tender Committee

-----

A case has come to the Board's notice, through an audit para, in which a clause in the Standard Form of Agreement for handling contracts applicable to a Goods Transhipment Shed was applied on a certain Railway to the case of Transhipment Dump Shed without an adequate appreciation of the somewhat different circumstances prevailing in a Dump Shed. Also, the Tender Committee, who considered the various offers, failed to bring out in their recommendations that due allowance would be necessary for the implications of the particular clause in the context of the conditions likely to operate in a Dump Shed.

The Board desire that Railway and Project Administrations should notify the Tender Committees, that in addition to their generally known responsibilities, they have a special responsibility to carefully scrutinize the rates tendered with reference to the scope of the various provisions in the Agreement governing the contracts. Such a scrutiny should be done with the object of ensuring that no unintended benefit accrues to the contractor on the basis of certain clauses in the Agreement, which may be appropriate for one kind of contract but may not be so for another category.

This may kindly be brought to the notice of all concerned.

### **ANNEXURE 34**

Copy of letter No. 50/145/3/S dated 1st/4th August 1951 from Railway Liaison Officer, Ministry of Railways, Railway Board, New Delhi, addressed to General Manager, G.I.P. Railway, Bombay.



Sub : Suggestion that fresh tenders should be invited whenever only one approved Contractor tenders for a work

(Ref: Railway Board's Circular letter No. 49/145/1/S dated 10th/12th January 1950 and your letter No. 5331/K-II-112 dated 25th October 1950)

---

Railway Board's orders that when in response to call for limited tenders (as distinct from single and open tenders under the rules in force) only one tender is received, fresh tenders should be invited except in urgent cases of purchases as contained in their letter No.49/145/1/S dated 12th June 1950 to General Manager, East Indian Railway, copy endorsed to you under the same number and date, are applicable to works contracts also.

As regards the discretion allowed to certain officers to classify a work or purchase as "Very Urgent", each case will have to be decided on its merits.

### **ANNEXURE 35**

Copy of letter No. 49/145/1/S dated 10th/12th January 1950 from Railway Board, New Delhi, addressed to General Manager, M & S.M. Railway, Madras etc.

Sub : Suggestion that fresh tenders should be invited whenever only one approved Contractor tenders for a work

----

In dealing with Para 25 of the Railway Audit Report, 1946, the Public Accounts Committee recommended that, in future, whenever only one approved contractor tenders for a work, fresh tenders should be invited unless the work is very urgent. The Railway Board have decided that the discretion to class a work as "Very Urgent" for this purpose, should vest in an officer not lower in status than a Divisional Superintendent and full reasons should be recorded justifying the course of action.

### **ANNEXURE 36**

Copy of letter No. 55/645/5/RE dated 18th May 1956 from Joint Director, Railway Board (Railway Equipment), New Delhi, addressed to General Managers, Northern Railway and Southern Railway etc.

Sub : Price preference for indigenous products over imported stores

----

The Stores Purchase Committee appointed by the Government of India to examine the working, organization, policy and procedure of the Central Purchase Organization has in its report made the following recommendation:-

"Government's purchase policy should, in our view, admit generally a price preference upto 15 per cent to indigenous products over the imported

goods, including customs duty. We have also carefully considered whether industries protected through tariff or otherwise should enjoy this preference and have come to the conclusion that such industries should not be excluded from the purview of this policy.

The preference margin should be increased to 25 per cent for certain specified classes of stores, where admittedly the indigenous industry is not in a position to compete with foreign manufacturers within the general limit of 15 per cent because of low import duties, or small turn over, or higher costs of raw materials and components, etc. A list of such items should be specified.

Price preference even in excess of 25 per cent should be ruled out for lines of manufacture where unfair competition is feared, or where special development is required, if the Government is convinced of its justifications; however, in respect of lines of manufacture which are the monopoly of a single firm, or a group of firms, the degree of price preference to be given may be subject to examination of costs of manufacture by Government, where considered necessary".

2. This recommendation of the Committee is in accord with the Government's policy relating to Stores Purchases and the Government of India have accordingly accepted it. They, however, consider that the procedure suggested by the Committees should be adopted in a manner so as not to encourage inflation of existing prices of indigenous goods or result in inducing a sense of complacency in regard to the need for improvement of efficiency and economy in production.

3. The above recommendation in effect falls into three classification-
- (a) a general price preference upto 15 per cent;
  - (b) a price preference between 15 to 25 per cent for specified categories of items; and
  - (c) a special price preference over 25 per cent for special lines of manufacture or development.

4. As regards 3 (a) in respect of purchases made by the Railways, the purchasing officers are authorized to decide the quantum of price preference on the merits of each case within the general limit of 15 per cent only, those cases where the value of the likely order exceeds Rs.5,000 being decided in consultation with their Financial Adviser and Chief Accounts Officer.

5. As regards 3 (b) the Ministry of W.H.& S. are proposing to issue a list of such specified items. These will be forwarded to the Railway in due course. In the meanwhile all cases price preference over 15 per cent should be referred to the Railway Board only if the Railway Board only if the Railway are convinced that there is a case for such a recommendation.

6. As regards cases falling within the purview of 3(c) all such cases should be referred to Railway Board with your recommendation, only if there is a justification for recommending such a case.

7. The fact that the price preference has been given should be so specified in the purchase order for the guidance of the Inspecting Officer, who should be required to certify "to the best of his knowledge" that the stores offered and inspected are of an indigenous origin.

8. In order to ensure that the cases of price preference receives due consideration, it will be necessary to obtain the approval of the next higher purchasing authority before an indigenous offer is passed over in favour of an imported article, which authority will satisfy itself that purchase of an imported store is inescapable having regard to the need to develop indigenous manufacturing capacity.

9. As the exact degree of price preference required for the development of various industries must necessarily depend on the progress made by each towards establishing regular production on an economic basis, the margin of price preference allowed to various industries should be kept in constant review having regard to the period during which such industry has been in existence and the level of efficiency it has attained.

10. Suitable arrangement should be made to keep in simple form a record of all cases in which purchase is made giving a price preference so that the financial effect of the policy can be readily computed at any time.

11. This is in supersession of Board's D.O. letter No.54/809/1/RE dated 21st September 1954.

### **ANNEXURE 37**

Copy of letter No. 55/645/5/RS(G) dated July 1958 from Shri R.C. Chetty, Dy. Director, Railway Stores, Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub: price preference for indigenous products over  
imported stores  
(Ref: Board's letter No. 55/545/5/RE dated 19th May  
1956)

----

With reference to Para 5 of the above mentioned letter, a list of 27 specified items for which price preference for indigenous products may be allowed upto 25 per cent, as complied by the Director General of Supplies and Disposals in consultation with the Ministry of Commerce and Industry, is forwarded herewith.

In the cases of purchase of the items shown in this list, the Railways are authorized to allow price preference upto 25 per cent. Wherever the question of affording price preference upto 25 per cent may arise each case will be considered strictly on merits in consultation with the Finance and price preference not granted as a matter of a rule. The cases where it is proposed to accord price preference beyond 25 percent shall be referred to the Board for approval.

### **ANNEXURE 38**

Copy of letter No. 55/645/5/RS(G) dated 13th February 1959 from Shri Sudershan Lall, Dy. Director, Railway Stores, Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub: Price preference for indigenous products over imported stores

(Ref : Board's letter No. 55/645/5/RS(G) dated 25th July 1958)

---

Please add the following as items 28, 29 and 30 at the end of the list circulated under Board's letter referred to above :-

28. Filters (Air and Oil)

29. Shock Absorber.

30. Radiators.

### **ANNEXURE 39**

Copy of letter No. 60/768/4/RS(G) dated 9th/14th February 1961 from Shri J.V. Saldanha, Dy. Director, Railway Stores, Railway Board, New Delhi, addressed to General Manager (Stores) Office, Southern Railway, Madras - 23.

Sub : Price preference upto 25 per cent for indigenous products over imported stores

---

Under Board's letter No.55/645/5/RS(G) dated 25th July 1958 and 13th February 1959, two lists were forwarded for 30 specified items for which price preference upto 25 per cent may be allowed in respect of indigenous products over imported stores. A consolidated list of 46 items, as adopted by the D.G.S. & D. for this purpose, is forwarded herewith.

2. It is further clarified that the above list as prepared cannot be exhaustive and is only to serve as a guide. It is within the powers of the purchase officers to allow price preference upto 25 per cent for any item of indigenous manufacture over imported stores whether included in the list or not. Each case has to be decided on its own merits. The cases where it is proposed to accord price preference beyond 25 per cent should be referred to the Board for approval.

List of items of indigenous origin for which price preference upto 25 per cent is recommended both by the Development Wing of the Ministry of Commerce and Industry and the Ministry of Finance(Supply)-

(1) Lead acid batteries.

(2) Electricity meters.

(3) Transformers.

(4) Electric light fittings

(5) Water treatment chemicals sodium aluminate.

(6) Sodium bicarbonate.

- (7) Electrical measuring instruments.
- (8) Calcium carbide N.D. quality.
- (9) Sodium Citras.
- (10) Brass/copper extruded rods and sections.
- (11) Lead and antimonial lead pipes and tubes.
- (12) Brass and copper wires.
- (13) Aluminium alloy extruded sections.
- (14) Wire ropes.
- (15) Files.
- (16) Weighing machines.
- (17) Ejectors
- (18) Electrodes.
- (19) Dry dial water metres.
- (20) Stationary Diesel engines (above 30 H.P.)
- (21) Marine Diesel engines (upto 45 H.P.)
- (22) Blowers and exhaust fans.
- (23) Generating sets (types not covered by OGL).
- (24) Centrifugal pumps (horizontal).
- (25) Centrifugal pumps and/or pumping sets with vertical spindle (excluding deep-well bore hole Turbine pump and closed coupled type).
- (26) Air compressor (Industrial).
- (27) Filters (air and oil).
- (28) Shock absorbers.
- (29) Radiators.
- (30) Zambak (Nazak).
- (31) Pressure gauges.

- (32) Paper insulated L.A.S. and armoured cable with or without cotton braiding.
- (33) Polythene and polyvinyl chloride insulated and screened cables.
- (34) P. V. C. insulated and screened cables.
- (35) Polyvinyl chloride insulated cables and P. V. C. insulated L. A. S. cables.
- (36) Polythene insulated and P. V. C. sheathed cables.
- (37) Polythene insulated screened and unscreened cables.
- (38) Cotton and hair belting.
- (39) Rubber ply transmission belting.
- (40) Taps and cocks.
- (41) Surgical instruments.
- (42) Safety pins.
- (43) Cotter pins.
- (44) Panel pins.
- (45) Shoe grindery.

#### **ANNEXURE 40**

Copy of letter NO. 55/645/5/RS(G) dated 7th February 1964 from Shri J.P.Moorjani, Joint Director, Railway Stores, Railway Board, New Delhi, addressed to General Managers, All Indian Railways

Sub: Price preference to indigenous stores over imported stores offered subject to import assistance.

----

The railway Board have under consideration the question of delegating further powers to Railway Administration on the above subject. It has now been decided in partial modification of the extant orders, to delegate full powers to you to accord price preference in respect of indigenous stores over imported stores upto your powers of purchase subject to the other conditions as stipulated in Board's letter No. 55/645/5/RE dated 18th May 1956 as amended vide letter No. 55/645/5/RS(G) dated 25th July 1958. Controller of Stores may be authorized to exercise these powers in respect of orders upto his powers of purchase.

2. The Board, however, desire that cases involving unreasonably high percentage of price preference and also cases where suppliers adopt an unhealthy attitude be reported to them so that such cases, if necessary, may be brought to

the notice of the Ministry/Department concerned for such action as they may deem appropriate in the matter.

3. It is also desired that a quarterly report of cases wherein price preference over 50 per cent has been allowed should be sent to the Board for a period of one year from the date of issue of this letter.

4. In regard to cases of price preference for ex-stock imported stores over imported stores subject to import assistance, the existing orders contained in Board's letter No. 55/645/5/Rs(G) dated 19th January 1961 will continue to apply.

#### **ANNEXURE 41**

Copy of D. O. letter No. 60/768/4/RS(G) dated 18th January 1962 from Shri J.P. Moorjani, Dy. Director, Railway Stores, Railway Board, New Delhi, addressed to Shri A. A. Raman, Dy. Financial and Chief Accounts Officer, Southern Railway, Madras.

Sub : Price preference for indigenous products over imported stores

Will you please refer to correspondence resting with D.O. letter of even number dated 4th August 1961 on the above subject. In Shri Gopalan's D. O. letter No. RS./236/S/PER/Indents/4821 dated 9th September 1960, the following two issues were raised :-

- (i) Whether in giving price preference for indigenous goods, the element of profit should be allowed for or not, and
- (ii) Whether price preference should be given over the imported stores already held in stock or over those offered on forward delivery.

Replies to these points are-

- (i) Profit should be included in cost of imported goods.
- (ii) Price preference over imported goods should be with reference to stores offered on forward delivery and not over imported stores offered ex-stock.

#### **ANNEXURE 42**

Copy of Railway Board's letter No. 55/645/5/RS(G) dated 4th August 1962 addressed to General Managers, All Indian Railways etc.

Sub: Price preference for indigenous stores/imported stores available ex-stock

(Ref: Board's letter No.55/645/5/RS(G) dated 19th January 1961)

---

The Railway Board have under their consideration the question whether any price preference should be allowed for the indigenous stores even when imported stores are available ex-stock.

It has been decided in consultation with the Ministry of Works, Housing and Supply that each case of this nature should be examined on its own merits and where the Railways are likely to get the requirements of imported stores ex-stock at rates lower than those for indigenous stores and without a replacement Import Recommendation certificate, such offers should be considered favourably.

### **ANNEXURE 43**

Copy of Board's letter No.60./768/4/RS(G) dated 4th August 1962 addressed to General Managers, All Indian Railways etc.

Sub : Method for determining price preference for indigenous otherwise

Ref : Board's letter No. 60/768/4/RS(G) dated 14th August 1961

----

A question has been raised as to whether for purpose of determining the price preference to be allowed to indigenous products over the imported goods, the c.i.f. price of imported goods plus the element of customs duty or the sale price in India which would include the element of profit should be taken into account.

The matter has been considered in detail in consultation with the Ministry of Works, Housing and Supply and it has been decided that the comparison of prices of indigenous products and imported products should be made on the basis of the f.o.r. place of manufacture and f.o.r. Port of entry respectively. In other words, the element of freight f.o.r works of Port of entry to destination station is not to be taken into account for the purpose of determining the quantum of price preference.

### **ANNEXURE 44**

Sub : Price preference for ex-stock imported stores over imported stores subject to import assistance.

----

In Railway Board's letter No.55/645/5/RE dated 18th May 1956 the Railways were communicated Government's decision to accord certain price preferential in the matter of purchase of indigenous products over foreign goods as recommended by the Stores Purchase Committee. The matter has been reviewed by the Ministry of Works, Housing and Supply and it has been decided that price preferential may also be given in the matter of purchase of ex-stock imported stores over imported stores subject to foreign exchange and port licence assistance.

The cases in which such a price preferential may be given would broadly fall under the following three categories : -



(i) Cases in which price preferential is upto 15 percent;

(ii) Cases in which price preferential to be given exceeds 15 per cent but does not exceed 25 per cent; and

(iii) Cases where the price preferential exceeds 25 per cent.

After detailed examination, the Railway Board have decided that the decision taken by Ministry of Works, Housing and Supply should also apply to the purchases made by the Railways and that the above three categories may be dealt with as under---

(a) Cases falling under Category (i) -- The decision may be taken by the purchase officers within their respective powers of purchase. However, those cases where the value of the likely order exceeds Rs.5000 should be decided in consultation with their Financial Adviser and Chief Accounts Officer.

(b) Cases falling under the Category (ii) -- The purchase officers should obtain the personal sanction of the General Manager in consultation with the Financial Adviser and Chief Accounts Officer.

(c) Cases falling under the Category (iii).-- All cases should be referred to the Railway Board for decision.

(Copy received under C.O.S's letter No. S.236/I dated 9th February 1961.)

#### **ANNEXURE 45**

Copy of Board's letter NO. 62/RS/(G)/768/9 dated 26th October 1962 addressed to General Managers, All Indian Railways etc.

Sub : Price preference for indigenous/ex-stock imported  
stores over imported stores subject to import assistance

---

It has been observed that frequent references are being received by the Board from the Railway Administrations for according Board's approval to the acceptance of indigenous/ex- stock offers involving price preference of more than 25 per cent even when the purchase is proposed to be made on grounds of urgency. It is clarified that in cases where the stores are proposed to be procured on grounds of urgency, Board's approval is not necessary even if the price preference of more than 25 percent might be involved. Such cases, in future, be dealt with in accordance with extant orders applicable to emergency purchases.

This is in continuation of the concluding para of Board's letter No.55/645/5/RS(G) dated 11th January 1962.

## **ANNEXURE 46**

Copy of letter No.69/RS(G) 779/24 dated 21st August 1971 from Dy .Director, Railway Stores(G), Railway Board, New Delhi, addressed to General Managers, All Indian Railways.

Sub : Purchase and price preference products of public enterprises in competition with private sector undertakings.

---

A copy of Ministry of Finance (Bureau of Public Enterprises), New Delhi's O. M. No. BPE/1/52/Adv.(F)/7 dated 19th June 1971 is sent herewith for implementation of the decisions contained therein. This supersedes the earlier instructions contained in Board's letter of even number dated 20th June 1969.

Copy of Office Memorandum No. BPE/1/(52) Adv. (F)/71 dated 19th June 1971 received from Ministry Finance.

Sub : Purchase and price preference products of public enterprises in competition with private sector undertakings.

---

The general guidelines for pricing policies to be adopted by public enterprises were laid down in the B.P.E.'s Office Memorandum No.BPE/46/(Adv)(F)/68/25 dated 27th December 1968.

2. With a view to maximize the utilization of installed capacities it has been decided at the highest level to give preference to public sector undertakings in the matter of purchases. The following guidelines are prescribed in the connection : -

(a) Investments in the public sector are made on overall grounds of public policy. Public sector undertakings have to be made viable. Ministries and Government departments should, therefore, invariably purchase their requirements from public sector undertakings to the maximum extent possible wherever such undertakings manufacture the goods required. Quality requirements and reasonable delivery schedules should, of course, be enforced;

(b) Subject to negotiation for an agreement of price, a price preference not exceeding 10 per cent will be admissible to public sector undertakings;

(c) Where a public sector undertaking requires a price preference of more than 10 per cent, the purchasing Ministry or Department and the concerned undertaking should endeavour to reach agreement by negotiation;

(d) Where negotiations in regard to (c) above do not succeed within a reasonable time, the cases should be submitted to the Cabinet Committee for economic co-ordination for a decision ;

(e) A price preference even upto 10 per cent cannot be permanent or taken for granted. Every effort should be made to bring down costs and achieve competitiveness.

3. The Ministries concerned with public undertakings are requested to bring the contents of this O.M. to the notice of all undertakings under their control for their guidance.

#### **ANNEXURE 47**

Copy of Railway Board's letter No.60/WI/DMF/10 dated 4th November 1960 from Joint Director, (Civil Engineering), addressed to General Managers, All Indian Railways.

A case has come to the notice of the Board in which a Tender committee recommended the acceptance of the lowest tender but when the authority competent to accept the same asked the committee to reconsider their recommendation in view of the fact that the lowest tenderer had a large number of works in hand and may not, therefore, be able to complete the work in time, the committee reversed their earlier recommendation and recommended the second lowest tender.

It has been considered that the Tender Committee, while making their earlier recommendation, did not take into account the tenderer's capacity to execute the work, bearing in mind the load of work which he had already in hand. The Board desire that the Tender Committees should examine, while making their recommendations, all relevant factors such as the existing work load on the lowest two or three tenderers, their capacity to execute further work, and also whether the rates quoted as reasonable and workable.

The above instructions may kindly be brought to the notice of all concerned.

#### **ANNEXURE 48**

Copy of letter No.61-B(C) -N/27 dated 28th February /1st March 1962 from Shri. K.P. Taimini, Joint Director, Finance, Accounts, Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub: Loss due to incorrect evaluation of tenders for goods handling contract.

---

A case has come to Board's notice wherein on a certain Railway, the tender schedule to the handling contract was revised to itemize the various types of work done at the station instead of some of the items of work being exhibited, after conversion, as a single unit. The significance of this change in the tender schedule was, however, not appreciated by the staff, Gazetted and non-gazetted, who dealt with the tenders, as the anticipated quantities of work were not exhibited against the fresh items and the very high rate offered by one of tenderers against one such item was not evaluated. The tender committee, also overlooked this deficiency in evaluation but in the letter of acceptance issued to the contractor whose tender was accepted, the item and the rate offered there against was exhibited resulting in unintended payments being made to the contractor till the matter came to the notice of administration.

The Board have stressed from time to time, the imperative need for the correct preparation of the tender documents and incorporation therein of the anticipated

quantities of work against the various items on best approximations. They would also reiterate their earlier instructions that in the evaluation and consideration of the tenders, the tender documents should be carefully scrutinized, particularly in regard to the reasonableness of the rates and specially when changes have been made in the form of invitation to tender.

#### **ANNEXURE 49**

Copy of letter No.63-TGII/6 dated 13th September 1963 from Dy. Director, C.T.I.C., Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub : Scrutiny and the evaluation of goods handling rates  
quoted by the Contractors at the time of tender.

---

In continuation of Board's letter No.61-B(C)/N/27 dated 1st March 1962, the Board desire to elucidate further the background against which the need for vigilance in scrutinizing the tender documents and evaluating the reasonableness of the rates quoted by handling contractors against each of the items of work was emphasized, As Railways are aware it is not an unusual feature that abnormally high rates are quoted occasionally by tenderers for specific items of handling work, where the quantities of work either nil or normal.

Such items of abnormal rates probably get ignored in assessment because the quantum of work estimated on the specific items involve comparatively small or negligible quantities of work or because an overall view is taken of the contract as a whole on the basis of the total financial evaluation. It may be mentioned in this connection that in a recent case brought to the notice of the Public Accounts Committee through an audit paragraph it was noticed that the rates quoted by a handling contractor, which were adjudged to be the lowest, inter alia, included a rate of Rs.75 per Meter Gauge wagon for an item (where the quantum of work was omitted to be indicated in the schedule to the tender notice) as against the rate Rs.6.75 and Rs.8/- quoted by two other tenders. The contractor who had knowledge of the work involved by virtue of his having held the contract in the past, evidently took advantage of the lacuna and quoted this abnormally high rate. In the particular case, the contract was awarded on the basis of overall financial evaluation on estimated quantities in terms of Broad Gauge wagon only, for which a lower rate of only Rs.5 was quoted. Since the quantum of Meter Gauge work had been included under Broad gauge the rate of Rs.75 per Meter Gauge wagon did not separately figure in the evaluation of the tenders. When the actual work handled turned out to be in terms of Meter Gauge wagons, the contractor had naturally to be allowed the unintended benefit, of the higher rate. It would be appreciated that in respect of tenders such as for the Transshipment work the quantum of estimated work is liable to vary due to factors such as change in pattern of traffic, diversions due to operation reasons, accidents, breaches etc. In such contingencies the abnormally high rates might become operative to a greater extent than originally foreseen with the result that Railways run a considerable risk of unintended payments on the basis of such rates. It is, therefore, necessary the Railway Administrations should scrutinize the rates of individual items at the time of examining the tenders and be satisfied on their reasonableness, irrespective of the quantum of traffic at that time.

The Board therefore desire to reiterate the instructions already issued in their earlier letter dated 1st March 1962 that in the matter of evaluation and consideration of tender documents, particular care should be taken to ensure that the rates quoted for individual items are realistic and are not abnormal and unreasonable in respect of any item of work.

### **ANNEXURE-50**

Copy of Board's letter No. 61-B(C)-NE/9 dated 23rd September 1960 addressed to General Managers, All Indian Railways.

A case has been brought to the notice of Railway Board by the A.D.A.I.(Railways) where a single tender was invited for the work in connection with the internal wiring spread over various places on a particular Railway.

The A.D.A.I. has pointed out, that since the work was spread over various places, this factor itself would debar the contractors from quoting, whose rates might other wise be lower, but who may not be interested in undertaking the work at places far too distant from each other or from their headquarters. The Railway Board agree with the A.D.A.I. that it would be advantageous if the Railway Administrations while inviting tenders for such work, invite quotations for the work at all places collectively as well as for the work at each place or group of places fairly close to each other. Necessary action may kindly be taken accordingly.

### **ANNEXURE - 51**

Copy of Board's letter No. 59/777/RS(G) dated 4th May 1960 to General Managers, Southern Railway etc.

Sub : Recommendations of the Railway Corruption Enquiry  
Committee-Late and delayed tenders

---

In their report the Railway Corruption Enquiry Committee had  
inter alia recommended that-

(i) Late tenders i.e., tenders received after the specified time of opening should not be considered.

(ii) Delayed tenders i.e., tenders received before the time of opening but after the due date and time of receipt of tenders should also not be considered save in special circumstances where the Purchasing Officer feels that the response through other tenders received in time is not adequate, or competitive and it is established that the delayed tender is bona fide in the sense that no undue advantage would accrue to the tenderer through such consideration.

The Board have considered the recommendations and decided that as a rule late tenders i.e., tenders received after the specified time of opening should not be considered. The General Manager, in consultation with Financial Adviser and Chief Accounts Officer may however, accept " Late " tenders in exceptional cases where such a decision is in the interest of encouraging indigenous production or where he is satisfied that such a decision is necessary in the absence of adequate

competition. The term "Absence" of adequate competition may be taken to mean cases where one or more of the following factors intervene:-

(i) That stores under purchase are chronically in short supply against which the number of acceptable offers is less than three.

(ii) That ring prices have been quoted by the tenderers for the particular stores under purchase.

(iii) That the products of only one manufacture have been offered for supply by all tenderers irrespective of the number of quotations.

(iv) That the only acceptable offer out of a number of offers for a product ordinarily not in short supply is 10 per cent higher than the last purchase price.

(v) That the stores have not been purchased previously and number of acceptable or near acceptable offers is less than three.

3. In the case of "delayed tenders" the Purchasing Officer, in consultation with the Accounts Officer, may consider them in the special circumstances under the conditions stipulated by the Railway Corruption Enquiry Committee. In other words, the powers in this respect will be delegated by the General Manager's information through the Financial Adviser and Chief Accounts Officer.

4. " Late " and " delayed " tenders should be entered in the comparative statement of tenders prominently in red ink.

5. The Board desire that, when inviting tenders, the date and the specified time of closing and opening the tenders should be distinctly stated in the tenders i.e., there should be interval between the time of closing and time of opening.

6. The powers as given to the General Managers in the case of "late tenders" may not be re-delegated. Where, however, it is proposed to enter into negotiations, the Purchasing Officers may, in consultation with their Accounts Officer, decide to call late and Delayed Tenderers for negotiations within their powers of purchase.

7. This supersedes Board's letter No.55/166/2/RE dated 21st October 1955 and D.O.No.55/166/2/RE dated 14th January 1956 on the subject.

## **ANNEXURE-52**

Copy of Board's letter No.71/RS(G)777 dated 1st September 1971 addressed to General Managers, All Indian Railway.

Sub : Acceptance of 'Late' Tenders

---

Substitute the following for column (4) against item 1 of Annexure 'B' to Board's letter No.F(X)-62-PW4/3 dated 9th March 1964 :-

"These powers may be exercised by the Heads of Departments also upto their normal powers of acceptance, with the personal concurrence of the Dy. Financial Adviser and Chief Accounts officer".

(This also disposes of the General Manager, Northern Railway, New Delhi's letter No.64/F/SI/3/IV dated 2nd January 1971)

### **ANNEXURE 53**

Copy of Railway Board's letter No.67/RS(G)/777/1 dated 18th September 1967, New Delhi, addressed to General Managers, All Indian Railways.

Sub : Acceptance of "Delayed" Tender by Purchase Officers

---

Pursuant to the discussions during the 26th periodical meeting of the Controller of Stores with Railway Board held at Poona in July last, the question of acceptance of "delayed" tenders has been examined. The Board see no justification to make any departure from the accepted recommendation of the Railway Corruption Enquiry Committee, in this regard, as circulated in their letter No.59/777/RS(G) dated 4th May 1960.

2. It is also clarified that even postal stamps cannot straight away be accepted as conclusive evidence of bona fides and any tendency therefore to accept "delayed" tenders, as a normal feature of accepting tenders, should be curbed. All possible steps should be taken to reduce the number of delayed tenders received. With this object the interval between the specified closing time for submission of tenders and actual opening of tenders could be reduced to the maximum possible extent down to half an hour only, wherever practicable, consistent with local conditions.

### **ANNEXURE 54**

Copy of letter No. 63./747/29/Track dated 5th July 1968 from Director (Civil Engineering), Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

(Wr.Br.No.W.496/P dated 22nd July 1968)

Sub : Incorrect assessment of time in the assembly and erection of Girders

A case has come to the notice of the Board where a Tender Committee. at the time of dealing with tenders for imported bridge girders, did not assess correctly the time likely to be taken in the transport to the site, assembly and erection of the girders after their shipment from a foreign port. Allowing a very short time schedule for these, the Tender Committee accepted an earlier delivery date from a contractor who quoted a higher rate. On account of the longer time taken in transporting the bridge girders to the site and its erection, the advantage of the earlier delivery date could not be fully realized. This led the Audit to question the wisdom of the Tender Committee in accepting a higher rate when the original time schedule for opening of the bridge could not be adhered to in actual practice.

The Board desire that in accepting conditions particularly in cases involving extra payment, a realistic and practical assessment of the full utilization of the benefit should be worked out and adhered to.

### **ANNEXURE 55**

Copy of Board's letter no. 66/WI/CT/22/A dated 20th May 1967 addressed to General Managers, All Indian Railways and others.

Sub : Earnest Money for Works and Stores contracts

---

It has been observed by the Railway Board that though the tender conditions for works contracts stipulates that tenders unaccompanied by earnest money will not be considered, there have been cases where such tenders have been considered by the Tender Committees at their discretion by giving another chance to the tenderers to deposit the earnest money and thereafter tenders have been accepted by the competent authority. The Railway Board desire that hereafter tenders unaccompanied by the requisite earnest money should, under no circumstances, be entertained and should be summarily rejected. If this has not been made sufficiently clear in the existing tender papers, the same should be redrafted suitably to emphasize this aspect.

2. As regards stores contracts, however, the relaxations already allowed in Board's letters No.56/148/1/RE dated 17th December 1956 and No.57/155/1/RS(G) dated 12th April 1961 may be allowed to continue but the re-delegations of the powers to other purchase officers permitted should be withdrawn with immediate effect. These relaxations would apply equally to the sale of materials by tenders in terms of 2310-S, 2320-S and 2321-S.

### **ANNEXURE 56**

Copy of letter No.56/148/1/RE dated 17th December 1956 from Shri H.D.Singh, Director, Railway Equipment, Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub : Earnest Money and Security Deposit for Stores contracts

---

It has been represented to the Railway Board that the railways are experiencing difficulties in asking the firms to comply with the requirement of payment of earnest money and security deposits as laid down in Paras 339(a) and 448 of the State Railway Code for the Stores Department. This difficulty is being experienced particularly in case of single and limited tender purchases from firms who are exclusive suppliers of particular types of stores, but who are not borne on the list of approved suppliers, as also in case of some firms of repute and good standing for stores against open tender purchases.

2. Railways have already been authorized, vide Board's letter No.F(X)II-56-ST-1/3 dated 8th September 1956 to waive the requirement of security deposit in respect of purchase of steel from controlled stockist whose are duly authorized by the Iron and Steel Controller.



In other cases the Railways have in each individual case to approach the Railway Board for relaxation of the conditions laid down in the Stores Code, as the Railways in such cases are faced with no other alternative but to recommend acceptance of the terms quoted by the firm. The Board have considered the matter and have decided as stated in Para 3 below.

3. In cases of Stores contracts, where the firms are unwilling to pay earnest money and security deposit, the General Manager, in specific cases, where considered justified in public interest, may in consultation with the Financial Adviser and Chief Accounts Officer, relax the conditions of earnest money and security deposit. These powers shall be exercised by the Controller of Stores for purchase upto Rs.30,000 in each individual case. The powers of financial concurrence in this respect shall be exercised personally by the Financial Adviser and Chief Accounts Officer or any of his Junior Administrative Officers.

4. It is, however, made clear that this does not in any way alter the provisions laid down in Paras 1115 and 1123 of the Indian Railways Code for the Engineering Department.

#### **ANNEXURE 57**

Copy of letter No.57/155/1/RS(G) dated 12th April 1961 from Government of India, Ministry of Railways (Railway Board), New Delhi, addressed to General Managers, All Indian Railways etc.

Sub : Earnest Money and Security Deposit for Stores  
Contracts

---

Reference Railway Board's letter No.57/155/1/RS(G) dated 24th June 1960 on the above subject and your reply thereto. After careful examination, the Board have decided that no earnest money need be taken from other Railways, Government Department, small Scale Industrial Units recognized by the National Small Scale Industrial Corporation, Manufacturers and their accredited Agents and firms borne on Railways list of approved suppliers in respect of 'Single', Limited and 'Open' tender enquiries.

It has also been decided that security deposit need not be taken from other Railways, Government Departments, Small Scale Industrial Units recognized by the National Small Scale Industrial Corporation. This relaxation may also be allowed to firms borne on Railways list of approved suppliers for items for which the firms as registered as experimental measure of a period of 3 years upto 31st March 1964. The usual security should, however, be taken in case contracts are placed with unregistered firms/or for items for which a particular firm is not registered.

In cases of stores contract, where the unregistered firms are unwilling to pay earnest money and security deposits and registered firms are usually to pay security deposits in respect of items for which they not registered, the Controller of Stores may in consultation with financial Adviser and Chief Accounts Officer exercise powers vested in the General Manager vide Para 3 of Board's letter No.56/148/1/RE dated 17th December 1956. These powers may also be re-

delegated to other purchase officers upto the limit of their powers of purchase who will decide individually cases on merits in consultation with Financial Adviser.

It is however, made clear that this does not in any way alter the provisions laid down in Paras 1115 and 1123 of the Indian Railway code for the Engineering Department.

### **ANNEXURE 58**

Copy of letter No.69/WI/CT/38 dated 18th September 1969 from Joint Director (Civil Engineering), Railway Board, New Delhi, addressed to General Managers, All Indian Railways and others.

Sub : Acceptance of Tenders unaccompanied by a valid Income-tax clearance certificate.

-----

The question of acceptance of tenders unaccompanied by valid Income-tax clearance certificate, submitted by Contractors borne on the approved list of contractors on Railways, has been under consideration of the Board.

It has now been decided by the Board that the Tender Committee may use their discretion for considering tenders without the valid Income-tax clearance certificate, subject to the condition that in the event of such a tender being accepted, no payment shall be made to the contractor for the work carried out or the material supplied under the contract, nor shall the contractor make a claim for any such payment until and unless a valid Income-tax clearance certificate is produced. In such cases, it should be ensured that this aspect is clearly brought out in the letter of acceptance and the agreement.

### **ANNEXURE 59**

Copy of letter No.68-B(C)-PAC/IV/23/20 dated 25th October 1968 form Director (Civil Engineering), Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.,

Sub : Recommendation No.20 of the 23rd Report (Fourth Lok Sabha)of the Public Accounts Committee on Para 33 of the Audit Report (Railways) 1967- Western Railway- Extra expenditure due to failure of a contractor

---

In a case reported in Para 33 of the Audit Report (Railways) 1967, a Railway Administration awarded a contract for supply of ballast at a cost of Rs.5.46 lakhs to a contractor, who was no on the approved list, without formally verifying his credentials before accepting his offer.

As a result of subsequent failure of the contractor, the Railway Administration had to make alternative arrangements, resulting in an extra expenditure of about Rs. 1.86 lakhs. The Public Accounts Committee in their comments on this para have criticized the award to such a big contract to a contractor whose credentials were not properly verified. Para 1104 of the Indian Railway Code for the Engineering Department as well as Para 2 of the Standard regulations for tenders

and contracts require that no work or supply should be entrusted for execution to a contractor whose capabilities and financial status have not been investigated beforehand and found satisfactory. The instructions laid down are sufficiently elaborate and there should be no occasion for any lapse of failure to follow the prescribed procedure. The attention of all concerned should be drawn to these standing .PAC orders in order to ensure that such instances do not occur in future.

### **ANNEXURE 60**

Copy of letter No.67/W5/RP2/9 dated 4th December 1968 from Joint Director (Works), Railway Board, new Delhi, addressed to General Managers, All Indian Railways. etc.

(Wr.Br.No.W.496/P dated 17th December 1968)

Sub: Contracts for earthwork

---

Of late, several instances have come to Board's notice wherein on important projects such as new lines, doublings, yard remodelling etc., the progress of the works had been severely affected due to failure of the earthwork contractors. In order to avoid the risk of such failures on the part of the contractors and consequent delay to works, Board desire that special attention should be paid to the selection of contractors for carrying out such works while deciding tenders.

### **ANNEXURE-61**

Copy of Railway Board's letter No.67-(B)-PACIII/72(13) dated 8th April 1970 from Director, Accounts, addressed to General Managers, All Indian Railways and Production Units.

Sub : Report of the High Level Enquiry committee set up by the Railway Board to enquire into the cases reported in Para 12 of the Audit Report (Railways) 1966 C.L.W. Extra expenditure incurred in rejecting the lowest tenders for fabrication and erection of steel structures connected with the Electric Locomotive Project and expansion of Steel Foundry Project.

---

As recommended by the Public Accounts Committee in Para 3.34 of the 72nd Report, 1966-67 (3rd Lok Sabha), the above noted case was enquired into by a High Level Enquiry committee consisting of Additional Members, Finance, Works and Mechanical and the A.D.A.I.(Railways).

The Committee have pointed out certain irregularities with respect to the procedure followed by the Tender Committee as well as by the C.L.W. Administration. In respect of Tender Committee, the High Level Committee have observed that –

(a) a firm which was earlier considered suitable for the award of the contract was subsequently rejected on account of labour troubled in a sister firm of the same factory but the labour trouble was not fully investigated and details recorded in the Tender Committee proceedings:

(b) negotiations were conducted with only one firm while the claim of another firm which was equally capable and whose quotations were only slightly in excess was not considered for negotiations; and

(c) another firm had mentioned in their tender that they were already undertaking certain items of fabrication work. These were not fully enquired into and recorded in the Tender Committee proceedings before rejecting this firm as unsuitable.

The High Level Committee have also commented -

(i) on the failure of the C.L.W. Administration to estimate more precisely in the initial stage itself the quantities of work to be executed which necessitated conducting of negotiations;

(ii) on non-fixation of relative priority for execution of the two contracts if this would have been possible; and

(iii) on the administration undertaking to supply steel for the fabrication work while the contract initially executed provided for the supply of steel by the firm, without ascertaining and recording in detail the financial implications involved.

2. So far as the procedure for dealing with tenders is concerned, the need for careful examination of all aspects including physical and financial capacity of the various tenderers, their technical competence etc., and to record in detail the reasons for which particular tenderers are overlooked or only certain tenderers are called for negotiations in the Tender Committee proceedings is well known.

3. The above noted lapses, however, are brought to the notice of the Railways to ensure that similar omissions to record circumstances contemporaneously do not occur. Attention is also invited to Board's letter No.67/WI/CT/32 dated 25th May 1968 laying down the guidelines for conducting negotiations. In regard to the comments on the C.L.W. Administration, the Board have already issued general instructions on the subject of the need to estimate correctly the quantities of work to be executed vide Board's letter No.67-B(C)PAC-III /72(24) dated 29th November 1967. The observations of the High Level committee in regard to points (ii) and (iii) of Para 1 are brought to the notice of the Administrations for their guidance.

## **ANNEXURE 62**

Copy of letter No.70/W2/21/14 dated 13th July 1970 from Director (Civil Engineering), Railway Board, New Delhi, addressed to General Manager, Southern Railway, Madras

Sub : Building costs index for construction of staff quarters

(Ref : Your Chief Engineer's D.O.letters No.W.399/P dated 5th February 1971 and 23rd April 1970).

---

The difficulty raised by your Railway regarding delay in deciding the tenders for staff quarters on account of the cost of the work as per the tenders exceeding that as per building cost index adopted at the time of preparing the estimate has been examined by the Board.

2. It is clarified that the Building costs index if brought up-to-date as and when found necessary, would be useful not only at the time of preparing the estimate for the staff quarters but also to judging the reasonableness of the tendered rates at the time of deciding the tenders. If there is no significant variation in the building cost index between the preparation of the estimate and the consideration of tenders the tendered rate should be within the estimated cost. If, however, there has been a rise in the market rates due to which the building cost index adopted at the time of preparation of the estimate may not hold good, it would not be correct to reject the tenders merely on this account, if the Tender Committee feel and are able to recommend that the tendered rates are otherwise reasonable and may be accepted. It would only mean that the initial estimates may have to be revised if the excess is beyond the permissible limited of variation. In preparing the revised estimate, the building cost index would, of course, have to be updated. It is not the intention of the Board that such updating should be pre-requisite for acceptance of the tenders, if, as stated under, the tenders are otherwise considered reasonable by the Tender Committee and by the accepting authority.

## **ANNEXURE 63**

Copy of Railway Board's letter No.67/RS/G/779/17 dated 23rd June 1967 addressed to General Manager, All Indian Railway and others.

Sub : Obtaining the acknowledgements for the receipt of letters of acceptance by the Contractors.

----

In continuation of this officer letter No.625/RS/G/779/26 dated 27th December 1962 regarding receipt of acknowledgements to purchase orders, it has been decided by the Board that in cases where the terms and conditions incorporated in the letter of acceptance purchase order are different from those originally offered but modified by the tenderers subsequently during the course of negotiation, discussion or otherwise, the contractors should be asked to return one copy of letters of acceptance/purchase orders duly signed by the same person who signed the original offer against the tenderers in token of his acceptance of the contract to the revised conditions.

Where the letters of acceptance/purchase orders are placed on the bases of terms and conditions originally stipulated by the tenderers, the procedure as laid down in Board's letter dated 27th Decembers 1962 referred to in Para 1 above should continue to be followed.

#### **ANNEXURE 64**

Copy of letter No.62/RS/(G)/779/26 dated 27th December 1962 from Shri P.L. Chopra, Dy. Director, Railway Stores, Railway Board, New Delhi addressed to General Managers, All Indian Railways etc.

Sub : Receipt of Acknowledgements to Purchase Orders

(Ref : Board's letter No.E(S) -61/GR/2/9 dated 16th/17th May 1962)

----

It had been represented to the Board that strict implementation of the orders contained in the aforementioned letter would result in an additional expenditure to the tune of a few thousands of rupees per annum, as at present only a few orders were being despatched under registered acknowledgement due covers. The matter has therefore, been re-examined by the Board and it has been decided that purchase orders costing over Rs. 10,000 or those accompanied by import license etc. or covering cases of price preference for earlier delivery etc. and also those specifically required to be sent by registered acknowledgement due by the purchase officers, should only be sent under registered acknowledgement due covers. Other purchase orders could be sent in manner convenient to the Railways. But all purchase orders irrespective of the monetary limit value should invariably be accompanied by an acknowledgement slip/card in form given in Annexure `A' and the return thereof should be watched for a period of 10 days or so from the date of issue of the Purchase Order. In the event of this acknowledgement not forthcoming from the firm, the defaulting firm may be reminded to expedite return of the acknowledgement.

It has also been decided that Purchase Orders unless otherwise specified by the Purchase Officers, meant for one firm may be sent in a single cover.

## **Annexure `A'**

### Acknowledgement Form

(This slip/card should be completed, signed and returned to the Controller of Stores, Railway .....immediately on receipt of the Purchase Order).

Receipt for Purchase Order No. .... dated ..... together with/without ..... is acknowledged. The work will be taken in hand in terms thereof.

Stamped signature of the Firm's representative

## **ANNEXURE 65**

Copy of Joint Circular No.W.496/P dated 10th June 1957 issued by Financial Adviser and Chief Accounts Officer and Chief Engineer.

Sub : Procedure for Receipt of Tenders in Divisions

---

The following instructions regarding the procedure for receipt of tenders for works in Divisional Offices should be followed with immediate effect : -

(1) A tender box should be kept outside the office room of the Divisional Engineer duly locked by him and sealed by the Divisional Accounts Officer. If a number of tenders are running more or less concurrently, a tender box should be set apart for each of them prominently marked `Tender for.....(Work)'. Local tenderers may be instructed to directly deposit their tenders in the correct box. Tenders received by post within the time specified may be received by the Head Clerk of the Section who should immediately drop them in the proper tender box without opening the envelope or breaking seal.

(2) The tender boxes should be kept outside the Divisional Engineer's room during working hours of the office and they should be removed and kept in safe custody in the Divisional Engineer's Office room during holidays and out of office hours.

(3) At the appointed time for the tenders to be opened and scrutinized, the sealed box should be opened in the presence of the Divisional Engineer and the Divisional Accounts Officer but if either or both of them are not available, the opening should be done in the presence of their nominated representatives. Should there be any time lag between the time by which the tenders are to be deposited and the time at which they are to be opened, the tender box should be sealed over at the closing time fixed for the receipt of the tenders, so that no additional tenders can be deposited in the box after the scheduled time.

(4) When the tender box is opened and the contents taken out, the tenders should be serially numbered and initialled by both the divisional Engineer and Divisional Accounts Officer or their representatives. The tender covers should then be opened at the time specified for the purpose, and the rates read out to the assembled contractors or their authorized agents as may be present, and the quotations tabulated. The consideration of tenders will be done in due course according to the procedure prescribed for this purpose.

(5) All other instructions regarding initialling of the tenders, corrections, etc. contained in General Manager's Circular letter No.G.2225/11 dated 16th February 1955 should be followed.

### **ANNEXURE 66**

Copy of Headquarters General Branch letter No.W.496/II dated 31st March 1965 addressed to All Heads of Departments, Divisional Superintendents etc.

Sub : Constitution and functioning of Tender Committee

---

The principal idea behind the constitution of Tender Committee is that all the members comprising the Committee meet at one place, consider the tenders at the same time and reach a decision, without the formalities of correspondence and exchange of notes. It has, however, come to notice that in a number of instances, such Committees do not meet but the papers are circulated amongst the members. This is not a satisfactory arrangement and certainly not in consonance with the principles underlying the consideration of tender by a committee. It is, therefore, reiterated that every Committee constituted for the consideration of a particular set of tenders must meet, consider the tenders and frame their recommendations. It should, as far as impossible, be ensured that even the minutes of the meeting are signed before the members disperse so that there is no further delay in processing the papers.

### **ANNEXURE 67**

Copy of letter No.496/II dated 15th May 1968 from General Manager, Southern Railway, Madras addressed to H.O.Ds.-

Sub : Acceptance of Tenders

---

Reference is invited to Para 1 of out circular letter of even number dated 21st September 1965, extracted underneath-

"It is necessary that officers serving as Members of Tender Committee should record full reasons whenever they pass over offers. This may be specifically brought to the notice of the officers who have to function as Tender Committee Members."



2. Although there is technical compliance with this requirements, yet it is found in a few cases that the Tender Committee, who had rejected the lowest tender and had recorded the reasons therefore, advance at a later stage other arguments which the committee had not recorded at the first instance. This was rather embarrassing and was otherwise commented upon.

3. Tender Committer are therefore enjoined to note that -

(i) All arguments which weigh with them for rejecting a lowest tender should be fully recorded at the vary first instance ;

(ii) Other arguments that are advanced at a later stage for rejecting the lowest tender will not be accepted; and

(iii) The minutes of the Tender Committee must be drawn up in the first instance and signed by all the members before they disperse (vide Confidential letter No.W.496/II dated 31st March 1965).

4. These instructions are to be circulated to all officers under your control.

### **ANNEXURE 68**

Copy of Railway Board's letter No.58-B(C) 3072 dated 15th May 1958 addressed to General Managers, All Indian Railways.

Sub : Audit para included in the Railway Audit Report 1958-  
Extra expenditure owing to a defective agreement.

---

The Audit have brought to notice a case in which an urgent indent was placed by one Railway Administration on the Director General, Supplies and Disposals, New Delhi for the procurement of underground cables required for the execution of a work for which staff had already been appointed by the Railway Administration. The firm with whom the Director General Supplies and Disposals signed the contract for the supply of these cables stipulated the delivery period as two months after receipt of import licence. The following clause, also which appeared in the tender of the firm was inserted in the contract entered into: -

"The delivery date quoted by the firm was contingent on the firm not being delayed as a resulted of non delivery of raw materials or by any other clause beyond their control ".

Later on the firm did not supply the material even after the import license had actually been issued to them. On being served with a risk purchase notice, the firm requested for the cancellation of the order on the ground that they could not arrange supply due to difficulty in obtaining raw material. The legal opinion obtained in the matter was to the effect that it would not be possible to enforce risk purchase against the firm in view of the protective clause, referred to above, included in the contract.

The contract had therefore to be cancelled without financial repercussions on either side, and the Railway Administration concerned had to purchase the store from the open market resulting in an additional expenditure to the extent of Rs. 45,000 over and above the loss incurred on the salaries of idle staff.

The Audit have commented that the insertion of the protective clause in the contract was not warranted for the following reasons : -

(i) The firm had made no mention of the scarcity of raw material or any other difficulty in their tender, but had on the contrary, certified in the schedule to the tender that they had sufficient raw material in stock for the manufacture of the stores quoted.

(ii) The clause was inconsistent with the general conditions of contract governing the purchase of stores and the purchase officer who inserted it was not competent to do so without the sanction of the Ministry.

(iii) An escape clause in such wide terms was inconsistent with the urgency of the demand.

(iv) The Board agree with the audit comment and desire that all Railway Administrations, while entering into such contracts, should see that protective clauses of this nature do not find their way into the contracts. This may please be brought to the notice of all concerned.

## **ANNEXURE 69**

Copy of Railway Board's letter No.58-B(C) 2498/II/7th Report dated 12th September 1956 addressed to General Managers, All Indian Railways.

Sub : Recommendation of the Public Accounts Committee made in their Seventh Report (2nd Lok Sabha)-regarding inclusion of penalty and liquidated damages clauses in the agreements entered into with private firms.

---

The Public Accounts Committee in recommendation No.23 of their Seventh Report(2nd Lock Sabha) on the Appropriation Accounts(Civil) 1953-54 and 1954-55 etc., have observed as under

"With a view to preventing recurrence of such cases involving advance payments to private firms the Committee would suggest that the agreement should invariably contain a penalty clause and payment of liquidated damages by the defaulting firm by way of interest on the money advanced to it".

A copy of the relevant paragraphs of the report which gives briefly the background of this recommendation is also enclosed for your information.

The Board desire that these observations of the Committee should be carefully noted and steps taken to ensure that the conditions laid down in them are fulfilled before making advance payments to private parties etc.

## **ANNEXURE 70**

Copy of letter No. 58-B(C)6000/II/11th Report dated 10th June 1959 from Joint Director, Finance (Budget), Railway Board, Government of India, (Ministry of Railways), New Delhi addressed to General Managers, All Indian Railways etc.

Sub: Recommendation of general application made by the Estimates Committee in their Eleventh Report –Action taken thereon.

---

While examining Clauses 4 and 5 of the Agreement entered between the Automatic Telephone and Electric Co., U.K. (A. T. E.) and the Indian Telephone Industries (P) Ltd., the Estimates Committee have made the following observation in Para 15 of their Eleventh Report (Second Lok Sabha) on the Ministry of Transport and communications : -

"The Committee fail to understand why information is not available in the Ministry to show how Clauses 4 and 5 were included in the Agreement. They would suggest that while examining the implication of a various clauses contained in agreements which government might enter into with foreign firms or consultants, contemporary acceptance of the provisions contained therein should invariably be kept in the Ministry concerned".

The Board desire that while examining the implications of various clauses in the agreements entered into with foreign firms or consultants, the Committee's observations should be kept in view.

This may please be brought to the notice of all concerned.

## **ANNEXURE 71**

Copy of Railway Board's letter No. 59-B(C)/PAC/11/15th Report/ 23 dated 29th June 1959 from Director, Railway Board (Finance), New Delhi, addressed to General Managers, All Indian Railways.

Sub: Ensuring effective attention to the interests of the Government in connection with renewal or execution of agreements involving payments by Railway Authorities to outside parties

---

A case has come to the notice of the Public Accounts committee through an Audit paragraph, in which payments to an outside party, which were being made at a certain rate specified in an original agreement, continued to be made at that rate even after the expiry of the currency of the agreement, pending the execution of a fresh agreement for a further period.

This was obligatory under the contractual provision stipulating that the earlier agreement would operate even after its expiry, unless the prescribed notice of termination was issued by either party to the other. In the particular case, the outside party had submitted to the Railway Administration, before the expiry of the earlier agreement, the draft of a fresh agreement on terms which prima facie

were somewhat favourable to the Railway Administration than those contained in the earlier agreement. While the Railway Administration continued to press for still more favourable terms, it was not appreciated that, in the meantime, payment at the less favourable terms applicable under the earlier agreement had to be made, as the mere submission of a fresh draft agreement by the outside party to the Railway did not constitute the requisite notice under law. The Railway Administration, without checking up the contractual provisions of the earlier agreement, acted in the belief that the new agreement, when finalised after negotiations, would apply retrospectively from the date of expiry of the original agreement. The outside party eventually refuted this understanding; in the absence of requisite notice, such retrospective application could not be enforced, with the result that there was some avoidable additional expenditure over a certain period.

2. In view of the lapse in this case, the Railway Board desire that Railway Project and other Administrations should review all agreements involving payments to outside agencies, with a view to see that whatever action is necessary either to renew the agreement on terms more favourable to the Railway Administration than keeping in view of the date of expiry of the earlier agreement.

3. These instructions may be conveyed to all authorities subordinate to you.

## **ANNEXURE 72**

Copy of letter No. 59-B(C)PAC/11/15th Report/32 dated 27th May 1959 from Shri C.T. Venugopal, Director (Finance), Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub: Recommendation No.32 contained in Appendix II of the  
15th Report of the Public Accounts Committee (Second  
Lok Sabha)

----

In a certain agreement entered into with a firm for making supplies to the Railways, a reference to "Commercial price" was used in a particular clause without fully verifying the precise financial implications thereof according to the exact circumstances then obtaining in respect of contemporaneous contracts for similar supplies to other Government departments. In the result an unintended benefit was conferred on the firm of somewhat larger payments over a period than would have been admissible under other Government contracts, but no recovery was possible as there was no excess payment with reference to the terms of the agreement. This formed a subject matter of a para in the Railway Audit Report, 1955. The Public Accounts Committee, on reviewing the case recommended as follows :-

"The Committee trust that steps will be taken to ensure in future that when substantial sums of money or involved, the terms of the agreement are always negotiated with legal guidance".

The Railway Administrations are aware of the already existing provisions of Para 402(ii) of the Indian Railway Stores Code and also Para 2049 of the Indian Railway General Code, Volume I, which provide that, as far as possible, legal and financial advice should be taken in the drafting of contracts before they are finally

entered into. The Railway Board, in drawing attention to the aforesaid rules, desire that legal guidance is taken as a rule in executing agreements, more particularly when substantial sums of money are involved.

This may kindly be brought to the notice of all your subordinate authorities concerned.

### **ANNEXURE 73**

Copy of letter No. 59-B(C)PAC/II/XV/32 dated 5th November 1959 from Shri P.R.K. Menon, Joint Director Finance(X), Railway Board, New Delhi, addressed to General Manager, Southern Railway, Madras.

Sub: Recommendation No.32 contained in Appendix II of the 15th Report of the Public Accounts Committee (Second Lok Sabha).

----

The replies to the two points raised in your letter No. W.1148/P/C/N dated 17th October 1959 on the above subject are given below-

- (a) It is not considered necessary to take legal guidance in each individual case of contract, where the standard conditions of contract are adopted; and
- (b) Does not arise.

### **ANNEXURE 74**

Copy of letter No. 61/746/56/ Track dated 6th April 1963 from Shri R.K. Sambamoorthy, Joint Director(Track),Railway Board, New Delhi Addressed to General Managers, All Indian Railways etc.

Sub : Use of raw materials secured with Government assistance

----

Arising out of a recent case, the public Accounts Committee, have recommended that suitable measures should be devised to safeguard against the contingency of contractors/suppliers diverting raw materials secured with Government assistance to works other than those for which they were intended. In order to take adequate precautions to ensure that the contractors/suppliers do not misuse such material supplied to them for fulfillment of their contractual obligations, the matter was referred to the Ministry of Law for advise.

The Law Ministry have suggested that a provision might be made in the standard forms of contract by including therein a clause analogous to the one which is adopted by the D.G.S. & D. in their contracts. The relevant clause is reproduced below-

"Use of raw materials secured with Government assistance :- Where any raw materials for the execution of the contract are procured with the assistance of Government either by issue from Government stocks or purchase under

arrangements made or permit(s) or licence(s) issued by Government, the contractor shall hold the said materials as trustee for Government and return, if required by the purchaser, all surplus or unserviceable materials that may be left with him after the completion of the contract or at its termination for any reason whatsoever, on his being paid such price as Government may fix with due regard to the condition of the material. The freight charges for the return of the materials according to the directions of the purchaser shall be borne by the contractor, in the event of the contract being cancelled for any default on his part. The decision of Government shall be final and conclusive.

In the event of a breach of the aforesaid conditions, the contractor shall in addition to throwing himself open to action for contravention of terms of the licence(s) or permit(s) and/or sub-criminal breach of trust be liable to account to Government for all moneys, advantages or profits resulting or which in the usual course would have resulted to him by reason of such breach".

2. The Board have decided to include the above clause in contracts of this nature and desire that this clause may be incorporated by the Railways also in their future contracts of similar nature.

## **ANNEXURE 75**

Copy of letter No. 68/WI/CT/25 dated 12th July 1968 from Director (Civil Engineering), Railway Board, New Delhi, addressed to General Managers, All Indian Railways etc.

Sub : Supply of Railway materials to Contractors

---

Certain disputes have arisen in respect of additional lead and lift for taking Railway materials to the site of work, because the point where the Railway materials would be supplied was not specified in the contract.

The Board desire that in all contracts where Railway materials are to be supplied, the special conditions of contract should specify the place where various materials are to be handed over to the contractor and it should also be made clear that all lead and lift from that place to the site of work would be at the expense of the contractor.

**CONFIDENTIAL**

**SOUTHERN RAILWAY**

Headquarters Office  
General Branch  
Madras-600 003  
No. W.496/II/Vo1.IV

Dt. 9.9.80

Corrections to the Book-let containing  
the ruler regarding constitution of tender  
committees (Revised) and general principles  
to be followed to enter into contracts  
or agreement ( 1973 Edition).

. . .

Correction Slip No.13

In-corporate the following as sub-para (d) under para 1 of Chapter VI- General Instructions on page 12:-(d) Communications received after the date of 9 opening of tenders should not be considered in any circumstances except when a communication revising the terms/conditions of the original tenderer is financially advantageous to the Administration and that even if that communication is not taken into account, the tenderer would have been a successful tenderer".

(V. RAMASWAMI)  
for General Manager

**Southern Railway.**

Headquarters Office,  
Works Branch,  
Madras-600 003.

No. W. 496/P.

Dt. 6/9/95.

Sub: Two Packet System of tenders.

A copy of Railway Boards letter No.90/CE-I/CT/27 dt.17.8.95 received on the above is sent herewith for information and necessary action please.

for Chief Engineer.

---

**GOVERNMENT OF INDIA,  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.90/CE.I /CT/27.

New Delhi dated 17.8.95.

General Manager,  
Southern Railway,  
Madras & others.

Sub : Two Packet system of tenders.

----

Reference is invited to Board's letter No.85/W.I/CT/23-GCC dated [31.1.86](#)/2.86 wherein instructions have been communicated regarding inter alia, the 'Two Packet' system of tendering for works. A doubt has arisen on some of the Railways whether in this system the approval of the Board is required for opening of the financial bids if the value of the work is beyond the powers of acceptance of the General Manager.

In this connection it may be recalled that the Board have also communicated instructions for approved list of contractors for works. Board's letter No.80/CE.I/CT/74/dated [30.4.93](#) may be referred to. The General Managers are competent to approve the list of approved contractors in this range irrespective of the consideration that some of the works that may eventually be entrusted to them could be of value higher than Rs 5 crores, which is the limit for acceptance of tenders by GMs. In the 'Two packet System', essentially the same process of pre-qualification is expected to be done through the scrutiny of the contents of the first packet comprising evidence of Technical Capability, possession of appropriate machinery and equipment, Financial strength, experience etc. It would, therefore, be apparent that whenever such a system is followed, there is no need for the Railways, etc to seek the Board's approval before opening the Financial bids. The GM is competent to act on the recommendations of the TC relating to the first packet. While forwarding the recommendations of the TC (after negotiations have been held, if necessary on the financial part of the



tenders), the GM should give his personal comments on both, the Technical and the Financial aspects of the case.

This procedure is, however, not applicable to tenders relating to projects covered by World Bank Loan, which will continue to be dealt with in accordance with the procedure prescribed therefor.

This issues in consultation with the Finance Directorate Ministry of Rlys.

Sd/-  
(Ved Prakash)  
Exec. Dir Civil Engg (G)  
Railway Board

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 20021CE-I/CT/37

New Delhi, dated 2/8/2006

Addressed to

AS PER THE LIST 'A' ATTACHED.

Subject:- Inclusion of Joint Ventures/Partnership  
firms in tender conditions and NIT.

-----

With a view to ensuring better participation and competitions in the major tenders, especially those invited under two packet system, Ministry of Railways have decided that henceforth the tender conditions and the Notices Inviting Tenders should provide adequate clause to ensure participation by JVs/Partnership firms. These instructions may be brought to the notice of all concerned for effective implementation.

This issues with the concurrence of Finance Directorate of the Ministry of Railways.

Please acknowledge receipt.

(T.GUPTA)  
Executive Director Civil Engg.(G)  
Railway Board.

No. 2002/CE-I/CT/37

New Delhi, dated 2/8/2006.

Copy forwarded for information to the FA & CAO, All Indian Railways.

(T. GUPTA)  
Executive Director Civil Engg.(G)  
Railway Board.

### III. TENDERS

#### I (i). EVALUATION OF OFFERS – EMD & SD

S. No	Subject in Brief	
1	Acceptable forms of Earnest Money Amendment to <i>Para 6</i> of Tender Notice	31/12/69
2	Exemption from Payment of Earnest Money and Security Deposit for Works Contracts	17/10/77
3	Earnest Money for the Works Allotted to Rites	14/09/88
4	Earnest Money -Rounding off	03/01/79
5	Guarantee Bonds offered by Banks to Railways for Earnest Money	22/05/71
6	Furnishing of Bank Guarantees in respect of Transactions between Two Public Sector Enterprises and A Government Department (Circulated Vide CE's Dated 16.12.72)	03/11/72
7	Bank Guarantee Scheme Complaints	06/10/86
8	Acceptance of Postal Orders towards Earnest Money Security Deposits and towards Price of	20/09/85
9	Guarantee Bonds Acceptance of	14/08/80
10	Adjustment of Standing Earnest Money Between Civil, Elec. and Mech. Engg Works Contracts	06/02/89
11	Standing Earnest Money and Facilities for Tendering against	29/02/88
12	Standing Earnest Money interpretation	28/06/91
13	Bank Guarantees/Security Deposit	19/05/86
14	Earnest Money for Tenders for Works and Its forfeiture in the event of the Tenders resiling from his offer	27/05/78
15	Initial Security Deposit	22/07/92
16	Acceptance of IRFC Bonds as Security	24.02.93
17	Performance Bank Guarantee for Projects Under Bolt Scheme	20.02.96
18	EMD & SD	6.08.96
19	Submission of Bank Guarantee Bonds towards Mobilisation Advances Etc.,	14.11.96
20	Tenders – Acceptance of Banker's	1.10.97

	Cheques as EMD & SD	
21	EMD & SD- Proposal to Amend Slab 4 of Board Letter Dated 6.8.96	18.06.98
22	EMD & SD – ACS No.18	15.09.98
23	EMD & SD – ACS No.20	5.03.99
24	EMD & SD – ACS No.36	1.11.02
25	Waival of EMD & SD to CRIS	12.11.03
26	Report Of The Committee On Issue Of EMD & SD from PSUs	9.07.04
27	Guarantee Bonds Submitted by Contractors- Streamlining of Procedure	8.09.2005
28	Guarantee Bonds Submitted by Contractors- Streamlining of Procedure	5.9/10.05
29	Guarantee Bonds Submitted by Contractors- Streamlining of Procedure	2.11/12.05

Copy of letter No.69/WI/CT/54 of 31/12/1969 from the Joint Director, Civil Engg., Railway Board, New Delhi to the General Manager, All Indian Railways etc.

Sub:- General Conditions of Contract for Civil Engineering Works- Acceptable forms of earnest money-Amendment to para 6 of the Tender Notice.

-----

In pursuance of the instructions contained in their letter No.F(X)L-64-SO4/1 dated 10-10-1969 (copy enclosed), liberalising the forms of earnest money for works Contracts and amending Para 1115-E, Board desire that the 'Security Deposit' for due performance of the stipulation to keep the offer open till the date specified in the tender should also be accepted in the forms indicated in their above letter and accordingly the existing para 6 of Tender Notice may be amended as per Annexure-I to this letter.

---

Copy of letter No. F(X)I-64SC4/1 dated 10-10-1969 from Railway Board's Office addressed to General Managers, All Indian Railways and copy to other concerned.

Sub:- Earnest money- forms in which acceptable,  
Amendment of Para 1115-E.

-----

The question of liberalising the forms of earnest money for works contracts has been under consideration of the Board for some time past. It has now been decided that earnest money may be accepted not only in cash or in the form of Banker's guarantee bonds but also in other form provided for stores contracts under para 339- S. Accordingly it has been decided to amend para 1115-E. An advance copy of the correction slip is enclosed.

(This disposes of Eastern Railway letter No.C/33-35/FDR/57Pt.IV dated 30-1-1968.)

Advance copy of Correction Slip No. 56-E Para 1115-E.

-----  
Para 1115-E: Substitute the following for the existing sentence appearing after the words ``may be" in the line 6 of the para

"The earnest money should be in cash or in any of the following forms:-

(1) Deposit receipts, pay orders, demand drafts, or guarantee Bonds of the State Bank of India.

(2) Guarantee bonds executed by a Scheduled Bank provided

(i) the bond in question is countersigned by the State bank of India, whereby the State Bank of Indian undertakes full responsibility to indemnify the Railway in the case of default; or

(ii) the bank concerned lodges with the Reserve Bank of India requisite securities, namely, cash deposits or Government Securities, in respect of the guarantees executed by it and the Reserve Bank advises the Railway concerned that the bond may be accepted.

Government Securities (Stock certificates, Bearer Bonds, Promissory Notes, Cash certificates, & etc. should not be accepted.

(Authority: Board's letter No. F(X)L-64/SC461 dt. 10-10-1969)

**SOUTHERN RAILWAY**

Office of the  
General Manager (Construction)  
10, Millers Road,  
Bangalore-560 046.

No. G. 148/BNC Dated 31.10.1977

CE/CNMS. CE/CN/BNC.  
FN/ & CAO/CN/MS. DY. FN&CAO/CN/BNC

Sub: Exemption from payment of Earnest Money  
and Security Deposit for Works Contracts.  
-----

Copy of the Boards letter No. 77/W1/CT/37 dated 17/10/1977 of the above subject is enclosed herewith for your information.

For General Manager/Construction  
-----

Copy of Board's letter No. 77/W1/CT/37 dated 17.10.1977 addressed to GM/CN/BNC and others.

Sub: Exemption from payment of Earnest Money  
and Security Deposit for Works Contracts  
-----

The request made by M/s Bharat Heavy Electricals Limited regarding grant of exemption from payment of Earnest Money and Security Deposit for tenders to be submitted by them to Indian Railways/ Production Units etc. has been under the consideration of the Ministry of Railways (Railway Board) and has now been decided that so far as the Works Contracts are concerned, M/s Bharat Heavy Electricals Ltd. should be exempted from payment of the Earnest Money but will be required to furnish Security Deposit in each case.

This issues with the concurrence of the Finance Directorate of this Ministry.

Receipt of this letter may please be acknowledged.

Sd/-  
(M.R. ANAND)  
Dy. Director, Works,  
Railway Board.

## SOUTHERN RAILWAY

No.W.496/CE/BNC/Policy/Vol.VI

Office of the chief Engineer,  
Construction, 18, Millers Road  
Bangalore Cantonment-560 046.  
Dated: 17-10-88.

XENS/CN/MYS, HUP, BNC, ATP, CTA,  
MAQ, DL/GTL, CN/SBC @ BNC and G/BNC.

Sub:- Earnest Money for the works allotted to Rail India and  
Economical Services.

-----

Copy of Railway Board's letter No.88/CE.I/CT/44 dated 14.9.88 on the above  
subject is appended below for information and guidance.

(Sd/-)  
for CE/CN/BNC

-----  
Copy of Railway Board's letter No. 88/CE.I/CT/44 dated 14.9.88  
addressed to GM's etc.,

Sub: Earnest money for the works allotted to Rail India  
Technical and Economical Services.

--

Sanction of the Ministry of Railways is communicated for exempting M/s RITES,  
from depositing the earnest money for the works undertaken by them on the  
Railways.

Sd/--  
(ARIMARDAN SINGH)  
Director, Civil Engineering (G),  
Railway Board

No.88/CE.I/CT/44 New Delhi/dt.14.9.88

Copy (together with 140 spares) forwarded to ADAI Railways for  
information.

Sd/- x x x  
(ARIMARDAN SINGH)  
DA: a/a Director, Civil Engineering(G),  
Railway Board



## SOUTHERN RAILWAY

Officer of the  
General Manager (Constn)  
10, Millers Road,  
Bangalore-560 046.

No. G.143/BMC/vol.II of 3rd January, 1979

CE/CN/MS, BNC, FA&CAO/CM/MS Dy. FA&CAO/CN/BNC/ & Dy. CSTE/CN/MAS

Sub: Earnest Money- rounding off of

Board's letter No. 78/W1/CT/43 (Police) dated 22.12.78 addressed to CE/CN/BNC and others is appended below for your information and guidance.

for General Manager (Constn)

-----  
Sub: Earnest Money-rounding off of-

The Ministry of Railways have been considering the question of rounding off of Earnest money to be deposited by the tenderers. It has now been decided that hence forth while calculating the earnest money the amount should be rounded off as under:-

Amount of earnest : The earnest money should be rounded off to money less than : the next higher ten rupees (for example Rs. 1000/- : Rs. 320/- should be realised if the amount : worked out according to the prescribed : scales of earnest money is Rs. 311/-

Amount of earnest : The earnest money should be rounded off to money more than : to next higher hundred rupees for e.g.1200 Rs. 1000/- : Rupees should be realised if the amount : worked out according to the prescribed scales of earnest money is Rs. 1,120/-

2. The aforesaid procedure would be applicable to all contracts except in the case of sale contracts and auction sales etc where the existing instructions will continue to apply.

3. This letter is issued with the concurrence of the Finance Directors of the Ministry of Railways (Railway Board).

4. This disposes of F.A.& C.A.O., wheel and Axle plant, Bangalore's D.O letter No. FA/W&AP/Misc./ 1489 dated 18<sup>th</sup> September 1978.

5. The receipt of this letter may please be acknowledged.

Sd/-  
(Ravinder Singh)  
Addl. Director, Civil,  
Railway Board.

**SOUTHERN RAILWAY**

Headquarters Office  
Work Branch  
Madras -3

No.W.196/P of

26-7-1971

DS/W/MAS GTL MYS OJA MDU & TPJ

Guarantee Bonds offered by banks to Railways for Earnest Money

A copy of Railway Board's letter No.F(X)II-63/EN/2 dated 22-5-71 on the above subject is forwarded herewith for information and guidance.

Sd/-  
for GENERAL MANGER

Copy together with a copy of Rly. Board's letter cited above is forwarded to:-

CE/SN/MS, FA & CAO(FF)/MAS, Dy. FA & CAO/CN/MS  
Sr.AFA X. This connects his No.w.495/F/111/Vo1.4 of 30-12-70  
COS CME COPS COS CEE CSTE CMO CSO MS/RH/PER  
DAS, MAS GTL MYS OJA MDU & TPJ

-----  
Copy of Board's letter No.F(X)11-63/BN/2 of 22-5-71 addressed to GMS of all Indian Railways etc.

Sub: Guarantee Bonds offered by Banks to Railways for Earnest Money.

-----  
The question of prescribing the form to be used for taking Bank Guarantees for Earnest Money has been under consideration of the Board. The attached form has been drafted for the purpose in consultation with the Law Ministry and sent to the Ministry of Finance for approval. The Board have no objection to the Railways getting the guarantees executed in this proforma provided the guaranteeing banks are also agreeable to do so. The form as finally approved by the ministry of Finance will be communicated in due course.

The disposes of Western Railway's letter No. W.18/11/4/Vol.II dated 30-12-1970 and Southern Railway's letter No.W.496/F dated 27-4-1971.

**BANKER'S GUARANTEES.**

In consideration of the President of India (hereinafter called "the Government") having agreed from.....money in the form of Guarantee Bond , under the terms and conditions of tender dated .....in connection with.....(hereinafter called "the said tender"), for the due observance by the said tenderer of the stipulation to keep the offer open for acceptance for a period of ..... days from the date of opening of tenders, to execute an agreement within the time specified, to start work within the period specified after notification of the acceptance of his/their tender and deposit the Earnest Money in cash or furnish fresh Bank guarantee for the said amount as part of security for the due and faithful fulfillment of the contract on acceptance of the tender on production and Bank Guarantee for Rs.....Rupees..... under take to pay on demand to the Government, the sum of Rs..... in the event of the said tender having incurred forfeiture of earnest money/security deposit as aforesaid for the breach of any of the terms or conditions of the stipulations aforesaid and contained in the said tender under an order of the authority competent to invite tender, we.....Bank Ltd., further agree that the guarantee herein contained shall remain in full force and effect till the authority competent to invite the tender discharges the guarantee, subject however that the Government shall have not right under this Bond after the expiry of one year from the date of its execution and our liability under the bond shall be discharged if the demand (or payment is not made within this period, we, .....Bank Ltd., lastly undertake not to revoke this guarantee bond its currency except with the previous consent of the government in writing.

Dated the .....day of .....  
For .....Bank Ltd.

**SOUTHERN RAILWAY**

Headquarters Office  
Works Branch, Madras-3

No.W 496/P of 16-12-72.

COPS	CCS CSTE	COS CME CEE	CMO COP
CSO	CE/CN/MS	CE/CN/P/BNC	ENC/S&T/MAS.

FURNISHING of bank guarantee in respect of transactions between two public sector enterprises or between a public sector enterprise or a Government department.

A copy of railway Board's letter No. F(X)I-72/BN/1 of 23/11/72 on the subject noted above, is sent herewith for your information and guidance.

Encl: One.

Sd/-  
/CHIEF ENGINEER.

Copy to DS/W/MAS GTL MYS OJA MDU TPJ with a copy of Board's letter quoted above for information and guidance.

"with a copy of Board's letter quoted above to DAO/MA GTL MYS OJA MOJ & TPJ for information and guidance.

"LO/MAS with a copy of Board's letter quoted above.

Sd/-  
/CHIEF ENGINEER.

**Copy of Ministry of Finance (Bureau of Public Enterprises)'s Office Memorandum No.BPE/1(4)Adv(F)/69 dated 3-11-1972 addressed to all Ministries, Govt. of India etc.**

**OFFICE MEMORANDUM**

Furnishing of bank guarantees in respect of transactions between two public sector enterprises or between a public sector enterprises and a Govt. Dept.

The question of furnishing bank guarantees in respect of transactions between two public sector enterprises or between a public sector enterprise and a Govt. Dept. has been engaging the attention of the Govt. for some time. In some cases bank guarantees are insisted by other public sector enterprises or Govts. in respect of the following.

- 1) to cover the advances paid against the order as a measure of security;
- 2) in lieu of security deposit for the fulfillment of the contracts, and
- 3) Performance guarantee for the satisfactory performance of equipment or the contract.

The question of furnishing such bank guarantees has been gone into in detail and it has been decided that:

1) there is no need for insisting the bank guarantee in respect of advances paid by public sector enterprises or Govt. Dept. to another public sector enterprise, as there is no risk of the advance being lost;

2) Since the transactions between two public sector enterprises or between public sector enterprises and the Govt. Dept. are of commercial nature, it would not be appropriate to exempt the public undertakings from the bank guarantees in lieu of security deposits for the fulfillment of the contract. In fact, such guarantees show the earnestness of the public sector enterprises for the fulfillment of the contract and in such cases the normal commercial principles should be followed;

3) it is necessary that proper bank guarantees are furnished by public sector enterprises for the satisfactory performance of the equipment and/or contract, as the case may be. This would ensure

prompt action for rectification in case of deficiencies noticed in the execution of the contract or defective performance of the equipment.

2. In this connection it may also be mentioned that furnishing of these guarantees would not involve any blocking of cash re- sources on the part of the enterprises as they can obtain a bond from LIC on the basis of which the bank will issue a counter guarantee. In order to facilitate the issue of bond by LIC, Govt. have agreed that LIC would have a pari-passu charge on the fixed assets of the company vis-a-vis the government.

3. The Ministry of Industrial Development etc. are requested to bring the contents of the above O.M. to the notice of the public sector enterprises under their administrative control.

**SOUTHERN RAILWAY.**

No.W.496/CE/BNC/policy/VI Office of the CE/CN/BNC,  
Dated; 12.12.1986.  
XENS/CN/MYs, BNC, HUP, ATP, OTA,  
MAQ, DL/GTL AND DL/BNG.

Sub;- Bank Guarantee Scheme- Complaints regarding.

----

A copy OF Board's letter No. F(X)I-84/18/1 dated 6.10.86 together with its enclosures received under FA&CAO/MAS letter No. W/496/F/O dt. 4.6.86 on the above subject is sent herewith for information and guidance.

Encl; as above.  
Copy to;- Dy.FA & CAO/CN/BNC, ACE/S&C,  
Dy.CEs/CN/I,II,III AND IV  
SENS/W, Br, AEN/ST and ABC/BNC.

-----  
Copy of FA&CAO's/MAS Letter No.w.496/f/o dated 4/6.1.1986 addressed to all Heads of department and Divisional Office etc. in Southern Railway.

Sub; - Bank Guarantee Scheme- Complaints regarding.

\*\*\*

A copy of Board's letter No.F(X)I-84/18/1 dated 6.10.86 together with its enclosures is forwarded herewith for information and guidance. Material if any available in regard to para 5 of the Board's letter may please be sent to this office so as to enable necessary action being taken.

Please acknowledge receipt of this letter.

Encl;6  
Sd/-,  
for F A.& C.A.O.

**Copy of Railway Board's letter No. F(x)1-84/18/1 dated 6.10.86 addressed to the General Managers, All Indian Railways and others and copy to F&CAOS, All Indian Rialways and etc.**

Sub; Bank Guarantee Scheme- Complaints regarding.

Ref; This Department's letters of even number dated 16/23.1/1985 and 30.9.1985.

\*\*\*\*\*

A number of cases were brought to the notice of the Railway Board by various Zonal Railways/Production Units highlighting certain problems in enforcement of Bank guarantees. A reference was made to the Ministry of Finance seeking their advice on the following types of difficulties;

- i) the Banks refuse to extend the validity period of the guarantee;
- ii) the Banks disown certain guarantees, having been issued by them; and
- iii) the Banks adopt dilatory tactics in honouring their guarantee commitments.

2. In regard of (i) above, the Ministry of Finance have drawn our attention to their instructions contained in their letter No.9/5/85-B.O.III dated 28.2.1985 circulated to Railways vide Board's letter No.F(x) 1-85/19/1 dated 10.5.1985 (copy enclosed) Which Explains the reasons why the Banks cannot automatically extend the period of validity of the Guarantee Suo-Moto . The Railways are, therefore, advised to ensure that necessary action for getting the period of Bank Guarantees extended is initiated well in time.

3. As regards(ii) above, attention is invited to Board's letter No. F(x)1-77/19/2 dated 21.9. 1977 urging the Railways to ensure bonafides of every Bank guarantee bond accepted by them by addressing to the concerned bank by regd. Post and seeking, a written confirmation under the seal of the Agent (copy enclosed) The Ministry of Finance have also addressed a similar letter No. 9/25/82-B.O.III dated 19.5.1984(copy enclosed) to all the Ministries/ Departments of Government of India. The Board desire that these instructions should be strictly adhered to.

4. As regards(iii) above, Ministry of Finance have advised that their Ministry as well as the Reserve Bank of India have been exhorting the Banks to take prompt action in honouring guarantee commitments, also telling them that the guarantees should be honoured, when invoked, without delay and demur. In this connection, a copy of letter No.BP-BC-18/C/473-86 DATED 24.2.1986 Issued by the Reserve bank of India to all scheduled Commercial banks is enclosed for your information and necessary action.

5. It is considered that if the above instructions are scrupulously followed by the Railways, no difficulty towards proper implementation of the Bank Guarantee Scheme should normally arise. However, Board desire that any specific cases in which the banks deliberately refuse or avoid making



payments against the bank guarantees issued by them may be brought to their notice for being taken up with Ministry of Finance.

Please acknowledge receipt of this letter.

DA. As above.

Sd/  
(KUM. URMILIA SHARMA)  
Jt. Director, Finance (Exp.) II  
Railway Board.

**Copy of Ministry of Railways (Railway Board)'s letter No.F(X)I- 85/19/1 dated 10.5.1985 addressed to the General Managers, All Indian Railways, Production Units, etc. etc.**

\*\*\*\*\*

Sub:- Bank Guarantee Scheme - Furnishing of guarantees by the Banks - Clarification regarding.

Ref:- Board's letter No.F(X)I-78/19/2 dated 24.7.78 and 24.12.83.

\*\*\*\*\*

Ministry of Finance, Department of Economic Affairs (Banking Division) have since revised the format of the model guarantee form in supersession of the form earlier circulated in Board's letter referred to above. A copy of that Ministry's O.M. No.F.No. 9/5/85-B.O III dated 28.2.1985 is sent herewith for information and guidance.

Hindi version will follow.

Sd/-  
Mrs. R. Ramanathan,  
Jt. Director, Finance (Exp.) II,  
Railway Board.

Copy to: - FA&CAOs, All Indian Railways and others.

\*\*\*\*\*

**Copy of Ministry of Finance, Department of Economic Affairs, (Bank Division), New Delhi's O.M. No. 9/5/85-B.O. III dated 28th February, 1985 addressed to All Ministries/Departments of Govt. of India, etc. etc.**

-----

Sub:- Bank Guarantee Scheme - Furnishing of Guarantees by the  
Banks-Clarification regarding-

\*\*\*\*\*

The undersigned is directed to refer to this Ministry's O.M.No. 9/7/75-B.O. III dated 20.7.1982 on the subject mentioned above, along with which a model form of Bank Guarantee Bond was also circulated (copy enclosed for ready reference). The Ministries/ Department/Public Sector Undertaking etc. were requested to adopt the model form while obtaining bank guarantees from contractors/suppliers etc. The banks freely give guarantees, whenever asked for, on executing the bond as in the model form.

2. Instances have come to notice where certain Department etc. have refused to accept guarantees in the model bond and have sought for introduction of certain additional clauses. Some Departments have also insisted that a clause, providing for an automatic extension of the guarantee period, in the event of non-execution/completion of project/contract within the stipulated period, may be provided in the bond.

3. The matter has been examined. This Ministry's Office Memorandum dated 20.7.1982 referred to above, inter-alia, provides that if introduction of any additional clause or alternations in the clauses of the Model Form of the Guarantee are considered necessary owing to the peculiarities of certain contracts, the Departments etc. may do so provide such additions/alternations are not one-sided and are made in agreement with the guaranteeing bank. It may be pointed out that the banks issue guarantees on behalf of their customers after obtaining sufficient Security. The banks also charge commission on the guarantees. Therefore, the banks are not in a position to agree to the introduction of any clause/alterations suo-moto. Similarly the banks cannot agree to the automatic extension of the validity period of the guarantee unless they have consulted the customers on whose behalf guarantee had been given by them.

4. Ministries/Departments etc. are requested that suitable instruction may please be issued to all concerned to accept the bank guarantees in the model bond. Where any alternations additions are considered necessary, the same may be considered subject to the conditions mentioned in para 3 above.

Sd/.....

M.K.M. KUTTY,  
Under Secretary to the  
Govt. of India.

## **REVISED MODEL FORM OF BANK GUARANTEE BOND.**

In consideration of the President of India (hereinafter called" the Government") having agreed to exempt -----(hereinafter called" the said Contractor(s)" from the demand under the terms and conditions of an Agreement date ----- made between ----- and----- for----- (hereinafter called" the said Agreement"), of Security Deposit for the due fulfillment by the said contractor(s) of the terms and conditions contained in the said Agreement, on production of a Bank Guarantee for Rs----- (Rupees-----only) we, ----- (indicate the name of the Bank)(hereinafter referred to as "the Bank)" at the request of----- (Contractor(s)) do hereby undertake to pay to the Government an amount not exceeding Rs.----- against any loss or damage caused to or suffered or would be caused to or suffered by the Government by reason of any breach by the said Contractor(s) of any of the terms or conditions contained in the Said Agreement.

2. We ----- do hereby undertake (indicate the name of the Bank) to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Government stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by the Government by reason of breach by the said contractor(s) of any of the terms or conditions contained in the said agreement or by reason of the contractor(s) failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs.-----.

3. We undertake to pay to the Government any money so demanded notwithstanding any dispute or disputes raised by the contractor(s)/Suppliers(s) in any suit or proceeding pending before any court or Tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment there under and the contractor(s)/supplier(s) shall have no claim against us for making such payment.

4. We,----- further agree that (indicate the name of Bank) the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Government under or by virtue of the said agreement have been fully paid and its claims satisfied or discharged or till----- Office/Department) Ministry of ----- certified that the terms and conditions of the said Agreement have been fully and properly carried out by the said Contractor(s) and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the -----we shall be discharged from all liability under this guarantee thereafter.

5. We,-----further agree with the (indicate the name of Bank) Government that the Government shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary

any of the terms and conditions of the said Agreement or to extent time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Government against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the Government or any indulgency by the Government to the said Contractor(s) or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

6. This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s)/Supplier(s).

7. We, . . . . . (indicate the name of Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Government in writing. Dated the. . . . day of. . . . for . . . . . (indicated the name of Bank) (Finance Ministries O.M.No.F.No.9/5/85-B.O.III dated 28-2-85 copy received under Railway Board's letter No.F(X)I-85/19/1 dated 10-5-1985.)

**Copy of Railway Board letter No. F(X)1-77/19/2 dated 21.9.1977 to The General Managers, All Indian Railways and others.**

-----  
Sub: Forged Bank Guarantee Bond.  
-----

A case has come to the notice of the Board where a bank Guarantee Bond furnished by a contractor when sought to be enforced by the Railway for non-fulfillment of contractual obligations was found to be a forged one as the concerned Bank denied having issued that guarantee bond. Though such cases are expected to be rare yet the Board desire that Zonal Railways should ensure the bona-fides of every Bank Guarantee Bond accepted by them by \_\_\_\_\_ addressing the concerned Bank by Registered Post (which can be followed up by a telephone call) and getting a written confirmation from the Bank which had issued the particular guarantee Bond under the seal of the Agent.

The receipt of this letter may kindly be acknowledged.

Sd/-  
(N.C. Satyawadi)  
Dy. Director, Finance (Exp.)  
Railway Board.

.....

**Copy of Ministry of Finance letter No. 9/25/82-B.O.III dated 19.5.1984 addressed to All Ministries/Departments, State Government and Public sector Undertakings.**

-----

Sub:- Furnishing of forged/fraudulent bank guarantee -  
Evolving procedure reg.

-----

Sir,

I am directed to refer to this Division's O.M. No. 9.7.75- B.O. III dated 20.7.1982 and to say that certain instances have come to the notice of the Government about furnishing of forged/fraudulent bank guarantees to the Government Departments by Private Agencies/Parties. On consideration it is felt that forged/fraudulent guarantees could be detected if a procedure of obtaining confirmation of the issue of such guarantees from the bank concerned is introduced in Government Departments. It is, therefore, suggested that the concerned Department accepting bank Guarantee/Deposit receipts may obtain confirmation from the concerned bank before accepting the bank guarantee/deposit receipts.

Your faithfully,

Sd/-  
(M.R. Vaidya)

Under Secretary of the  
Government of India.

**Copy of Reserve Bank of India Central Office Ref. DBOD No. BP,BC  
18/C.473-86 dated February 24, 1986 to all Scheduled Commercial  
Banks**

-----

Dear Sir,

Bank Guarantee.

It has been brought to our notice by the Government that the guarantees issued by the banks in favor of public sector undertakings, Government Departments and other beneficiaries are not honoured promptly by the concerned banks when invoked and even an opportunity is provided to the clients to resort to legal restraint. We have already advised banks of the need for honouring the guarantee commitments promptly vide our circular DBOD No. BP 678/C.473-83 dated the 11th January, 1983. We reiterate that in all cases where guarantees are invoked, payment should be made to the beneficiaries without delay and demur. Banks should show greater understanding, co-ordination and mutual trust with Government Department/public sector undertakings, in order to preserve the sanctity of the scheme of guarantees and the image of banks and Government. We shall be glad if you will please issue necessary instructions to your branches/offices again under advice to us, leaving no room for complaints.

2. Please acknowledge receipt.

Sd/--  
(A. BALAMITRAN)  
Jt. Chief Officer.



## **SOUTHERN RAILWAY.**

FA & CAO's Office,  
Madras- 600 003,  
Dated: 4.10.1985.

No.W.496/F/O

CE; CBE; CGE; CTE/I, CTE/II; CPDE; COPS; CPTS; CFTS; CTPS CCS;  
CMS; CCO/CCE; CSTE/CN; CSTE; COP; CMO; CPRO; CME; CWE CMPE; CRSE;  
CEF; CESE; CEDE; COS/PER; CPLO/MAS; CMM/PER; CSO/MSB; DGM/G/MAS  
FA&CAO/CN/MS; FA&CAO/WST/PER; FA&CAO/MTP/MS; Addl.FA&CAO/PE/MS  
CC(JA)/MAS; DY. CAO/T; DY. CAO/G; DY.FA&CAO/HQRS Sr.DAO/SBC; MYS,  
MAS, TVC, TPJ, DAO/PGT, MDU, SAO/W&S/GOC; SAO/W/PTJ; AAO/Books;  
AAO/XC; AAO/PF;

Sub:- Acceptance of postal Orders towards earnest money/  
Security deposits and towards price of tender forms.

\*\*\*\*\*

A copy of Railway Board's letter No. F(X)I/83/18/I dated 20.9.85 is appended below for information and necessary action.

Kindly acknowledge receipt of the same and ensure that a detailed, report on the working of the new system as contemplated in the letter is sent to this office in due course and at any rate not later than 31.1.86 for consolidation and for replying to Railway Board.

for F.A. & C.A.O.

---

Copy of Railway Board letter No. F(X)I-83/18/1 dated 20.9.85 to The General Managers, SC&N Railway and copy to other Railways.

\*\*\*\*\*

Sub:- Acceptance of Postal orders towards earnest money/  
security deposits and towards price of tender forms.

Ref:- Central Railway's letter No. AC/FX/1401/CE/Genl/84  
dated 25.7.85.

-----

Dy.CAO(G)/ Northern Railway's D.O. letter No. 85/PA/  
DY.CAO(G)/Misc. dated 12.8.85.

-----

A proposal for acceptance of Postal Orders towards the cost of tender forms was under consideration of the Board. To have an overall view, the remarks of the Zonal Railways were called for. After examining the same, the Ministry of Railways have decided that Indian Postal Orders towards the cost of tender forms may be accepted as an experimental measure. While accepting the postal orders, it should be ensured that these are invariably crossed A/c payee and are drawn in favor of your FA&CAO. These should be remitted immediately by the executive officers collecting the same along with cash collection, if any, in the manner laid down in Para 1604/AI. Your Railway should also adopt local procedure for receipt and accountal of postal orders if considered necessary.

In view of the above, the Board desire that your Railway should furnish a detailed report of your experience while accepting postal orders towards the cost of tender forms latest by 31.3.86.

Sd/-  
(L.C. MAJUMDAR)  
Jt. Director, Finance(Exp.II)  
Railway Board.

## Southern Railway

No. W.496/P/CN/Vol.XIII

Headquarters Office,  
Works Construction Branch,  
Egmore, Madras-600008,  
Dt. 23-9-80.

Dy. CE/CN/TVC & ERS,  
XENS/CN/MS, MAS, SA, I/PTJ, II/PTJ, TCR,  
ERS, PCO & NCJ.

Sub: Guarantee bonds--Acceptance of

--X--

A copy of Railway Board's letter No. F(X) 1-80/19/1 of 14-8-80 on the above subject is sent here-with for information and guidance please.

Encl:1.

for Chief Engineer (Constn.)

Copy to: FA & CAO/CN/M8 SAO/CN/PCO, BAO/CN/TVC,  
SAO/CN/II/MS with a copy of Board above letter.  
(Encl: 1)

Copy to: GM/CN/BNC. Board's letter referred to above  
received in this office is sent herewith in  
original.  
(Encl:1)

-----  
Government of India  
Ministry of Railways  
(Railway Board)

No. F(X) 1-80/19/1 New Delhi, Dt; 14-8-1980.

The General Manager,  
Southern Railway,  
Madras.

Sub: Guarantee Bonds--Acceptance of

Ref: Your letter No. W 496/P of 21-12-1979 and 8-5-1980.

---X---

The question relating to the under-stamped Guarantee Bonds referred to in your Railways letter quoted above, has been examined in consultation with the Legal Adviser of this Ministry.

2. Under Section 2 of the Indian Stamp Act, 1899, the Collector has to certify by endorsement on the instrument brought to him under section 31 that (1) full duty has been paid --(a) if the instrument is duly stamped or (b) if it is under-stamped, then the duties made up or (ii) stamp duty is not chargeable. This endorsement can be made only if the instrument is presented within the time

prescribed by the proviso to sub-section 3, which is one month from the date of its execution or first execution in India as the case may be. The endorsement of the Collector is imperative when the instrument is not properly stamped and the person executing the document wants to proceed with effectuating the document or using it for the purpose of evidence. The Collector can make endorsement on the instrument when the applicant makes up the duty and when such endorsement is made the instrument will be treated as if it were duly stamped from the very beginning. In a case where the Bank Guarantee is executed by the Bank and it is prima-facie found to be not properly stamped, it is the responsibility of the Bank which has executed the document to obtain a certificate from the Collector after paying the duty which has been determined by the Collector under Section 31 less the amount of duty already paid on the instrument.

3. Where, therefore, a tenderer submits a tender accompanied by a Bank Guarantee for the requisite earnest money and the Bank Guarantee is prima-facie found to be under-stamped, the same having occurred due to the mistake of a third party, viz. the Banker it will be reasonable and expedient to ask the tenderer to obtain a certificate from the Collector in respect of the said Bank Guarantee under Section 32 of the Act or to furnish a bank guarantee fully stamped within a reasonable period failing which his tender shall be summarily rejected. If the tenderer does not do the needful within the stipulated period his tender may be summarily rejected by the Railway Administration. The Railway Administration is not expected to take upon itself the responsibility of obtaining a certificate from the collector under Section 32 of the Indian Stamp Act, in respect of a Bank Guarantee, prima-facie found to be under stamped.

4. The Board desire that the above guidelines should be borne in mind in regard to acceptance of Guarantee Bonds

Sd/-  
(A. Prasad)  
Joint Director, Finance (Exp.)II  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

\*\*\*

No. 88/CE-1/CT/46

New Delhi, dated 6.2.1989.

The General Managers, The General Manager,  
All Indian Railways including Central Organisation,  
CLW, DLW, ICF & MTP, Railways, Railway Electrification,  
Calcutta. Allahabad.

Sub: Adjustment of Standing Earnest Money between Civil,  
Elec. and Mech. Engg. Work Contracts.

During a preventive check by Vigilance on one of the tenders called for by Electrical Department, it was found that the Tender Committee had ignored the offer of the lowest tenderer on the grounds of not depositing earnest money. However, the Tenderer had lumpsum deposit with Civil Engg. Dept.

2. The Question whether the standing Earnest Money deposited with the Civil Engg. Deptt. is adjustable against Elec. and Mech, Works tender, has been considered in this Ministry and it is clarified that the standing earnest money deposited with the Zonal Civil Engg. Deptts. is equally available for and adjustable against Elec. S&T and Mech. Works tenders also.

3. It is also clarified that provision of Railway Codes are applicable to all the departments.

4. This issues with the concurrence of Finance Directorate of the Ministry of Railways.

Please acknowledge receipt of this letter.

(Arimardan Singh)

DA: Nil. Director, Civil Engg. (G), Railway Board.

No. 88/CE-1/CT/46 New Delhi, dated 6.2.1989.

Copy forwarded for information and necessary action to  
A.D.A.I.(Railways), New Delhi (with 40 spares).

(Arimardan Singh)

## **SOUTHERN RAILWAY**

FA & CAO's Office,  
Madras - 600 003,  
Dated : 9.5.1988.

No. W.496/F/O

To all concerned.

Sub:- Standing Earnest Money and facilities for tendering  
against.

\*\*\*\*

A copy of Railway Board's letter No.87/WI/CT/63 dated 29.2.88 is sent herewith for information and guidance.

Sd/-  
Encl:One. for F.A.& C.A.O

-----

-----

Copy of Railway Board's letter NO.87/WI/CT/63 OF 29.2.88 to The General Managers, All Indian Railways and others with copy to The FA& CAO, All Indian Railways and others.

Sub:- Standing Earnest Money and facilities for tendering  
against.

\*\*\*

A case has come to the notice where a Contractor with Standing Earnest Money deposit of Rs.10,000/- had tendered for a work costing beyond Rs.5 lakhs and deposited only the difference of the required and the Standing Earnest Money on the plea that the Standing Earnest Money was already available with the Railway.

Ministry of Railways would like to draw the attention of para-1215 of the Engineering Code wherein it is clearly laid down that the facility of Standing Earnest Money Deposit is to enable contractor to submit tender for works upto the limit shown against each.

It should be ensured by the Railways that for tenders valuing above the limit prescribed in para 1245-E the Contractor should deposit full Earnest Money for the particular works and he should not get the benefit of having Standing Earnest Money Deposit for works of lesser value and paying only the difference in Earnest Money for the work.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Sd-  
(ARIMARDAN SINGH)  
Jr. Director Civil Engg. (G)  
Railway Board

## SOUTHERN RAILWAY

Headquarters Office,  
(WORKS BRANCH),  
M A D R A S - 600 003.  
No.W.496/P/Ty.

dt:15/6/1993.

DRMs/W/MAS PGT TVC SBC MYS TPJ & MDU

Sub: STANDING EARNEST MONEY DEPOSIT:

Ref: Railway Board's letter No.88/ CE-I/CT/46 dated  
28-06-1991.

----

Please find a copy of the above cited letter received from Railway Board. It is clarified by the Railway Board that the Standing Earnest Money can be accepted only from the Contractors borne on the Approved List.

A copy of the correction slip No. 4 E to para 1245 of Engineering Code is also enclosed.

A separate Circular has been issued by this office reiterating the instructions of the Railway Board for revising the Approved List of Contractors annually duly giving wide publicity. (Please refer this office letter No. W.496/P/Ty. dt.15-6-1993).

After revising the Approved List of Contractors for this year, you are requested to review the names of the contractors who had been extended this facility of lumpsum standing earnest money. If a Contractor who does not find a place in the Approved List of Contractors, has been provided with this facility, this should be withdrawn and the contractor advised.

Receipt of this letter may please be acknowledged.

(Sd/-)  
(V.S. RAMASWAMY)  
Encl:As above. CHIEF ENGINEER.

Copy to: CAO/CN/BNC  
Sr.DAO/MAS,SBC,TVC,PGT for information and  
TPJ, MYS and MDU. necessary action.  
FA&CAO/MAS.

Director of Audit/MAS. for information.

**Government of India  
Ministry of Railways  
(Railway Board).**

No.88/CE-I/CT/46

New Delhi, 110 001,  
dt:28th June 1991.

Addressed to:-  
As per list attached.

Sub:- Standing Earnest Money - Interpretation of.

During the course of investigations by Vigilance, it came to notice that there exists a doubt whether the standing Earnest Money can be accepted from the contractors borne on the Approved list only or from any contractor who chooses to offer it.

2. Para No.1245 of Engineering Code provides that Standing Earnest Money can be accepted from a contractor to cover tendering against any number of works costing upto the limit indicated against each amount on Zonal Railway. It specifies three different ranges. It is obvious that in making a range applicable the credentials and the capacity of the contractor has to be examined before hand. It therefore, implies that the facility of standing Earnest Money has to be available ONLY to the registered Contractors. For unregistered contractors, their capacity is unverified, hence this facility of Standing Earnest money is not available to them.

3. Consequently standing earnest money may be accepted from contractors borne on the Approved List of contractors only.

4. Para No.1245-E of Engineering Code may be amended to read as given in the enclosed Correction Slip No.4-E.

5. This issues in consultation with Finance Directorate of the Ministry of Railways.

6. Receipt of his letter may be acknowledged.

Encl: One.

Sd/-  
(S.M. SINGLA)  
Exec.Director,Civil Engg.(G)  
Railway Board.

] No.88/CE.I/CT/46

New Delhi,110 001.  
Dated: 28th June 1991.



Copy forwarded for information and necessary action to: (1)  
A.D.A.J. (Railways) New Delhi (with 40 spares).

(2) The Directors of Audits, All Indian Railways, Production  
Units and Construction Organisations.

Sd/-  
(S.M. SINGLA)  
Encl: One Exec. Director, Civil Engg.(G)  
Railway Board.

Advance Correction slip to Indian Railway Code for Engineering  
Department (Revised Edition) 1989.

-----

Advance Correction Slip No. 4-E

The word `Contractor' appearing in 2nd line of para No.1245 should be  
substituted with `Contractor borne on the Railway list of approved Contractors'.

(Authority-Railway Board's letter NO.88/CEI/CT/46 dt.28-6-1991).

## **SOUTHERN RAILWAY**

No.W.496/CE/BNC/POLICY/VOL.VI

Office of the CE/CN/BNC  
Dated 6.7.86

XENS/CN/MYS, MAQ,CTA,BNC, ATP & HUP  
DL/BNC AND GTL

SUB;- Bank Guarantee/Security Deposit.

\*\*\*\*

Copy of Railway Board's letter No.86/WTM/11/1/21 of 19.5.86 received under CE/MAS letter No. W.496/Policy of 24.6.1986 is appended below for information and guidance.

for CE/CN/BNC

Copy to; Dy. COS/CN, AEN/ST  
SAO/CN/BNCC.

-----  
Copy of Board's letter No.86/WTM/11/1/21 dated 19.5.1986 from shri.S.P.Singh, DDL. Exe. Director, Civil Engg (TM), Railway Board, New Delhi addressed to the FA & CAO. ALL Indian Railways.

Sub; Bank Guarantee/ security Deposits.

\*\*\*\*

Various firms have been submitting Security Deposits and Earnest Money in the form of Bank Guarantee Bonds/Securities against the Contracts placed by this Office. These contracts are operated by the zonal Railways in respect of payments etc. The Bank Guarantees/Securities received from the firms are being maintained by the Zonal Railways.

2. Please ensure that these guarantee bonds/Securities are got checked up/verified as per the extant rules and proper records maintained to keep a watch about their validity, etc., Action has to be initiated by the Zonal Railways well in time to enforce encashment of the guarantee bound/Security deposit wherever required. These instructions are being reiterated to the Zonal Railways to draw their specific attention in this respect.

3. Wherever the firms fail to deposit within the specified period, necessary security money as per terms of the contract, the Zonal Railways should advise this Office and also take up the matter with the firms to ensure timely action to be taken.

Please acknowledge receipt.

**Copy of Railway Board's letter No. 78/W1/CT/19 dated 27.5.78  
addressed to GM/CN/BNC and others.**

Sub: Earnest Money for tenders for works and its forfeiture  
in the event of the tenderer resiling from his offer  
-----

A case has come to notice of the Railway Board where a tender for work valued at Rs. 47,000/- based at par with the schedule of rates was invited with earnest money of Rs. 1194/- (i.e. 2 1/2% of the estimated value) though the prevalent rates for similar works in the area varied from 205- 2100 above the basic schedule of rates. If the estimated value of the work had been assessed correctly taking into account the market rates, the earnest money required to accompany the tender would have been fixed at about Rs. 8,000/-. According to the extant rules, 1/5th of the earnest is to be forfeited in case the tenderer resiles from his offer. Accordingly in this particular case only a sum of Rs.239/- (i.e. 1/5<sup>th</sup> of Rs. 1,194/-) was recovered from the contractor who resiled from his offer as against sum of Rs. 600/- which could have been recovered if the correct amount of earnest money of Rs. 3000/- had been indicated in the tender schedule. The contract for the work was finally awarded at a cost of Rs. 1, 50,000/- which also indicates that the value of the work estimated for inviting tenders was not assessed correctly.

2. The Railway Board desire that the cost of works on the basis of which earnest money is to be worked out should be realistic and assessed duly taking into account the current prevalent rates. Necessary action should be taken to ensure that cases of the nature as pointed out above are not allowed to occur in future.

Receipt of this letter may please be acknowledged.

Sd/-  
(M.R. ANAND)  
DY. DIRECTOR WORKS  
RAILWAY BOARD

No.88/CEI/CT/46

New Delhi, dt.22-07-1992

Addressed to:-

As per list attached.

Sub: Initial Security Deposit.

-----

It has come to notice during vigilance check that some railways are not asking for the initial security Deposit from tenderers; who have successfully, tendered against standing Earnest Money. This practice is not in line with the provision of Engg. Code. The Railways must ensure payment of initial security deposit before signing of agreement.

Receipt of this letter may be acknowledged.

(Arvind Kumar)  
Exec. Director, Civil Engg.(B&S)  
Railway Board.

No.88/CEI/CT/46 New Delhi, dated 22-07-1992

Copy forwarded for information and necessary action to:-

(i) The Director of Audits, All Indian Railways, Production Units and Construction Organisations.

Encl: (Arvind Kumar)  
Exec. Director, Civil Engg.(B&S)  
Railway Board.

Copy forwarded to:-

1. A/Cs (III)/F(X)I/F(X)II/Vig.(I)/B.C.(with 15 spares).

2. DVE (II)/Rly. Board w.r.t. note No.92/v3/Genl./3  
dated 07.05.92

3. EDV(R)/EDLM/EDW/ED (RE)/ED (Track-M)/ED (MC)/ED (Track-R)  
EDCE (B&S)/EDCE (PD)/Railway Board.

4. Adv (CE)/Adv (Works)/Adv(S&T)/Adv (Comm1.)/Adv (MS)/Adv (B)/  
Adv (Elec)/Adv (MTP)/Adv (Mech)/Adv.Stores-Railway Board.

5. Private Secretaries to:-  
CRB, MM, ME, MT, ML, MS, FC, and Secretary Rly.Board.

**Government of India  
Ministry of Railways  
( Railway Board )**

No.F(X)I-86/18/2

New Delhi dated 24.2.1993.

Managing Director  
Indian Railway Finance  
Corporation Ltd.,  
Ansal chamber - I  
Block 'A', 4<sup>th</sup> Floor,  
Bhikaji Gama Place  
New Delhi - 110 066

Dear Sir,

Sub : Acceptance of IRFC Bonds as 'Security'.

Ref : Your letter No.IRFC/Bonds/7<sup>th</sup> dt 30.12.92

----

Your proposal for acceptance of 10.5% tax free Railway Bonds- of Rs.1,000/-each seventh Series - proposed to be issued by your organization -as 'security' in lieu of Bid Bond Guarantee/Earnest Money/Bank Guarantee by the Railway Organisations in respect of Mechanical, Engineering, Stores, Traffic, commercial Electrical and signalling tenders/ contracts, has been approved by this Ministry.

It is understood that IRFC Bonds can be purchased by an individual only when there is a public issue or at any other times from financial institutions or banks already holding them by way of Transfer. If a tenderer wishes to give the Bonds as Security/Guarantee, etc he has to be in possession of the Bonds through this process only. A copy of the prospectus/brouchers etc. Containing the exact clause/ provision in this regard may please be made available to this Ministry

Yours faithfully,

( Pani Ram )  
Dy. Director, Finance (Exp.)  
Railway Board.

## **RAILWAY BOARD**

No.95/Proj/Bolt/1/2

New Delhi-110001 dated: 20.2.96

To  
General Managers,  
All Indian Railways.

Sub: Performance Bank Guarantee for Projects under BOLT Scheme.

----

In terms of Clause 11(iii) of Section-I of Tender Document the successful bidder is required to furnish a Performance Bank Guarantee in the form of a Bank Guarantee to be drawn on a Nationalised Bank in the prescribed Proforma. In this connection, question has been raised by one of the Railways, whether the Performance Bank Guarantee issued by a Scheduled Bank can be accepted.

The issue has been examined by the Board and it has been decided that Performance Guarantee Bonds can also be accepted from the Scheduled Banks subject to verification from the issuing Bank and extant RBI guidelines. Rly. Board's instructions issued under letter No.F(X)-I/77/19/2 of [21.9.77](#) should also be followed.

This issues with the concurrence of Finance Directorate of Ministry of Railways.

(S.P.S. Jain)  
Executive Director/Projects  
Railway Board.

**GOVERNMENT OF INDIA (Bharat Sarkar)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)**

No 88/CI-1/CI/I (Vol II)

New Delhi 6.8.96

Addressed to:

As per standard Mailing list 'A' attached.  
Sub: Earnest Money and Security deposit.

----

For the due fulfillment of the commitments made while offering rates for any tender as well as while executing works Earnest Money, standing earnest Money and Security Deposit is taken from the contractors. The present slabs of these deposits have been reviewed and the revised slabs for these deposits have been approved as follows.

**Earnest Money**

- |       |   |   |  |
|-------|---|---|--|
| (i)   | For works upto 5 lakhs                          | - | 2 ½ % <i>ad valorem</i> subject to a maximum of Rs.10,000/-. |
| (ii)  | For works more than 5 lakhs but upto R 20 lakhs | - | 2 % <i>ad valorem</i> subject to a maximum of Rs.20,000/-.   |
| (iii) | For works above 20 lakhs but upto R 50 lakhs.   | - | 1 % <i>ad valorem</i> subject to a maximum of Rs.35,000/-.   |
| (iv)  | For works above 50 lakhs -                      | - | ¾ % <i>ad valorem</i> subject to a maximum of Rs.50,000/-.   |

In case the tenderer withdraws his offer within the validity date of his offer or fails to undertake the contract after acceptance of his tender, the full Earnest Money should be forfeited. Earnest Money in the form of Guarantee Bonds should not be accepted

**STANDING EARNEST MONEY**

- |     |  |                 |
|-----|--|-----------------|
| i.  | Upto Rs 5 lakhs                                  | Rs 10,000 only. |
| ii. | More than Rs 5 lakhs but less than Rs 20 lakhs.  | Rs 20,000/-     |
| iii | More than Rs 20 lakhs but less than Rs 50 lakhs. | Rs 50,000/-     |
| iv  | More than Rs 50 lakhs                            | Rs 1,00,000/-   |

**Security Deposit**

Unless otherwise specified in the special conditions, if any, the rates for deposit of security amount by contractor will be as under.-

- |       |  |  |
|-------|--|--|
| (i)   | For contracts upto —<br>Rs.1 lakh.                               | 10% of the value of the<br>contract.   |
| (ii)  | For contracts more —<br>than Rs 1 lakh and<br>upto 2 lakhs.      | 10% of the first Rs.1 lakh<br>and 7 ½ % of the balance.  |
| (iii) | For contracts more —<br>than Rs.2 lakhs and<br>upto Rs 2 crores. | 10% of the first Rs 1 lakh,<br>7 ½ % of the next Rs 1 lakh<br>and 5% of the balance subject<br>to the maximum of Rs.3 lakhs.   |
| iv)   | For contracts above -<br>Rs.2 crores.                            | 5% of the contract value The<br>amount over and above Rs.3 lakhs to<br>be recovered from the progressive bills of the<br>contractors @ 10% till it reaches 5% of<br>the contract value |

The above directives should be made effect for all tender to be invited on and from 16th August/96 onwards.

This issues with concurrence of the Finance Dte of the Ministry of Railways.

Sd/-  
(S .M. Singla)  
Executive Director Civil Engg. (C)  
Railway Board.



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.90/CEI/CT1/Part.I

New Delhi dated 14.11.1996.

The General Managers,  
All Indian Railways & Others.

Sub: Submission of Bank Guarantee Bonds towards  
Mobilisation Advances etc.

Ref: Railway Boards letter No.90/CE.I/CT/1 dated  
[30.07.91](#) - Correction slip No.6 of 1989 Edition.

In para 1264(b) it was mentioned that the bank guarantee bonds were to be accepted only from a Nationalised bank or from State bank of India. The matter has been re-considered and it has been decided by board that the bank guarantee bond towards Mobilisation advance can also be accepted from scheduled bank in addition to Nationalised banks and SBI.

2. The Guarantee bond should be got verified from the issuing bank and should be as per extent RBI guidelines.
3. This provision shall be applicable to all railway tenderer as well as BOLT tenders.
4. This issues with the concurrence of Finance Dte of Ministry of Railways.

-Sd-  
(V.K. Agarwal)  
Exec director civil Engg (g)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.87/W.I/CT/18

New Delhi, dated 1-10-1997.

All General Managers,  
All Indian Railways.  
Officers on Special Duty

1. East Coast Railway, Bhubeneshwar.
2. East Central Railway, Hajipur.
3. North Central Railway Allahabad.
4. North Western Railway Jaipur.
5. South Western Railway Bangalore.
6. West Central Railway, Jabalpur.

Sub: Tenders — Acceptance of Banker's Cheques as Earnest  
Money and Security Deposit.

---

Para 1246 of the Engineering Code (1989) mentions Pay Orders as an acceptable form of Earnest Money and Security Deposit. This instrument is also referred to variously as Banker's Cheque, Manager's Cheque and Cashier's Cheque by different banks and any one of them is, therefore, an acceptable form of Deposit.

This may be brought to the notice of all concerned.

This is in supersession of letter of even number dated 11.11.87 addressed to Western Railway.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Kindly Acknowledge receipt.

Sd-/  
(V.K. Bahmani)  
Exec. Director, Civil Engg.(G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No 88/CE.I/CT/1 Vol 1.Part1

18.6 1998

The General Managers,  
All Indian Railways

Sub: Earnest Money & Security Deposit  
-----

Proposals received from various Railways regarding amendment in slab 4 of Board's letter of even number dated 6.8.96 is not agreed to since steep rise in SD for contracts over to 2 crores was prescribed deliberately for:-

- (a) To ensure that some amount is available in case the contract is rescinded or done at risk and cost.
- (b) With the basic intention of raising the upper level of the S.D for high value contracts.
- (c) To act as an incentive for the contractor to finish the work and get the S.D released.
- (d) To serve as a performance guarantee in respect of high value contract.

The contractors' cash flow problems have also been taken care of by providing for recovery from running bills.

Sd/-  
(V.K. Bahmani)  
Exec. Director, Civil Engg.(G)  
Railway Board

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

NO.88/CE.I/CT/1 (Vol.II)

New Delhi, dated 15.9.98

Addressed to:

As per list 'A' attached.

Sub: Advance correction Slip to Indian Railway Engineering  
Code 1989 Edition - Earnest Money and Security Deposit.

The Ministry of Railways (Railway Board) have decided that Corrections/additions as indicated in the enclosed Correction Slip No. 18 in the relevant paras of Indian Railway Engineering Code 1989-Edition may be made.

Receipt of this letter may please be acknowledged.

DA: As above.

(V.K. Bahmani)  
Exec. Director, Civil Engg. (G)  
Railway Board.

NO.89/CE.I/CT/1 (Vol.II)

Copy forwarded for information & necessary action to:-

- 1) ADAI (Rlys.) New Delhi.
- 2) The Director of Audit, All Indian Railways, Production Units/Construction Organisations.

**ADVANCE CORRECTION SLIP TO INDIAN RAILWAY  
CODE FOR ENGG. DEPARTMENT (REVISED EDITION-1989)**

Advance Correction Slip No. 18 Edition-1989.

**EARNEST MONEY AND SECURITY DEPOSIT.**

-----  
The following sub-para to para 1242 be added/amended as under:-

**Para 1242-Earnest Money.**

- |   |   |
|---|---|
| (iii) For works above Rs.20 lakhs but upto Rs.50 lakhs. | 1% ad valorem subject to a maximum of Rs.35,000/- |
| (iv) For works above Rs.50 lakhs.                       | ¾% ad valorem subject to a maximum of Rs.50,000/- |

In case the tenderer withdraws his offer within the validity date of his offer or fails to undertake the contract after acceptance of his tender. The full Earnest Money should be forfeited. Earnest money in the form of Guarantee Bonds should not be accepted.

**Para 1244-Security Deposit:**

- |  |   |
|--|---|
| (iii) For contracts more than Rs.2 lakhs and upto Rs.2 crores. | 10% of the first Rs.1 lakhs, 7 1/2 %of the next Rs.1 lakh and 5% of the balance subject to the maximum of Rs. 3 lakhs.  |
| (iv) For contracts above Rs.2 crores.                          | 5% of the contract value. The amount over and above Rs. 3 lakhs to be recovered from the progressive bills of the contractors @ 10% till it reaches 5% of the contract value. |

**Para 1245 – Standing Earnest Money :-**

- |   |                  |
|---|------------------|
| i) Upto Rs. 5 lakhs                                   | - Rs. 10,000/-   |
| ii) More than Rs. 5 lakhs but less than Rs. 20 lakhs. | - Rs. 20,000/-   |
| iii) More than Rs.20 lakhs but less than Rs.50 lakhs  | - Rs. 50,000/-   |
| iv) More than Rs.50 lakhs                             | - Rs. 1,00,000/- |

Authority – Railway Board’s letter No.88/CE.I/CT(Vol.II) dt. **6.8.96**).

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

NO.88/CE.I/CT/1(Vol.II)

New Delhi, dated 5.3.99

Addressed to:

As per list 'A' attached.

Sub: Advance correction Slip to Indian Railway Engineering  
Code 1989 Edition - Earnest Money and Security Deposit.

---

The Ministry of Railways (Railway Board) have decided that Corrections/additions as indicated in the enclosed Correction Slip No. 20. In the relevant paras of Indian Railway Engineering Code 1993-Edition may be made.

Receipt of this letter may please be acknowledged.

DA: As above.

(V.K. Bahmani)  
Exec. Director, Civil Engg. (G)  
Railway Board.

NO.88/CE.I/CT/1(Vol.II)

New Delhi, dated 5.3.99

---

Advance Correction Slip to Indian Railway Code for Engineering Department  
(Revised Edition – 1993)

Advance Correction Slip No. 20 Edition 1993.

Earnest Money and Security Deposit.

The following sub-para to para 1242 be added/amended as under :-

In para (ii) words "but up to Rs.20 lakhs" should be added after "For works more than Rs.5 lakhs."

(Authority Railway Board's letter No.88/CE.I/CT/1 Vol.II dated [6.8.96](#) and [15.9.98](#)).

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.88/CE-I/CT/1 (Vol.II).

New Delhi, the 1-11-2002.

Addressed to,

As per list attached.

Sub: Advance Correction Slip to Indian Railway Code for Engineering Department - 1989 Edition — Security Deposit .Para 1244(iii)

Ref: (i) Board's letter of even number dated [6.8.1996](#).

(ii) Correction Slip No.18 issued by Board's letter of even number dated [15.9.1998](#).

Board (ME) have decided that the corrections/additions, as indicated in the enclosed Correction Slip No. 36 may be made in the relevant Para 1244(iii) of Indian Railway Code for Engineering Department – 1993.(Reprint)

This is issued with the concurrence of Finance Dte. of Ministry of Railways.

Receipt of this letter may please be acknowledged.

(Parmod Kumar)  
Executive Director Civil Engineering (G)  
Railway Board.

No.88/CE-I/CT/1 (Vol.II).

New Delhi, date 1-11-2002.

**ADVANCE CORRECTION SLIP TO INDIAN RAILWAY CODE FOR  
ENGINEERING DEPARTMENT (REVISED EDITION-1989/REPRINT-1993).**

**Advance Correction Slip No.36**

**Para 1244 - Security Deposit**

(iii)for contracts more than  
and upto Rs 2 crores

The existing provision should Rs.2 lakh  
be replaced with the following:-

10% of the first Rs.1 lakh, 7 1/2%  
of the next Rs.1 lakh and 5% of the  
balance subject to the maximum of  
Rs. 10 lakhs. The amount over and  
above Rs.3 lakhs to be recovered  
from the progressive bills of the  
contractors at the rate of 10% till it  
reaches the required value.



**Government of India  
Ministry of Railways  
Railway Board**

No 2003/C&IS/EarnestMoney/CRIS

12/11/2003

The General Managers, all Indian Railways, all Production Units,  
CORE:CAO(R)/DCW, CAO/COFMOW  
DGIRDSO, DG/RSC/BRC Directors,  
all Indian Railway Institutes of Engineering

Sub: Waival of Earnest Money and Security Deposit  
requirement for Centre for Railway Information  
Systems (CRIS) while executing works on Indian  
Railways.

----

Board has granted waival of the requirement for Earnest Money and Security  
Deposit for the Centre for Railway Information Systems (CRIS) while executing  
works on Indian Railways.

This issues in consultation with Finance Directorate of Railway Board.

(S S. Mathur)  
Director-ME (C&IS)

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

RB/CE.I/9/2004

NO. 2001/CEI/CT/19

New Delhi, dated 9/7/2004.

Addressed to :-

As per list attached

Subject — Report of the Committee on issue of  
Earnest Money and Security Deposit from  
Public Sector Undertakings (PSUs)

----

A Committee of 3 EDs viz. EDRS (G), EDF (S) & EDCE (G) was nominated to make recommendations on the issues of Levy/Waival of Earnest Money and Security Deposit from PSUs. Accordingly, the Committee have gone through the existing instructions on the subject & practice being followed in other major Government departments in detail and submitted its recommendations which have been approved by the Board (ME, MM, FC).

The recommendation concerning to the works contract is given below –

“In works contract, no general exemption for Earnest Money & Security Deposit is to be given to the PSUs. However, for the units which are wholly owned by the Railways like RITES, IRCON, Konkan Railway Corporation Ltd. CRIS, Rail Tel Corporation etc., exemption may be given both for Earnest Money and Security Deposit.”

The recommendation in connection with Stores contracts would be separately circulated by the Stores Directorate.

The above recommendation would be applicable with prospective effect and will preclude contracts, which have already been entered into or have been called and are under process of finalization.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

(PARMOD KUMAR)  
EDCE (G)  
RAILWAY BOARD

**Government of India  
Ministry of Railways  
(Railway Board)**

RBA No.52/2005

No.2005/AC-II/25/19  
8.09.2005.

New Delhi. Dated

General Managers,  
All Indian Railways/PUs etc.

Sub: Guarantee Bonds submitted by Contractors - streamlining of procedure reg.

----

A case has come to the notice of the Railway Board wherein a contractor has submitted fake bank guarantee bonds as security deposit. The fraud came to notice when the bank concerned was approached to encash bank guarantee in wake of termination of the contract. Preliminary investigations revealed that the contractor had himself brought the Guarantee Bonds and also the confirmation letter from the bank and handed them over to Officials dealing with BGs/Agreements in the Engineering Department. Independent verification for confirming the genuineness of guarantee bonds by deputing staff or verification with the bank through formal written reference as per required procedure was not done by the Railway. Appropriate action against the contractor involved in this case is under progress. However, it is seen that the non-compliance of the codal provision for verification of the guarantee bonds from bank etc has facilitated the fraud. Therefore, it is considered necessary to review and streamline the procedure in regard to receipt, custody, renewal and disposal etc. of the securities in both Executive as well as Accounts wings to preclude any such instance in future. Accordingly, the following instructions are reiterated for strict compliance by the Railways:-

Executive Office

1. The guarantee bonds issued by Banks in connection with execution of contracts, etc. will be received in the Executive Office concerned and following checks shall be exercised:

(i) It is in the prescribed form,

(ii) It is correctly drawn up and stamped,

(iii) The bond is valid for the period provided for in the contract and covers security for such period as might be necessary with reference to the relevant work and any subsequent maintenance/period relevant supply order so that the need for extension of a bond is not felt,

(iv) The bonafide of every guarantee bond accepted should be ascertained by the Executive Officer concerned by addressing the concerned banks by registered

post and written confirmation also obtained by registered post under the seal of the bank. This procedure should not be diluted in any circumstances.

2. The guarantee bond shall thereafter be sent to the contract signing authority for acceptance. The executive officer shall ensure that the above requirements are fully met with before acceptance. After carrying out the above checks and acceptance as prescribed above, the particulars of the guarantee bond shall be noted in a register in the following form:

Sr. No.	Date	Name of the Depositor	Reference to agreement No./date/purpose	Due date of completion of work/completion of delivery as per contract.	Name & address of the banker furnishing the G.B
1	2	3	4	5	6
Amount for which the guarantee is offered	Date of expiry of guarantee bond	Initial of the Officer in charge	Remarks	Date & no. of release letter	Initial of the officer in charge
7	8	9	10	11	12

In case the department has computerized monitoring mechanism for the guarantee bonds, the report format be modified suitably to ensure the above check.

3. The guarantee bond along with the confirmation of the Bank shall thereafter be forwarded to the associate Accounts Officer, indicating clearly that the checks mentioned in para I above have been carried out.

4. The register of guarantee bond ibid shall be reviewed every month in respect of guarantees likely to expire in the third subsequent month and the result put up to the Executive Officer in charge, to ensure that a close track is kept on the currency of the guarantee bonds and that they are extended from time to time, wherever necessary, for such period as might be necessary with reference to completion of the relevant contract and subsequent maintenance periods as may be provided for in the particular contract, or obtaining security deposit in one of the acceptable forms for an equal amount from the contractor/vendor concerned. As and when a guarantee bond is extended or security deposit in one of the acceptable forms is obtained from the contractor/vendor in lieu of guarantee, particulars thereof shall be intimated to the Accounts Officer concerned. Likewise, where a guarantee bond is cancelled or validity period has expired and the bond is not required to be renewed, necessary advice shall be given to the concerned Accounts Officer.

5. The Executive Officers shall, exchange with Accounts Officer a statement of bank guarantees every month, so that the position is reconciled with the record maintained by the Accounts Department and variations, if any, brought to light are rectified. The results of the reconciliation shall be put up to the Executive Officer and the Accounts Officer concerned.

6. In case a guarantee bond is required to be encashed, the Executive Officer concerned will advise the associate Accounts Officer under clear acknowledgement sufficiently in advance before expiry and the latter shall take immediate action for its encashment by the Bank concerned.

**Accounts Office**

1. On receipt of the guarantee bonds in the concerned internal check section of the Accounts Office, inter-alia it will be seen that the certificate mentioned in para 3 (that the checks mentioned in para I above) is given. Accounts Office shall not accept any bank guarantee for safe custody unless the bonafide thereof has been verified by the Executive Officer concerned and written confirmation as contemplated in the para referred to above has been obtained. After necessary scrutiny the particulars of the guarantee bonds shall be noted in a register in the following form:

S. No.	Contract No/. order No. and Date	Name of the depositor	Due date of completion of Work/ delivery as per contract.	Name & address of the bank furnishing the G.B
1	2	3	4	5
Confirmation Advice No & Date from the Schedule Bank in token of verification of Genuineness of the Guarantee Bond.	Amount for which guarantee is offered	Date of expiry of guarantee bond	Month of reviews (3 months prior to the date of (col.8)	Date & no. of release letter
6	7	8	9	10
Remarks	Date & no. of release letter	Date & no. of release letter issued by Accounts	Date & no. of release letter	Remarks
11	12	13	14	15

A separate page of the register may be allotted for each month for entering in it the bank guarantee expiring in the particular month. In case the department has

computerized monitoring mechanism for the guarantee bonds, the report format be modified suitably to ensure the above check.

2. The guarantee bond shall be sent to the concerned branch/ branch officer for safe custody in a sealed cover. The details of the guarantee bond shall be recorded in register as per following proforma by the branch / branch officer: -

- (i) Date
- (ii) Sr. No.
- (iii) Name of the party
- (iv) Name of the Bank
- (v) Guarantee Bond No. and date
- (vi) Period of validity
- (vii) Amount- Rs.
- (viii) Initials of Branch Officer
- (ix) Accounts Unit
- (x) Reference to release letter no. and date
- (xi) Date of return
- (xii) Signature of the staff of the dealing section
- (xiii) Initials of Branch Officer.

3. The register of guarantee bonds shall be reviewed by the internal checking section every month in respect of guarantees likely to expire in the third subsequent month and the results of the review shall be put up to the Sr. DFM/ Head of the Accounts Office concerned. In case the department has computerized monitoring mechanism for the Guarantee Bonds, the report format be modified suitably to ensure the above check.

4. The Executive Officer concerned shall then be addressed to initiate action to get the bank guarantee extended where necessary as long as may be required with regard to the date of completion of the contract and subsequent maintenance period as may be provided for in the relevant contract, date of completion of delivery or obtain security deposit in one of the acceptable forms for an equal amount from the contractor/vendor concerned.

5. Irrespective of whether action has been taken for renewal/extension of validity of the existing guarantee bond, if the Accounts Officer, considers that the action taken by the executive for renewal, extension is not likely to materialize before the actual date of expiry and that there maybe some delay as a result of which the Accounts Officer may not be left with adequate time to advise the concerned bank to deposit the amount due under the guarantee, he will advise the concerned bank to deposit the amount due under guarantee. Similar action will be taken in cases where no advice is received from Executive Office for extension/ release of the guarantee bond 15 days before the expiry of its validity period. This will ensure that contingency of the Railway having inadequate security deposit after expiry of the guarantee Bond does not arise. The action, if any, taken by the Accounts Officer under this clause cannot be questioned because in the event of any delay in getting the bond extended or any dispute arising with the contractor, the Railway will lose the security in terms of the guarantee bond.

6. In any case, if the bank guarantee is not renewed, bills should not be passed for payment and the position should be brought to the notice of the Executive

Officer concerned demi-officially. In the case of works contracts, the Accounts Officer concerned should ensure that, where bank guarantee bonds are nearing the expiry period, payments still due to the contractors are examined so that sufficient amounts are retained with the Railway in case the bank guarantee bonds are not renewed in time.

7. As and when a guarantee bond is cancelled or its date of validity has expired and the bond is not required to be renewed by the Executive Officer, the same should on receipt of an advice from the Executive Officer, returned to that office for being sent to the party concerned. It Should be noted that the date expired guarantees are returned within reasonable period after fulfillment of the contract or on expiry of the guarantee period.

The Executive officers and FA&CAOs may supplement/complement the above instructions as per local requirements and issue detailed joint procedure orders for guidance of staff concerned and ensure strict compliance thereof through test-checks/ field inspections periodically. Kindly acknowledge receipt. A copy of JPO issued in the matter may also be sent for Board's information.

(Sudhir Mathur)  
Executive Director Accounts  
Railway Board

**Government of India  
Ministry of Railways  
(Railway Board)**

RBA No.61/2005

No. 2005/ACII/25/19

New Delhi 5.9/10.2005.

General Managers,  
All Indian Railways/PUs etc.

Sub: Guarantee Bonds submitted by contractors streamlining  
of procedure reg.  
-----

A case of forgery in bank guarantees has been brought to the notice of Board wherein a contractor got the genuine bank guarantee issued from the bank but kept the originals with himself and submitted fake ones with the same details but forged signatures and seal of the bank, to the Railway authorities. As a result, although the bank guarantees were got confirmed from the bank concerned through usual procedure of sending a letter quoting particulars of the guarantee, genuineness thereof could not be ascertained. Suitable action is being arranged against the contractor. However, to preclude such instances in future, it may be ensured that a copy of bank guarantee received from contractor, is also enclosed with the letter addressed to the concerned bank, by registered post and written confirmation obtained by registered post under the seal of the bank.

Executive Officers & FA&CAOs may also kindly take note of the above while framing the JPO as contemplated in Board's letter of even no. dated 8.9.05 on above subject and send a copy thereof for Board's information.

Kindly acknowledge receipt.

(Sudhir Mathur)  
Executive Director Accounts  
Railway Board



**Government of India  
Ministry of Railways  
(Railway Board)**

No. 2005/ ACII /25/19

RBA No. 68/2005  
Dated : 2.11/12.05

General Managers,  
All Indian Railways/ PUs etc.

Sub: Guarantee Bonds submitted by Contractors-streamlining  
of procedure reg.

Please refer to Board's letter of even no. dated 8.9.05 wherein detailed guidelines were issued on the above subject. It is noticed that certain columns have been repeated in the format of the Register of Guarantee Bonds suggested for Accounts Office due to typographic error. Therefore, the format of the register referred to above may be revised as under:

S.No.	Contract no. / order no. and Date	Name of the depositer	Due date of completion of work/delivery as per contract	Name and address of the Bank furnishing the G.B.
1	2	3	4	5

Confirmation Advice no.& Date from the Schedule bank in token of verification of genuineness of the guarantee bond	Amount for Which guarantee is offered	Date of expiry of guarantee bond	Months of reviews(3 months prior to the date of expiry as per Col.8)	Initials of the accounts officer incharge	Remarks
6	7	8	9	10	11

Kindly take note of the above change while framing the JPO contemplated in Board's letter *ibid*. A copy thereof may also be sent for Board's information at the earliest.

(J. Srinivas)  
Director Finance (CCA)

### III. TENDERS

#### I. (ii) EVALUATION OF OFFERS – Others

S. No	Subject in Brief	Letter Date
1	Non Acceptance of Late/Delayed Tenders	19/04/84
2	Non Acceptance of Late/Delayed Tenders	30/07/84
3	Scrutiny and Evaluation of Tenders by TC	17/11/72
4	Tender Committee Consideration of Tender of a Contractor having Adverse Report	15/03/86
5	Submission of incomplete Tenders	27/07/87
6	Acceptance of Tenders Unaccompanied by a Valid income Tax Clearance Certificate	18/09/69
7	Submission of ITCC by Contractors /Tenders	6.05.03
8	Price/Purchase Preference for Production and Servicing of Public Enterprises	13/01/92
9	Price/Purchase Preference for Production and Servicing of Public Enterprises	27.12.00
10	Rates for Items of Work	13/01/88
11	Realistic Assessment of Rates while Awarding Contracts for Painting of Girder Bridges	31/01/91
12	Tender Rejection of Lowest offer	15/07/68
13	Report of the High Level Enquiry Committee Set Up by the Railways Board to Enquire into the Cases Reported in Para 12 of the Audit Report (Railways) 1966 CLW Extra Expenditure incurred in Rejecting the Lowest Tenders for Fabrication and Erection of Steel Structure	08/04/70
14	Impact On Purchases due to instability in Prices	28/09/74
15	Impact On Purchases due to instability in Prices	31/10/74
16	Price Preference for Public Sector Undertakings	11/07/88
17	Loss Due to Non-Verification of Credentials and Capacity of Contractor-Para No 45 of CAG's Report Year Ending 31-03-91	09/10/91
18	Advance C & Ag's Report On Railways for 1981-82 Para 10 Chapter 2 (N.E. Railway Undue Benefit Allowed to the Contractor	03/09/83
19	Irregularities in the Award of Contracts against Limited Tenders	23/02/84

## **SOUTHERN RAILWAY**

No.S/314/P/Vol.6.

Office of the Controller of Stores  
Ayanavaram, Madras-23.  
Dt. 4.5.84.

Sub:- Non-acceptance of late/delayed post tender offers.

Ref:- P.O.O.No.S/314/P/Vol. 5 of 25.8.81.

-----

A copy of Rly. Board's letter No. 71/RS(G)/777 of 19.4.84 showing the circumstances under which a late tender can be accepted and the procedure to be followed for the same is appended below for your information and guidance.

Sd/-  
for Controller of Stores.

-----  
Copy of the letter No. 71/RS(G) 777 dt. 19.4.84 from Sri. Joginder Singh, Dy. Director Railways Stores (G), Railway Board, New Delhi addressed to The General Managers, All Indian Railways Production Units M.P.P. (Rlys) Calcutta.

Sub:- Non-acceptance of late/delayed/post Tender Offers.

In terms of Ministry of Railway's letter of even number dt. 1.8.1981, late/delayed/post tender offers have to be totally rejected.

2. Instances have come to the notice of the Board where on a strict application of the above instructions, even late tenders submitted by Public Sector firms for highly specialised equipments have been rejected.

3. The matter has, therefore, been reconsidered by the Board and it has been decided that where late tenders from established/reliable suppliers and conferring a substantial financial advantage is to be considered, notwithstanding the general ban. It will be open to the Railways, to seek the Board's approval for the consideration of such tenders. Since, this should be a very exceptional situation, such cases should be recommended for consideration of the Board with the personal approval of the General Manager, duly concurred in by the FA&CAO.

4. The Rlys, should not enter into any dialogue with the agency submitting delayed tender without obtaining Board's prior clearance.

5. These instructions apply uniformly to all tenders irrespective of the department quoting tenders.

6. This issues with the concurrences of the Finance Directorate of the Ministry of Railways.

No.S/7/PI/Vol.5

FA&CAO's Office,  
Madras-3, dt. 20.6.84.

## SOUTHERN RAILWAY

No.W. 496/CE/BNC/Vol.V(i)

Office of the CE/CN/BNC  
Dated:- 3.12.1984

XENS/CN/CTA/BNC,HUP,ATP and  
DL/GTL Sr. XEN/CN/MYS,  
XEN/CN/H.M. Rly., /BNC.

Sub:- Non-Acceptance of Late/Delayed /Post tender offers.

--:--

Copy of Railway Board's letter No. . 83/W1/CT/17 dated 30.7.84 received under CE/MAS letter No.W.496/P dated 16-10-84.is sent herewith for your information and guidance.

for CE/CN/BNC.

Copy to:- Dy. CEs/I, II, III, IV, Dy. CE/P&D/CN/BNC,  
Dy. COS/ CN/BNC, SEN/W, Br.

-----  
Copy of Board's letter No. 81/W1/CT/17 dt. 30.7.84 to the General Manager, All Indian Railways, etc., etc.,

.....

Para 1251 of the Indian Railways Code for the Engineering Department (Revised Edition-1982) stipulates that ``for dealing with `Delayed' and `Late tenders separate instructions as issued by the Railway Board from time to time should be followed".

2.In the Board's letter No. 71/RS(G)/777 dated 1.8.81 (copy enclosed), it was clarified that late tender/ delayed tender/post tender offers are not to be considered and are to be totally rejected. These instructions apply equally to works tenders also.

3. Recently Board have reconsidered the matter and have further clarified in their letter No. 71/RS (G)/777 dated [19.4.84](#) (copy enclosed) that notwithstanding the general ban, late tenders received from established/reliable suppliers conferring a substantial financial advantage can be considered by the Railway after obtaining Board's approval in each case.

Receipt of this letter may please be acknowledged.

--:--

**Copy of letter No.71/W1/CT/42 dt.17.11.72 from Director, Civil Engineering, Railway Board/ New Delhi to GMs/All Indian Railways CLW, DLW & ICF.**

\*\*\*\*\*

Scrutiny and evaluation of tenders by the Tender Committee.

A case has come to Board's notice in which the Tender Committee constituted by a Zonal Railway considered and evaluated the tender based on the overall value and recommended the lowest tenderer. This tenderer had actually quoted an abnormally high rate for one item of work but the tender committee failed to detect the same as they evaluated the tenders on the overall value. The high rate for the specific item of work in question subsequently came to the notice of the Administration during execution of the work when the Railway administration asked the contractor not to execute this item of work. The contractor sought for arbitration and the Administration had to defend its stand before the Arbitrator. This situation would not have arisen, had the Tender Committee scrutinized the individual rates carefully at the time of recommending the tenders.

2) With a view to avoid recurrence of cases of this nature, Board desire to reiterate that while evaluating tenders the tender documents should be carefully scrutinized particularly to ensure that the rates quoted for individual items are realistic and are not unreasonable in respect of any item of work. It is the responsibility of the Tender Committee to scrutinize carefully the tendered rates. The attention of the Railway administration is drawn once again to the need for checking units, rates and quantities of all the individual items in the tenders carefully, while evaluating the tenders. In this connection attention is also invited to Board's Circular letter No. 61-B(C)-N/27 dated 1-3-62 and No. 63-TGII/6 dt. 13-9-63 and recommendation No.21 of the "Report of Study Team on elimination of Lacunae and improvement in procedure" construction and supplies" circulated under Board's letter No.65/Vig I/1/102 dt.19.3.72.

3)It also came to the notice of the Board that in this particular case, no briefing note was submitted to the Tender Committee indicating the last rates for similar works. In this connection attention is invited to Board's circular letter No. 61/W5/LCT/51 dt. 21-1-67 and recommendation No. 19 of the "Report of the Study Team on elimination of Lacunae and improvement in procedure" Construction and supplies" circulated under Board's letter No. 65 Vig.I/1/102 dated 19-3-1971, wherein it has been enjoined that along with the tabular statement of tenders for the consideration of the Tender Committee, a short briefing note should be furnished for their information indicating the last accepted rates for similar works in that area, analysis of financial standing, technical competence and capacity of contractor etc. The Board desire that these instructions should be rigidly complied with.

4) Receipt of this letter may please be acknowledged.

**Copy of Railway Board's letter No. 85/WI/CT/33 dated 15.3.1986, New Delhi addressed to The General Managers, All Indian Railways and others and copy endorsed to the FA & CAO, All Indian Railways and etc.**  
.....

Sub: - Tender Committee - Consideration of tender of a Contractor having adverse report.

\*\*\*\*

In terms of Board's letter No. 73/WI/82 dated 10.10.1973 it was indicated that in all cases of adverse reports against the contractors prior approval should be taken from the Chief Engineer as to the course of action to be adopted in dealing with tenders from such contractors. A reference has been received from Railway that obtaining Chief Engineer's approval leads to delay in finalisation of the tenders and accordingly, DRM should be the competent authority. The matter has been reviewed by the Board. It is felt that a distinction has to be made between suspension of business etc., on the one hand and a contractor's suitability/unsuitability for a particular work keeping in view the nature and magnitude of the work and contractor's past performance on the other hand. It is clarified that Tender Committee and the Accepting Authority are competent to judge the suitability/unsuitability of a contractor for a particular work. Where however, question of demotion to lower class, suspension of business dealings or removal from the approved list is involved, power vests with the Chief Engineer only in accordance with the revised standardised Code for registration/suspension, removal and of banning of business, etc. for building contractors forwarded under Vigilance Directorate's Circular No.77 /Vig.I/ Banning/Works/2 dated [23.8.1977](#).

(Sd/-)  
(ASHOK KUMAR)  
Executive Additional Director,  
Civil Engineering,  
Railway Board.

FA&CAO'S Office,  
Madras -600 003,  
No. W.496/F/O Dated: 21.4.86

Copy Forwarded to : FA&CAO/CN/MS; FA&CAO/WST/PER FA&CAO/MTP/MS:  
Sr.DAOs/MAS, SBC, TPJ, MYS, TVC DAOs/MDU, PGT & AAO/XC/MAS for  
information had guidance.

(Sd\ -)  
For F.A & C.A.O.

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
RAILWAY BOARD**

NO.87/WI/CT/24.

New Delhi, dated: 27-7-1987.

The General Manager,  
Western Railway,  
Bombay.

Sub: Submission of incomplete tenders.

\*\*\*\*

A case has come to the notice of the Board in which the tender committee recommended negotiations with all the tenderers on the ground that one of the tenderers allegedly due to oversight had failed to quote their rates in all items. This recommendation was accepted by the competent authority, and accordingly negotiations were held with the tenderers, though the lowest valid tenderer objected to inviting the said tenderer for negotiations. As a result of negotiations the tenderers who failed to quote the rate earlier become the lowest and, the contract was awarded to them.

This action of the Railway was not in order as it amounted to giving a counter offer to a contractor whose rates/offer was in complete. Board desire that the Zonal Railways should guard against such procedural lapses while finalising tenders. Please acknowledge receipt.

(Sd/-)

(ARIMARDAN SINGH)  
Joint Director Civil Engineering (G),  
Railway Board.

NO.87/WI/CT/24. New Delhi, dated -7-1987.

Copy forwarded to :

The General Managers, All zonal railways, CLW/DLW/ICF & MTP  
(Railways) at Calcutta.

The FA&CAOS, All Indian Railways.

The Chief Administrative Officer/MTP(Railways at Bombay and  
Madras).

The Chief Project Officer,  
MTP (Railways), Delhi.

**Copy of confidential letter No.Con/165/II dt. 4.10.69 from GM/W/MAS to DSs W/MAS, GTL etc. etc.**

\*\*\*\*\*

Sub: Acceptance of tenders unaccompanied by a valid Income Tax Clearance certificate.

\*\*\*\*\*

A copy of Railway Board's letter No.69/WI/CT/38 dated 18.9.69 is sent herewith for your information and guidance.

Encl: One.  
Sd/- for General Manager.

Copy together with a copy of Board's letter referred to above is forwarded to CE/CN/MS etc. etc.

\*\*\*\*\*

---

Copy of letter No. 69/WI/CT/38 dated 18.9.1969 from

Joint Director, Civil Engineering, Railway Board, New Delhi  
to the General Managers, All Indian Railways and others.

Sub: Acceptance of tenders unaccompanied by a valid Income Tax Clearance Certificate.

-----

The question of acceptance of tenders unaccompanied by valid Income Tax Clearance Certificate, submitted by contractors borne on the approved list of contractors on Railways, has been under consideration of the Board.

It has now been decided by the Board that the Tender Committee may use their discretion for considering tenders without the valid Income Tax Clearance Certificate, subject to the condition that in the event of such a tender being accepted, no payment shall be made to the contractor for the work carried out or the material supplied under the contract, nor shall the contractor make a claim for any such payment until and unless a valid Income Tax Clearance Certificate is produced. In such cases, it should be ensured that this aspect is clearly brought out in the letter of acceptance and the agreement.

Please acknowledge receipt.



**RB/CE/2/2003**

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

ESO No.16

No. 94/CE-I/CT/4 (Pt.II).

New Delhi,  
dated 6.5.2003.

Addressed to: As per list attached

Sub: Submission of Income Tax Clearance Certificate (ITCC)  
by contractors/tenderers.

Ref: (i) Letter of Ministry of Finance & Company Affairs,  
Department of Revenue, Central Board of Direct Taxes (TPL  
Division) F.No.153/191/2002-TPL dt. 13-2-2003.  
(ii) Board's letter No.F(X)I-2003/24/1 dated 24-4-2003.  
(iii) Board's letter No.69/WI /CT/38 dated 18-9-1969.  
(iv) Board's letter No. 94/CE-I/CT/4 dated 17-10-02.

\*\*\*\*\*

Ministry of Finance & Company Affairs vide their letter referred to at (i) above have decided that "No Income Tax Clearance Certificates shall be required to be furnished by any person while filing a tender for the purpose of obtaining commercial contracts etc." A reference was also made to Ministry of Finance by the Finance Dte. of Railway Board in regard to release of payment without insisting on- ITCC. It has been clarified by Ministry of Finance that no ITCC would be issued by the Income Tax Department to persons obtaining commercial contracts for any purpose. In this connection, instructions issued vide Finance Dte. of Railway Board, referred to at (ii) above, may also please be connected. Board have further decided that :-

(1) The instructions issued vide Board's letter No.69/W1/CT/38 dated 18-9-1969. as referred to at (iii) above, are no longer applicable and the submission of a copy of valid ITCC for the purpose of tender or for the purpose of making payment to the contractor for the work carried out or the material supplied under the contract by the contractor may not be insisted upon.

(2) Clause 3 of the Minimum Eligibility Criteria contained in Para 2.3.4.1, issued vide Board's letter No. 94/CE-I/CT/4 dated 17-10-02 and referred to at (iv) above, is modified as given below :-

Present Clause

Total contract amount  
received during the last 3  
years as per current ITCC :

should be a minimum of 150%  
advertised tender value  
of work.

Clause as amended now

Total contract amount received  
during the last 3 financial years  
and in the current financial years

should be a minimum of 150% of  
advertised tender value. Tender  
Committee would satisfy themselves  
about the authenticity of the certificates  
produced by the tenderer(s) to this effect

which may be an attested certificate from the employer/client; audited balance sheet duly certified by the Chartered Accountant etc. The details about the certificate to be accepted in regard to the turnover may, however be notified along with the minimum eligibility criteria while advertising/issuing the tender notice by the competent authority.

This issues with the concurrence of Finance Dte. of Railway Board.

Hindi version will follow.

(Parmod Kumar)  
Executive Director Civil Engineering(General.)  
Railway Board.

**No. DPE/13(19)/91-Fin.  
Government of India  
Ministry of Industry  
Department of Public Enterprises**

Block No.14, CCO Complex, Lodi Road  
New Delhi, the 13th January 1992.

OFFICE MEMORANDUM

Subject: Price/Purchase preference for Production  
and Servicing of Public Enterprises.

\*\*\*\*\*

Reference: is invited to O.I No.BPL/GI-COD/80/23.1.80/BPE/MM  
dated 15-10-80 on the above subject(copy enclosed)

\*\*\*\*\*

In the new environment of a liberalised Industrial Policy and the emphasis on performance improvement of Public enterprises to function on commercial principles etc., further protection in the term of price/purchase preference is not quite relevant in the new competitive environment. The matter was reviewed by the Govt, and the decision is as under:

(a) Instead of granting price preference to public enterprises, Government may grant purchase preference to the public enterprises.

(b) In all such cases, while the quoted prices of public enterprises is not within the 10% of the lowest valid price bid, such a price bid may be rejected without any further consideration .

(c) Where the quoted price is within 10% of the lowest price, other things being equal, purchase preference may be granted to the public enterprise concerned, at the lowest valid price bid.

(d) The above purchase preference may be made operable for a period of 3 years as transition within which public enterprises should adjust themselves to the new environment of competitiveness and efficiency so that the entire policy of price /purchase preference may be withdrawn within the next 3 years, from the date of issue of this O.M.

Sd/-  
(T.S. NARASIMHAN)  
Joint Secretary (F)

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.98/CE.I/CT/32

New Delhi, dated 27.12.2K.

As per list attached.

Sub: Purchase preference for products and services of  
Central Public Sector Enterprises.

Ref: This office letter of even number dated 21.8.98.

\*\*\*\*\*

Enclosed please find a copy of Department of Public Enterprises' OM No.DPE/13 (3)/2000-Fin-GL30 dated [14.8.2000](#) on the above subject for information and necessary action. Government have decided to extend the policy of Purchase Preference for products and services of Central Public Sector Undertaking for two more years upto 31.3.2002 with the existing parameters except that the minimum value of purchase as specified in the scheme may be Rs.1 crore instead of Rs.5 crores as specified in the DPE's OM dated 31.10.97. The provisions relating to purchase preference should be specified in the "Notice Inviting Tender". in each case.

The instructions issued vide this office letter of ever number dated 21.8.98 referred above are modified to this extent.

This issues with the concurrence of Finance Directorate of Board.

Receipt of this letter my please be acknowledged.

DA: One letter.

(Pradeep Kumar)  
Exec. Director Engg. (G)  
Railway Board.

No. DPE/13 (3)/2000-Fin-GL30

Dated September 14, 2000

**GOVERNMENT OF INDIA  
MINISTRY OF HEAVY INDUSTRIES & PUBLIC ENTERPRISES  
DEPARTMENT OF PUBLIC ENTERPRISES**

PUBLIC ENTERPRISES,  
BLOCK NO. 14, CGO,  
LODI ROAD, NEW DELHI.

**OFFICE MEMORANDUM**

Sub: Purchase preference for products and services  
of Central public sector enterprises.

Reference is invited to the Department of Public Enterprises' OM No. DPE/13 (19)/91-Fin dated 31.10.97 and 10.2.98 regarding the policy of purchase preference for products and services of central PSEs.

2. Keeping in view, the requests from various Ministry PSEs and the various relevant factors, Government have to extend the policy of purchase preference for products services of central public sector undertakings for two years i.e. upto 31.3.2002 with the existing parameters except the minimum value of purchase as specified in the scheme may be Rs. one crore instead of Rs. 5 crore as specified in 31.10.97. The provisions relating to purchase preference should be specified in the "Notice Inviting Tender" (NIT). It has also been decided that the public enterprises which benefits from the purchase preference should be subjected to penalties for cost over-runs etc.

Sd/-  
(DR. ANISH MADA)  
Joint Adviser.

## **SOUTHERN RAILWAY**

No.W.469/P/O Headquarter Office,  
Works Branch,  
Madras-8.,  
Dated; 15.8.88.

DRM(w)MAS, PGT, TVC, SBC, MYS, TPJ & MDU

Sub:- Rates for items of work  
\*\*\*

A copy of Railway Board's letter No.87/WI/CT/65 DT: 13.1.1988, inter-alia-  
indicating that

a) the practice of calling item wise rates to be quoted by the tenderer should be avoided as far as possible and that for non schedule item for which it is possible for the Railway to work out the basis rates corresponding to the standard schedule of rates, the tender schedule should be prepared giving the basic rates as thus worked out and the tenderer asked to quote a percentage above or below these basic rates and

b) for any new item not included in the agreement but considered inescapable the rates should be negotiated on the basis of a realistic analysis of the quantum of work involved, is enclosed for information and necessary action.

Receipt may please be acknowledged.

(Sd/-)  
Encl:One for Chief Engineer.

**Copy of letter from V.S. Gupta, Executive Director Works(---, Railway Board, NO.87/WI/CT/65., dt.13.1.88., addressed to the general Manager, Southern Railway.**

Sub:- Rates for items of work..

\*\*\*

1. In para 12 of C&AG'S Report of 1985-86(Railway), it has been brought out that on a certain Railway, in a contract for earth- work and bridges for a new line project, a new item for de- watering, not included in the original tender schedule, was required to be operated. The rate for this item was negotiated with the existing contractor since bringing any other agency for this item was not considered feasible.

2. A Committee which negotiated the rate for this item based its recommendations on the accepted rate for the same item on another section of the project. No analysis of rate was made. It was also seen that the accepted rates for this item varied considerably in different sections and the Committee's recommendation was not based on any logical reasoning.

3. In the tenders for earth-work, the tenderers were required to quote their rates for soil, rock not requiring blasting and rock requiring blasting. However in a few sections, some tenderers quoted the same rate for all the three items and, based on assumed quantities, their tenders were lowest and hence accepted. In actual execution, the quantities of rock not requiring blasting and rock requiring blasting were found to be much less than anticipated, resulting in vitiation of the tender acceptance and the element of avoidable expenditure arising from the same.

4. To avoid such exigencies, the Board desire that the practice of calling item-wise rates to be quoted by the tenderer should be avoided as far as possible. For items covered by the Standard Schedule of Rates, tenders should be called for on the basis of a percentage above or below the standard schedule of Rates. Even for non-schedule items for which it is possible for the Railway to work out the basic rates corresponding to the standard Schedule of Rates, the tender schedule may be prepared giving the basic rates as thus worked out. On this the tenderer may quote a percentage above or below these basic rates. With this system, the number of items for which the tenderer is required to quote item-wise rates of his own will be limited to a small number. Such items may be made into a separate tender schedule.

5. For any new item not included in the agreement but considered inescapable, the rates should be negotiated on the basis of the realistic analysis of the quantum of work involved.

This issue with the concurrence of Finance Directorate of the Minister of Railways.

Please acknowledge receipt.

**Copy of Railway Board's letter No. 89-BC-SC-/22., dt. 30/31.1.91 from Shri A. K. Mehrotra, Exe. Director, Civil Engg. (B&S)., addressed to the General Managers, All Indian Railways and copied to ADAI (Railways),etc.**

\*\*\*

Sub: Realistic assessment of rates while awarding contracts for painting of girder bridges.

\*\*\*

Para 3.8 of the C&AG's Report (Railways) for 1988-89 highlights a case of acceptance of higher rates by a zonal Railway in 1984 for painting girder bridges ranging from Rs. 21.17 per Sq.m. to Rs. 22.15 per Sq.m. ignoring the lowest offers on the ground of their being unworkable, and acceptance of the lowest rates ranging from Rs. 18.00 to 22.99 in 1986 & 1987 against the assessed workable rates ranging from Rs. 33.94 to Rs. 37.00 per Sq.m.

Examination of the relevant records reveals that the factors like the type of girders to be painted, surface conditions, availability of the skilled labour at the various work sites etc. which influence the assessment of workable rates in such cases, were not fully recorded by the Tender Committee in 1984 while recommending rejection of the lowest offers.

Board desire that to avoid recurrence of the case highlighted by Audit, it should be ensured that the assessment of workable rates for painting girder bridges is realistic, taking into account the relevant factors and that the reasons for rejection of the lowest unworkable rates are fully recorded in the proceedings of the Tender Committee.

Please acknowledge receipt.

/copy/



## **SOUTHERN RAILWAY**

Headquarters Office,  
Works Branch, Madras-3.  
NO.W.496.P. Dt: 30/7/68.

DS/W/MAS GTL MYS OJA MDU & TPJ.  
XEN/RM/MAS XEN/SW/OJA/

Sub: Tender - Rejection of lowest offer.

\*\*\*

A copy of Railway Board's letter No. 68/W1/CT/15 dt. 15/7/68 is sent herewith for your information and guidance.

Attention is also drawn to the Circular letter No. G/W.496/11 dt. 15/5/68, issued by GM/G/MAS on the same subject.

GENERAL MANAGER.

Copy with a copy of Board's letter referred to above is forwarded to:

CE/CN/MS,

ENC/P/BNC

CCS COS CME COPS CEE CSTE CMO ENC/S&T/MAS.

Copy of Board's letter No. 68/W1/CT/15 of 15/7/68 from Jt. Director(Civil Engg)/Rly.Board, New Delhi addressed to the GMS, All Indian Rlys., and others.

Sub: Tender -Rejection of lowest offer.

\*\*\*

An instance has come to the notice of the Board where a Tender Committee rejected the lowest quotation on the recorded ground that the contractor did not submit either the credentials or the incomes tax clearance certificate. On further examination it was found that the actual reason for the rejection of this tender was that the Tender Committee did not consider the lowest tenderer suitable for the award of this contract, and the contract was correctly awarded to the next higher tenderer, whom the Tender Committee considered suitable. The Board desire that suitable instructions should be issued so that in future, the Tender Committees should give their reasons in greater details while rejecting the lowest tenderer, for proper appraisal of the case later, if necessary.

**Copy of Railway Board's letter No.67-B(C)-PACIII/72(13) dated 8th April 1970 from Director/Accounts to GMs/All Indian Railways and Production Units.**

\*\*\*

Sub: Report of the High Level Enquiry Committee set up by the Railway Board to enquire into the cases reported in para 12 of the Audit Report (Railways) 1966 CLW Extra expenditure incurred in rejecting the lowest tenders for fabrication and erection of steel structures connected with the Electric Locomotive Project and expansion of Steel Foundry Project.

\*\*\*

As recommended by the Public Accounts Committee in para 3.34 of the 72nd Report, 1966-67 (3rd Lok Sabha), the above noted case was enquired into by a High Level Enquiry Committee consisting of Additional Members, Finance, Works and Mechanical and the N.D.A.I. (Railways). The Committee have pointed out certain irregularities with respect to the procedure followed by the Tender Committee as well as by the C.L.W. Administration. In respect of Tender Committee, the High Level Committee have observed that:

(a) a firm which was earlier considered suitable for the award of the contract was subsequently rejected on account of labour trouble in a sister firm of the same factory but the labour trouble was not fully investigated and details recorded in the Tender Committee proceedings.

(b) Negotiations were conducted with only one firm while the claim of another firm which was equally capable and whose quotations were only slightly in excess was not considered for negotiations.

(c) Another firm had mentioned in their tender that they were already undertaking certain items of fabrication work. These were not fully enquired into and recorded in the tender committee proceedings before rejecting this firm as unsuitable.

The High Level Committee have also commented:

1) on the failure of the C.L.W. Administration to estimate more precisely in the initial stage itself the quantities of work to be executed which necessitated conducting of negotiations;

ii) on non-fixation of relative priority for execution of the two contracts if this would have been possible; and

iii) on the administration undertaking to supply steel for the fabrication work while the contract initially executed provided for the supply of steel by the firm, without ascertaining and recording in detail the financial implications involved.

2. So far as the procedure for dealing with tenders is concerned, the need for careful examination of all aspects including physical and financial capacity of the various tenderers, their technical competence etc., and to record in detail the reasons for which particular tenderers are over looked or only certain tenderers are called for negotiations in the Tender committee proceedings is well known.

3. The above noted lapses, however, are brought to the notice of the Railways to ensure that similar omissions to record the circumstances contemporaneously do not occur. Attention is also invited to Board's letter No.67/WI/CT/32 dated [25.5.1968](#) laying down the guidelines for conducting negotiations. In regard to the comments on the C.L.W. administration, the Board have already issued general instructions on the subject of the need to estimate correctly the quantities of work to be executed vide Board's letter No. 67-B(C)PAC - III/72(24) dated [29.11.1967](#). The observation of the High Level committee in regard to points (ii) and (iii) of para 1 are brought to the notice of the Administrations for their guidance.

\*\*\*\*\*

FA & CAO's Office  
Madras 3  
Dated: 24-4-1970.

No. W.496/S/O.

Copy forwarded to CE, COS,CSTE, CEE,EMO, CCS, COPS, CSO, CME, Pub and G Branches.

DSs/MAB. GTL, MYS, OJA, TPJ and MDU. SAO/CN/BNC; Dy.CAO/S/PER;  
DAOs/MAS, GTL, MYS, OJA, TPJ and MDU. SAO/W/PER; AAO/W&S/MYS  
CE/CNMS, Dy. FA & CAO/CN/MS, SAO/CN/MS; SAP/X/C; --FB/TA.

/FA & CAO

**Copy of General Manager, ICF letter No. ICF/ /CCS/Mfg. dated 28-9-74 addressed to the Secretary(S) Railway Board, New Delhi.**

Sub: Impact on purchase due to instability in prices.

---

In my PCDO for the month of January, 1974, I have informed the Board that owing to prevailing conditions it may not be practicable to resist the requests received from suppliers for enhancing the prices on fixed price contracts in the case of some items of stores where there are only a few manufacturers and the supply position is critical. It was mentioned that such cases were being examined on merits and that the minimum price increase considered reasonable may have to be given.

2. The matter was discussed at the COSs' meeting with the Board held on 24/25th July, 1974 and note from Minute No. 9 that MM had indicated at the meeting that as a matter of principle, price increase should not be allowed against fixed price contracts and that, for the present, all cases should be dealt with strictly as per contractual obligations. It was, however, recognised that exceptional cases do arise and that Board could not lay down any guide lines in this regard.

3. The question which arises is what line of action should be adopted in the exceptional cases where suppliers insist on price increases on fixed price contracts and stop, or threaten to stop, supplies unless the price increase asked for by them is agreed to. I have gone into this matter carefully and I have had the benefit of the views of FA & CAO and CME. It has to be realised that in the present conditions, both in India and abroad of inflation, power shortages, steeply rising wages and prices of raw materials, cases are bound to arise where suppliers, find themselves unable to make supplies at the contracted rates without incurring heavy losses. While we are not concerned with any losses that might be incurred by suppliers, we are concerned with the loss of production, idle labour etc. which arise from non supply of materials, components etc. Any suppliers who are not prepared to fulfill their fixed price contracts at prices which during the currency of the contract have become unremunerative owing to factors beyond their control.

In some of these cases it may be possible to obtain supplies from alternative sources even by resorting to risk purchase, but there will be other cases where there will be only one or two sources from which the materials can be obtained and where it may not be practicable to resort to risk purchases. In such cases, any price increase may have to be accepted, the alternative being idle labour, idle machinery and loss of production.

4. To deal with such a situation, I have decided that as the Code provisions do not prohibit the grant of price increase on fixed price contracts and each such case where it is found not possible to resist the price increase without serious repercussions on production should be referred to the Tender Committee which considered the tenders in the first instances. The Tender Committee would negotiate with the firm/firm and where there is no other alternative, recommend the minimum price increase. It is not possible to prescribe any guide lines for the Tender Committee as each case is likely to be different. The Tender Committee would consider the case on its merits and submit their recommendations to the

GM through COS and FA & CAO. It would be concurrently examined whether alternative materials could be used so that the price increases may be entirely avoided or at least may have the least financial repercussion.

(TRUE COPY)

**COPY OF RAILWAY BOARD'S LETTER NO. 74/RS(G)379/I DATED 31-10-1974 TO THE GENERAL MANAGER, INTEGRAL COACH FACTORY, PERAMBUR, MADRAS- 38.**

Sub: Impact on purchase due to instability in prices.

Ref: Your Letter No.ICF/S/COS/Mfg/33 dated 28-9-1974.

\*\*\*

In reference to the points raised in your letter mentioned above, I am directed to advice you that Board do not approve of your proposal that Tender Committee should re-negotiate rates in the case of firm price contracts referred to in para-4 of your letter under reply. You can, however, refer to the Board for their approval all cases requiring revision of rates against firm-price- contracts with complete justification and comments of the FA& CAO. Such cases however, should be recommended only in very exceptional circumstances meriting consideration of Board.

Sd:  
(S.K. Gurani)  
Jt. Director/Railway Stores(G)  
Railway Board.

/True copy/

sm/22.3.

**Copy of Board's letter No.88/CE-I-CT/28 dt.11-7-88 to GMs/All Indian Rlys. etc.**

Sub: Price preference for Public Sector undertakings

\*\*\*

Board have decided that Price Preference Clause mentioned below may be incorporated in all Standard Tender Conditions and in the General Conditions of Contract by issue of a correction slip.

"In case the overall value of the tender by a Public Sector Undertaking of the State or Central Government is upto 10% higher than the lowest tender of a private tenderer, the Railway reserves the right to give preference to the tender of such Public Sector Undertaking ignoring the lower tenders.

The Price Preference Clause as mentioned above has been vetted by the Legal Advisor.

This issues with the concurrence of the Finance Directorate.

Attached Receipt of this letter may please be acknowledge.

\*\*\*

**Copy of Railway Board, New Delhi letter No. 91/CE-1/CT/1 dt. 9-10-1991 addressed to General Manager, Southern Railway, Madras.etc.**

Sub: Loss due to non-verification of Credentials and capacity of contractor - para No.45 of CAG's report year ending 31-3-1991.

\*\*\*

In para 45 of CAG's report of the year ending 31-3-91 a case has been cited by the Audit where a contract of the value of Rs.11.62 lakhs was awarded to a contractor on a Railway without proper investigation of contractor's capacity and financial status. Similar lapse occurred in another contract of the value of Rs. 3.00 lakhs. Correctness of the Guarantee Bonds and its bonafides were also not cross-checked with the issuing authorities, as provided under Board's letter No. F(X)I-77/19/2 dated 21-9-1977. Due to this procedural lapse, the Railways suffered loss running into lakhs of rupees.

2. In this connection it is to be stated that para 1215.E of Engineering Code clearly lays down that no work of supply order should ordinarily be entrusted for execution to a Contractor whose capability and financial status has not been investigated before hand and found satisfactory. Similar instructions were reiterated under Board's circular letter No. 68-B(C)- FA/IV/23/20 dated 25-10-68 followed by another circular No.87/W.I/CT/56 dt. 16-5-1988.

3.It is desired that these instructions should be followed and applied rigidly and all precautions taken to avoid recurrence of such losses to the Railways due to procedural lapses.

4. Receipt of this letter may be acknowledged.

Sd.  
Exec. Director, Civil Engg.(G)  
Railway Board.



**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)**

No.82-B(C)-NE/1

New Delhi, dt: 3.9.1983.

General Managers, All Indian Railways including CLW,DLW,ICF and  
MTP (Railways) at Calcutta.

Sub:- Advance C&AG's Report on Railways for 1981-82- Para  
10 Chapter 2(N.E. Railway) Undue benefit allowed to  
Contractors.

\*\*\*

In the above case the Audit have pointed out that the Railway had invited tenders for construction of bridges with a special condition stipulating that the coarse aggregate for cement concrete and RCC work, may if available be supplied to the contractor at fixed rates as specified in the tender, should the XEN decide to do so in the circumstances of the case. Although in some cases the contractors had been awarded contracts with obligatory supply of shingle at the fixed rates as specified in the tender, in others the contractors had accepted contracts with non-obligatory supply, and yet in all cases the shingle had been supplied by the Railway at the fixed rates, specified in the tender, due to circumstances, prevailing in that area at that point of time. The Audit had, however, objected to issue of such materials at fixed rates in those contracts where the supply was not obligatory.

2. The Board have considered the matter and desire that in future the rate for supply of such non-obligatory materials should not be stipulated as fixed rate in the contract documents and if such materials are issued to the contractors these should be treated as materials supplied outside the contract, and the cost of such materials should be recovered in terms of para 1269 E, read with 2329 S.

3. The receipt of this letter may please be acknowledged.

(Hindi version will follow)

(M.M. Goyal)  
Additional Director, Civil Engg.  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.84/RS (G) /777/1.

New Delhi, Dt. 23.2.1984.

The General Managers,  
All Indian Railways, including Production Units.

Sub: Irregularities in the award of contract-against limited  
Tenders.

\*\*\*

In a case investigated by the C.B.I into alleged irregularities in the award of a contract against limited tender by one of the Zonal Railways, the following lapses came to notice:-

i) A paragraph in T.C. Proceedings included "other offers being higher not considered for acceptance" which was actually irrelevant since there was no other higher offer available against the tender. When asked to comment, the Railway stated that normally draft proceedings of the Tender Committee were made by the Clerks and had included the above phraseology which was not noticed by T.C. Members while signing the T.C.P.

ii) Further, it was noted from the records that on two occasions when limited tenders were issued, the names of the firms to whom tenders were issued, the names of the firms to whom tenders were sent were not available on office copy of the invitation to tender nor any record thereof was available.

2. As per the normal practice, the members of the Tender Committee meet and draw up the proceedings of the T.C. after the tenders are opened and scrutinized, Preparation of Tender Committee minutes by clerks is, therefore, objectionable. Further, non-maintenance of proper records of the names of the firms to whom tenders have been issued on the files is irregular.

3. The Ministry of Railways have taken a serious view of the irregularities indicated in Para 1 above and desire that instructions indicated in Para 1 above may be issued to all concerned for maintaining proper secrecy of tenders and also complete records on the files.

4. Receipt of this letter may please be acknowledged.

Sd/-  
(S.Krishna)  
Jt. Director, Railway Stores (TC) Railway Board.

# III. TENDERS

## I. (iii) EVALUATION OF OFFERS - VARIATIONS

S. No	Subject in Brief	Letter Date
	Variations in General	
1	General Conditions of Works Contract	06/05/63
2	Provision of Variation Clause in Special Conditions of Contract	27/07/74
3	Escalation Claims On Account of increase in Price of Pig Iron	06/02/79
	Variations in Quantities.	
1	Procedure in Dealing with Large Excess Over the Estimated Cost of Earth Work Contracts As a result of Development Subsequent to the Award of Contracts	29/11/67
2	Variations in Quantities and Variations of the Items	08/06/87
3	Variation of Quantities and Items	16/12/87
4	Variation of Quantities and Items in Contracts	17/03/88
5	Variation in Contract Conditions	15.03.93
6	Enhancement of Original Tender Value Variation in Quantities	05/05/95
7	Enhancement of Original Tender Value Variation in Quantities	24.8.95
	Variations in Prices	
1	General Conditions of Contract-inclusion of Price Variation Clause	25/04/80
2	General Conditions of Contract Price Variations Clauses Amendment thereto	20/01/87
3	Price Variation Clause Base Month	16/03/88
4	Price Variation Clause Non Applicability if the Price Variation Is Up to 5 %	17/05/89
5	Price Variation Clause Price index Criteria	19/07/90
6	Price Variation Clause Non Applicability If the Completion Period Is Less Than One Year in Contracts.	17/01/94
7	GCC – PVC Amendment thereto	4.04.96
8	PVC Admissibility During Extended Period of Contract – (in Response to SE Rly. Letter Dated 18.06.01-Page 128)	4.01.02
9	PVC Admissibility During Extended Period of Contract	25.10.02
10	GCC – PVC Amendment thereto	18/19.04.06
11	GCC – PVC for Track Renewal Works with Contractors PQRS Portal Machines	17.12.03

**Copy of letter No. 63/VII/CT/4 dated 6.5.1963 from Joint Director, Civil Engineering, Railway Board, New Delhi to the General Managers, All Indian Railways etc. etc.,**

Sub:- General Conditions of Works Contract.

-----

A case has been referred to the Railway Board by a Railway in which one of the contractors has challenged the right of the Railway to vary quantities of items in a certain work beyond reasonable extent from those indicated in the tender document. In the case in point, the quantities of certain items of work have increased by more than 100% and some of the items of work on the other hand have been altogether deleted, even though provided in the schedule accompanying the tender notice. It was stated by the Railway that generally speaking, in a works contracts variations in quantities between 15% and 25%, depending upon the merits of each case, should be considered as reasonable and beyond this as unreasonable and not falling within the scope of the contract. In holding this view, the Railway was guided by clause 6 of the Indian Railways standard Conditions for Running Contract for stores given as Appendix III at page 523 of the Indian Railway Code for Stores Department.

2. The matter has been examined in consultation with the Ministry of Law, Government of India, and the Board have been advised that "the word `approximate connotes a quantity as near as possible to the quantity specified. But no rigid rule can be prescribed as to what should be reasonable limits of such increase or decrease. The extent of such reasonable limit of increase in a works contract may not be the same in every case. It would depend on the nature of works contracted to be done. Perhaps the variation between 15% and 25% depending on the nature of the particular category of work to be done would not be reasonable.

3. The Railway Board desire that the above advice may be kept in view while disposing of case of similar nature, in consultation with your F.A.&C.A.O, on the merits of each case.

## SOUTHERN RAILWAYS

No.W.496/P

Headquarters Office,  
Works Branch,  
Madras-3,  
Dt.27/1/1976.

DS/W/MAS, TPJ, GTL MYS, OJA & MDU

Sub:- Provision of Variation clause in Special  
conditions of contract.

\*\*\*\*\*

Railway Board in their letter No.72/WI/CT/46 dated 27.7.74 have conveyed their decision to specify the percentage of variation of 15% to 25% as a special condition of contract. They have drawn attention to their earlier letters No.63/VII/CT/4 of 6.5.63 & 67/B(C)-PAC.III-72/24 of 29.11.67 (copy forwarded under No. W/ 496/P of 12.12.67).

We are dealing with 2 kinds of contracts,

(1) Zonal Contract.

(2) Special works contract.

In terms of Board's No.61-B(C)-C(41) of 14/6/62 and 68/W2/CT/12 of 29.5.65 a circular letter was issued bearing No. W/ 149/P/Vol.III of 31.7.65 that the value of the works ordered on the Zonal Contractor under a Zonal Contract should not exceed the value by 20% or Rs. 1 Lakh whichever is higher. This is not however, being incorporated now in the tender conditions governing Zonal Contract.

With the receipt of Board's letter dt. 27.7.74, as above it has been finally decided in consultation with the FA&CAO and L.O. to adopt the following two clauses, **one for special Works and the other for Zonal contracts.**

**(a) FOR SPECIAL WORKS:**

"The quantities of item/items in the Schedule for the work to be executed are only approximate and are only for guidance of the Contractor/Contractors. The quantities have as far as possible, been assessed correctly but the same are likely to vary to the extent of 25% i.e. increase during the execution of the work according to the actual needs of the Railway. The work/works with the variation of an increase upto 25% laid down above shall be binding on the contractor/contractors and he/ they will not be entitled to any compensation for such variation and he /they will be paid for such extra quantity of work done by him/them, only at the contract rate. The decision of the Engineer regarding the necessity and the extent of such variation shall be final and be binding on the contractor and the contractor cannot question or make any claim on that account at any stage.

In the case of works on foundation, the variation may be of a higher percentage and this limit of 25% will not apply to such works."

**b) FOR ZONAL CONTRACTS:**

"The approximate value of the work as shown in the tender might be increased upto a limit of 20% or Rs. 1,00,000/- whichever is greater and such work to the extent of such increased value shall be paid for only at the contract rate.

The decision of the Engineer regarding the necessity and the extent of variation shall be final and be binding on the contractor and he cannot question or make any claim regarding the same at any stage."

The above clauses may be incorporated in all future call of tenders.

Please acknowledge receipt.

Chief Engineer.

Copy to: FA & CAO/MAS for information with reference to his  
No.W/496/F/111 of 2.1.76

**Government of India(Bharat Sarkar)  
Ministry of Railways/Rail Mantralaya  
(Railway Board)**

No.Track/21/77/0103/7.

New Delhi, dated 6-2-1979

The General Managers (OL & Con),  
All Zonal Railways.

Sub: Tender No. Track 53 of 1977 for procurement of CI sleeper plates-  
Escalation claims on account of increase in the price of pig iron.

-----

Please refer to Board's letter of even number dated 30-6-78 on the above subject. Price variation in the CI sleeper plates is governed by clause 6 of the Special Conditions of Contract. Sub-clause 6.1 and 6.2 stipulate that no increase in the price of CI sleeper plates is to be allowed if ingot moulds have been utilised in lieu of pig iron and that where ingot moulds have been used, the price of cast iron sleeper plates will be decreased proportionately to the extent of difference in the rates of pig iron and ingot moulds. In this context, it is clarified that before admitting the claims of the Contractors for escalation on account of increase in the price of pig iron, an undertaking may be obtained from them indicating whether or not they have used ingot moulds in lieu of pig iron in the manufacture of CI sleeper plates.

Please acknowledge receipt.

(B.S. Agarwal)  
Joint Director/Track.  
Railway Board.

No.Track/21/77/0103/7

New Delhi dated 6-2-1979

Copy forwarded to -  
1. FA & CAOs(OL & Con), All Zonal Railways.  
2. F(S)II Branch, Rly Board.

(B.S. Agarwal)  
Joint Director/Track,  
Railway Board.

**Copy of Board's letter No.67-B(C)-PAC.III/72(24) dated 29.11.67 to all GMs., and others.**

Sub: Procedure in dealing with large excesses over the estimated cost of earth work contracts as a result of developments subsequent to the award of contracts.

----

In recent years audit has criticized several cases in which due to developments after the award of the contracts there were large variations from the estimates on which earth work contracts were let, and heavy extra expenditure was incurred in the execution of the extra quantities of earth work and these extra quantities were executed by the same contractor without the Railway Administrations testing the market once again. The later developments leading to the increase in quantities of earth work and consequently in the monetary value of the work arose either because the scope of the work was revised significantly after the contract was awarded or because of change in the composition of the contracted work in terms of quantities, say, as between earth work in formation and earth work in cutting or variations in lead, or due to variations in the quantities under the various classifications of soils. Arising from two cases in the Railway Audit Report, 1966, the Public Accounts Committee have observed that, where the quantities of work vary substantially from the original tender, the Railway should call for fresh tenders, and that, if the calling of fresh tenders is not considered feasible, adequate opportunities should be given to all the original tenderers to offer rates for the revised items of work, instead of negotiating the rates only/with the contractor who is doing the work.

2. In the light of the various cases mentioned in the Audit Report recently and the observations of the Public Accounts Committee quoted above, the Railway Board desire that the Railway Administrations should be guided by the following broad general principles while dealing with tenders for works at different stages, in order to ensure that the most economical rates are obtained, consistent with the nature of the work and the practicability of its execution through more than one agency :-

a) Planning for the work should invariably be done with adequate care and in sufficient detail even in the initial stages and the final scope of the work should be fully determined before tenders are invited. This aspect is most important as it is considered that large variations in the quantities generally result mainly due to inadequate initial planning, Proper scrutiny of the estimates should precede the invitation of tenders to ensure that clerical mistakes have not crept into the basic calculations of quantities necessitating large scale revision of the quantities at a later stage.

b) After the award of the contract, if, due to unavoidable circumstances, the initial quantities are expected to vary substantially, a check should be made immediately by comparing the value of the revised work as per the rates quoted by the original tenderers to determine whether the decision to award the contract to the particular tenderer is vitiated by the variations in the quantities. Whether the quantities have varied substantially or not should be determined in accordance with Board's letter No.63/ WII/CT/4 dated 6.5.63 (copy attached for ready reference). If such a variation of the award of the contract as between



tenderers is noticed, the Railway should immediately examine with reference to the progress of the work on the original contract and the nature and lay out of the work, whether it is practicable to bring in a new agency to carry out the extra quantities of work.

If this is not practicable the reasons for the same should be recorded and approved by the competent authority. Prompt action should also be taken to obtain the sanction of the competent authority to the excess in the contract value/estimate as a result of increase in the quantities.

c) If it is found that there will be no serious practical difficulties in getting the additional quantity of work done by another agency, one of the following two alternatives as found feasible may be adopted :-

i) inviting fresh tenders for the extra quantities,

ii) negotiating the rates for the extra quantities not only with the existing contractor but also with all the other tenderers who had initially quoted for the work.

d) If however, in the circumstances mentioned in (b) above it is decided by the Railway Administration that a second agency cannot be brought in, negotiations should be carried out with the existing contractor for arriving at a reasonable rate for of the additional quantities of work.

3. The above instructions should be brought to the notice of all concerned. Receipt of this letter should be acknowledged.

**Copy of Board's letter No.87/W1/Ct/10 of 8-6-1987 addressed to the General Managers, All Indian Railways, etc.**

Sub: Variation of contract conditions - Item No. C&D of Para 1265 of the Indian Railways Code for the Engineering Department (Revised Edition 1982)- Corrections to

-----

The Ministry of Railways (Railway Board) have decided that item No. (c) and (d) of the existing Para 1265 of the Indian Railways Code for the Engineering Department (Revised Edition-1982) should be deleted and the revised Paras as given in the enclosed Advance Correction Slip No.3-E substituted.

Receipt of this letter may please be acknowledged.

DA: As above.

Sd/-

(ARIMARDAN SINGH)  
Joint Director/Civil Engineering(G),  
Railway Board.

No.87/WI/CT/10 New Delhi, Dated: 8-6-1987.

Copy forwarded to:-

The FA & CAOs/All Indian Railways, etc.

**Advance Correction Slip to the Indian Railways Code for the Engineering Department (Revised Edition 1982).**

---

**ADVANCE CORRECTION SLIP NUMBER 3-E.**

Item No.(c) and (d) of the existing Para 1265-E should be deleted and substituted as under:-

**Item No. (c): VARIATION OF THE QUANTITIES OF ANY ITEMS:**

These may be varied by the authority which approved the original contract to the extent deemed necessary, provided that Indian Railway Code Rules relating to control over expenditure are not contravened thereby and provided also that the total value of the amended contract does not exceed the powers of the authority that approved the original contract. However, in the case of contract approved by the G.M. or higher authorities, quantities of **any item may be varied to reasonable extent by the Chief Engineer in-charge.**

Where materials are required during a contract period in excess of the quantities contracted for and such excess is not sufficiently large to justify the invitation of fresh tenders, there is no objection to quantities under the existing contract being

increase suitably. Efforts should, however, be made to secure more favorable terms for the increased quantities.

**Item No. (d): VARIATION OF THE ITEMS:** These may be varied at the discretion of the authority which approved the original contract to the following extent, viz., existing items may be deleted or additional items inserted at rate which, agreeable to in general or specific orders at the time being in force, may be decided by the authority making the variation: subject only to the two provisions Rule in sub-para (c) above. However, in the case of contracts approved by G.M. or higher authorities, powers for such variation shall lie with Chief Engineer (c.f. Para 628 F).

NOTE: Variation to be approved should be limited so as not to completely change the scope, character and purpose of the original contract.

Authority: Board's letter No.87/WI/CT/10 of 8-6-87.

**Copy of Railway Board's letter No. 87/WI/CT/10 of 16.12.87 to  
The Chief Engineer (Cons.), Northern Railway, Kashmere Gate  
New Delhi-110 006 with copy to The FA & CAOs/All Indian Railways  
and others.**

Sub:- Variation of quantities and items in contracts.

Ref:- Your letter No.74/W/O/8/WA dated 4.8.87 and  
74-W/O/WA/Policy dated 10.11.1987.

-----

For variation of quantities in excess of 25% and for introduction of new items, Finance concurrence should be obtained as was hitherto to being done. The reasons for issue of advance correction slip 35-E vide Board's letter of even number dated 8.6.1987 was to delegate power for such approvals to Chief Engineers. It was not intended to withdraw Finance concurrence which was earlier considered necessary for such cases.

It is further clarified that the total implications of variations in quantities and variation of items in a contract has to be limited to 25% of total value of the original contract. In case it is to be exceeded, the approval of the authority which approved the original contract and in whose competence, the value of the contract lies, has to be obtained.

This is issues with the concurrence of Finance Directorate of Ministry of Railways.

Sd/-  
(ARIMARDAN SINGH)  
Jt. Director Civil Engg.(G)  
Railway Board.

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
RAILWAY BOARD.**

NO.87/WI/CT/10.

New Delhi, dt. 17.3.1988.

The Chief Engineer (Cons.)  
Northern Railway,  
Kashmere Gate,  
Delhi- 110 006.

Sub:- Variation of Contract conditions- item No. C & D of Para 1265 of the Indian Railways Code for the Engineering Department(Revised Edition 1982)- corrections to

----

Please refer to Board's letter of even number dated [8.6.87](#) wherein Advance Correction slip No. 35-E in regard to item No. (C) and (D) of the existing para 1265 have been substituted. Subsequently clarifications in regard to variation of quantities and items in contracts was issued in Board's letter of even number dated [16/12/87](#). Following further instructions are issued in this regard.

i. For variation of quantities in excess of 25% and/or for introduction of any new Scheduled/Non-scheduled items, irrespective of value, Finance concurrence should be obtained. Powers of Chief Engineer to approve such changes in contract approved by General Manager and Railway Board will be limited to 25% of the Contract Value or Rs. 25 lakhs, whichever is less, for each individual contract.

ii. It is further clarified that the total implications of variations in quantities and variation of items in a contract has to be limited to 25% of the total value of the original contract. In case it is to be exceeded, approval of the General Manager or higher authority, which approved the original contract and in whose competence, the enhanced value of the contract lies, has to be obtained.

This issues with the concurrence of the Finance Directorate of Ministry of Railways.

(ARIMARDAN SINGH)  
JT. DIRECTOR CIVIL ENGG.(G).  
RAILWAY BOARD.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

NO.91/SIG/G/9

New Delhi,  
dt. 15-3-93.

The General Managers (S&T)/(S&T) const.,  
All Indian Railways.

The General Manager (S&T),  
Railway Electrification, Allahabad.

The Director General,  
R.D.S.O., Lucknow.

The Director,  
IRISET, Secunderabad.

Sub: Delegation of powers to Chief Signal & Telecom.  
Engineers to approve 25% changes in the contract value.  
-----

In order to facilitate efficient contract management, it has been decided that the instructions contained in Board's letter No.87/W1/CT/10 dated 17.3.1988 (Copy enclosed) applicable for Civil Engineering Works contracts will henceforth be applicable to Signal & Telecommunication Works Contracts as well.

2. This issues in consultation with the Finance Directorate of Ministry of Railways.

3. Receipt of this letter may be acknowledged.

Encl: One (as above)

(Roshan Lal)  
Executive Director/Signal,  
Railway Board.

**Enclosure to Board's letter No.91/SIG/G/9 dt. 15-3-1993.**

Copy of Board's letter No. 87/W1/CT/10 dated 17-3-1988 from Shri Arimardan Singh, Joint Director, Engg. (G), Railway Board addressed to the Chief Engineer (const.), Northern Railway, Kashmere Gate, Delhi-110006.

Sub: Variation of contract conditions – item No. C&D of Para 1265 of the Indian Railways Code for the engineering Department (Revised Edition 1982) corrections to

----

Please refer to Board's letter of even number dated [8-6-1987](#) wherein Advance Correction Slip No.35-E in regard to item No.(C) and (D) of the existing para 1265 have been substituted. Subsequently clarifications in regard to variation of quantities and items in contracts was issued in Board's letter of even number dated [16-12-1987](#). Following further instructions are issued in this regard.

I. For variation of quantities in excess of 25% and/or for introduction of any new Scheduled/Non-Scheduled items, irrespective of value, Finance concurrence should be obtained. Powers of Chief Engineer to approve such changes in contract approved by General Manager and Railway Board will be limited to 25% of the Contract Value or Rs.25 lakhs, whichever is less, for each individual contract.

II. It is further clarified that the total implications of variations in quantities and variation of items in a contract has to be limited to 25% of the total value of the original contract. In case it is exceeded, approval of the General Manager or higher authority, which approved the original contract and in whose competence, the enhanced value of the contract lies, has to be obtained.

This issues with the concurrence of the Finance Directorate of Ministry of Railways.

Sd/-  
(ARIMARDAN SINGH)  
JT. DIRECTOR CIVIL ENGG.(G)  
RAILWAY BOARD.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.94/CE.I/CT/37

New Delhi, dated 5.5.95.

Addressed to:

As per Mailing List `A' attached.

Reg: Enhancement of original Tender Value.

-----

Investigations by Vigilance have revealed that after finalisation of the tenders, especially for zonal works, massive enhancement of contract value has been made to the existing contracts. In some cases, the value of zonal contracts has been enhanced by 300% to 600% which is not acceptable considering that as the zonal contracts are entered into for a specific period of one year. It has also come to light that no convincing reasons were given for such enhancement at the time of making the proposal or forwarding the proposal by various officials or by Accepting Authority.

To achieve financial discipline and control of expenditure, it has been decided that enhancement of contract value beyond 25% of the original contract value should be resorted to scarcely. In cases where enhancement beyond 25% is unavoidable and has to be resorted to, reasons for doing so are to be recorded on file by officers making the proposal or officers forwarding the proposal with Finance concurrence and accepted by competent authority as specified in the Annexure-I.

It has been decided that the procedure, as brought out in Annexure-I of this letter should be followed for introducing any new items or while approving variation of quantities.

This should be incorporated in the Schedule of Powers issued by the Railways.

This has the concurrence of Finance Dte. of the Ministry of Railways.

Receipt of this letter may please be acknowledged.

(Ved Prakash)  
Exec. Director, Civil Engg.(G)  
Railway Board.



Introduction of any new scheduled/non-schedule items irrespective of the value shall be included in addendum with finance concurrence. However, if new item has been sanctioned with finance concurrence, addenda may be issued without finance concurrence.

While executing the corrigenda or addenda it should also be seen that after inclusion of the variation, the revised face value of the agreement does not exceed the powers of the tenders accepting authority which accepted the original tender otherwise the case should be put upto the next higher authority in case of contracts awarded by General Manager and Railway Board, CE(G) can approve variations upto 25% of accepted tender value Rs. 25 lakhs whichever is less.

While preparing the agreement/corrigenda/addenda incorporating the increased quantities the same should be accompanied by variation statement indicating the quantity/value in respect of different items of workers provided for in the Tender Documents and the revised quantities/value as provided for in the contract agreement/corrigenda/addenda. The reason for variation should be indicated in details so that the agreement/addenda/corrigenda may be verified and accepted in internal check.

As per extant order, it is necessary to see that the variations do not vitiate acceptance of the tender. For this purpose, it will also be necessary for the Executive units, to prepare a statement showing the comparative cost of the work with reference to the three lowest valid tenderers, taking into account, the varied quantities as provided for in the contract agreement.

Execution of addenda and corrigenda where quantities are increased by more than 25% of accepted tender cost.

In cases, where it is anticipated that initial quantities are expected to vary substantially i.e. more than 25% of the overall accepted tender cost, the following action should immediately be initiated in terms of para 1268-E.

(i) It should be immediately examined whether it is practicable to bring into a new agency to carry out the extra quantity of work keeping in view the progress of the work on the original contract and the nature and layout of the work. If such a course is not practicable the reasons for the same may be recorded and approved by the competent authority and negotiations should be carried out with the existing contractor with a view to reduce the rates for the additional quantity of work.

(ii) If it is found that there will be no serious practical difficulty in getting the additional quantity of work done by another agency, the following two alternatives, as found feasible may be adopted.

(a) Inviting fresh tenders for the extra quantity.

(b) Negotiating the rates for the extra quantities not only with the existing contractors but also with all the valid tenderers who had initially quoted for the work.

The proposal will have to be got vetted by finance in both the cases above. Finance concurrence will however not be necessary if fresh tenders are invited for 'extra' quantity.

In the above case where total implications in quantities and variations due to introduction of new items in a contract exceeds 25% of the total value of the tender accepted cost, approval of the following authority should be obtained before the corrigenda- /addenda is issued:

(a) In case where work is proposed to be awarded to the existing contractor after negotiating with him.

(i) If original contract was approved by G.M. or lower authority G.M. provided the enhanced value of the contract lies within his competency.

(ii) In other cases i.e. if original contract was approved by Rly Board or enhanced value of the contract is not within G.Ms. competency. Railway Board.

(b) In case the work is proposed to be awarded to an agency after negotiating all original tender along with existing contractor or by inviting fresh tenders for extra quantity, necessary sanction will be accorded as per normal delegation prevailing on the Railway for the extra quantity only.

(c) In case where decrease is involved upto 25% or above 25% of accepted cost.

(i) The contracting authority can decrease the items upto 25% of individual item without finance concurrence.

(ii) For decrease in items beyond 25% of individual item or 25% of contract agreement, the contracting authority can do so after obtaining 'No claim certificate' from the contractor and with finance concurrence giving detailed reasons for such decrease in the quantities.

(iii) It should be certified that the work proposed to be reduced will not be required in the same work.

(iv) It should also be ensured that due to decreased quantities tender is not vitiated.

(v) In case of variation of the tender sanction of the competent authority as per single tender should be obtained.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No:94/CE.I/CT/37.

New Delhi, dt.24-8-95

Addressed to: As per Mailing List 'A' attached.

Sub: Enhancement of original contract value,  
Ref: Railway Board's letter No.94/CE.I/CT/37 dt.5-5-95.

-----

Instructions regarding enhancement of contract value have been issued vide Railway Board's letter referred above. The procedure, as brought out in Annexure attached to this letter, should be followed for introducing new items or while approving variation in quantities. The following clarifications / modifications in regard to the Annexure of this letter are issued: —

(i) As per para (C)

(ii) of the Annexure, it is indicated that "for decrease in terms beyond 25% of individual items or 25% of contract agreement, the contracting authority can do so after obtaining "No claim Certificate" from the contractor and with Finance concurrence giving detail & reasons for such decrease in the quantities".

Though Clause No.42(I) of General Conditions of Contract entitles the Engineer for such decrease in the quantities and the contractor is not entitled to any compensation for such decrease, it is still considered desirable to obtain  
1 "No claim certificate" from the Contractor.

2) In Para 2 of the Annexure "CE(C)" appearing should be read as CEs/CE(C)

3) In the last sentence of the Annexure para (C) (v), the word "variation" appearing should be read as "vitiation".

This issues with the concurrence of Finance Directorate of Board's office.

Sd./-  
(Ved Prakash)  
Exec. Director, Civil Engg.(C)  
Railway Board.

**Relevant extract from Sudhir Chandra Committee Report circulated vide Board's Letter No. 94/CE-1/CT/4 dated 17.10.2002, on the above subject is as follows:-**

**VARIATION IN CONTRACT QUANTITIES**

- (5.3.1) *Tender schedules are to be prepared with utmost care, following all the existing provisions in the Code as also Administrative instructions without fail, after detailed site inspection and soil investigations, wherever necessary, eliminating as far as possible the need for bringing any new items during execution of works.*
- (5.3.2) *These tender schedules may be approved by the JAG/SAG officers. Vetting of tender schedule should be necessary only in the rare urgent cases where tenders are called without sanction of detailed estimate. Pre-vetting will also not be necessary in case of zonal works, and revenue works in Open-Line for which detailed estimates are not to be framed.*
- (5.3.3) *System of indicating rates for individual items in the schedule(s) and asking the tenderers to quote a common percentage for all items in a schedule/all schedules may be preferred where ever possible.*
- (5.3.6) *For controlling payment in case the agreemental value goes beyond +25%, a regulatory mechanism as part of the contract itself should be built in. For the first 15% increase in the value beyond 25% of agreemental value, the rates will have a reduction of 2% in the incremental value of the agreement and for the next 10% increase in the value, rates will have an additional reduction of 2% in the further incremental value of the agreement.*
- (5.3.7) *Execution of quantities beyond (+)50% of the overall agreemental value should not be permitted and if found necessary, should be only through fresh tenders or by negotiating fresh rates with existing contractor as per procedure laid down by Railway Board in their letter no. 94/CE/CT-I/37 dated [5/5/1995](#) for variation beyond 25%.*
- (5.3.9) *To decide whether the agreemental value will go beyond 50%, as and when 75% of the agreemental has been executed, the contract should be subjected to a detailed review and administrative decision by an appropriate authority (agreement signing authority) should be recorded in writing and quantities monitored carefully and from this stage onwards, execution of further quantities will have to be monitored at least at the level of JAG Officers.*
- (5.3.10) *For variation in value beyond 25% of the agreemental value, the present instructions for holding discussions with the contractor will be dispensed with.*

**Railway Board's Letter No. 80/WI/CT/10 dated 25-4-1980**

Sub: General Conditions of Contract - Inclusion of price variation clause.

-----

The Railway Board had nominated a Committee of Directors and Chief Engineers (Construction) to go into the question of Providing a price variation clause in the works contracts to be entered into by the Railways. The Committee has since submitted its Report and based on its recommendations, the Board have decided that price variation clause as indicated in Annexure-I may be provided in future contracts valuing Rs. 25/- lakhs and above. The price variation clause should be included in the special conditions of tenders and only thereafter tenders should be invited, so that the tenderers are fully aware of the implications of the price variation clause and take the same into account while quoting the rates. The price variation clause as indicated in Annexure-I has been vetted by the Legal Cell of the Board's office.

2. The percentage component of various items like material, labour, fuel, etc. will be different for different types of works. These percentages for various types of works are given in Annexure-II. Depending upon the type of the work, these percentage should be incorporated in the price variation clause before including the same in the tender documents so that these are duly taken into account by the tenderers while quoting their rates.

3. A report as to how this clause has worked may be sent by the Railway within a year's time with recommendations/suggestions, if any inter-alia suggesting whether the clause should be applied to contract of lesser value also.

4. This issues with the concurrence of the Finance Directorate of Railway Board.

5. Please acknowledge receipt.

(Hindi version will follow)

Sd/-  
(T.N. Ramachandran)  
Director, Civil Engineering  
Railway Board.

## ANNEXURE-1

### PRICE VARIATION

The rates quoted by tenderer and accepted by Railway Administration shall hold good till the completion of the work and no additional individual claim will be admissible on account of fluctuation in market rates, increase in taxes/any other levies/- tolls etc. except that payment/recovery for overall market situation shall be made as per price variation clause given in para below :

No cognizance will be given for any sort of fluctuations in taxes and other market conditions etc. for any individual item for the purpose of making adjustment in payments. The contract shall, however, be governed by the general price variation clause as under :

Adjustment for variation in prices of material, labour, fuel explosives detonators shall be determined in the manner prescribed below:

The percentage component of various items in a contract on which variation in prices shall be admissible shall be:

Material component	%	
Labour component	%	(To be specified as per Annexure-II depending upon the type of the work)
Fuel Component	%	
Explosives component	%	
Detonators component	%	
For Fixed component at.....	%	no price variation will be admissible.

If, in any case, the accepted offer includes some specific payment to be made to consultants or some materials supplied by Railway at fixed rate, such payments should be excluded from the gross value of the work for purpose of payment/recovery of variations.

The amount of variation in prices in the several components (labour material etc.) shall be worked out by the following formulae:-

$$(i) L = \frac{R \times (I - I_0)}{I_0} \times \frac{P}{100}$$

$$(ii) M = \frac{R \times (W - W_0)}{W_0} \times \frac{Q}{100}$$

$$(iii) U = \frac{R \times (F-F_0)}{F_0} \times \frac{Z}{100}$$

$$(iv) X = \frac{R \times (E-E_0)}{E_0} \times \frac{S}{100}$$

$$(v) N = \frac{R \times (D-D_0)}{D_0} \times \frac{T}{100}$$

L - Amount of price variation in labour

M - Amount of price variation in materials

U - Amount of price variation in fuel

X - Amount of price variation in explosives

M - Amount of price variation in detonators

R - Gross value of the work done by the contractor as per on-account bill(s) excluding cost of materials supplied by Railway at fixed price. This will also exclude specific payment, if any, to be made to the consultants engaged by the contractors (such payment will be indicted in the contractor's offer).

I<sub>0</sub> - Consumer Price Index Number for Industrial Workers – All India-Published in R.B.I. Bulletin for the base period.

I - Consumer Price Index Number for Industrial Workers All India Published in R.B.I. Bulletin first month of the quarter under consideration.

W<sub>0</sub> - Index Number of wholesale prices - By Groups and Sub- Groups - All commodities - as published in the R.B.I. Bulletin for the base period.

W - Index Number of wholesale prices - By Groups and Sub- Groups - All commodities - as published in the R.B.I. Bulletin for the first month of the quarter under consideration.

F<sub>0</sub> - Index Number of Wholesale prices - By Groups and Sub- Groups for Fuel, Power, Light and Lubricants as published in the R.B.I. Bulletin for the base period.

F - Index Number of wholesale prices - By Groups and Sub- Groups for Fuel, Power, Light and Lubricants as published in the R.B.I. Bulletin for the first month of the quarter under consideration.

E<sub>0</sub> - Cost of explosives as fixed by DGS & D in the relevant rate contract of the firm from whom purchases of explosives are made by the contractor for the base period.

E - Cost of Explosive as fixed by DGS & D in the relevant rate contract of the firm from whom purchases of explosives are made by the contractor for the first month of the quarter under consideration.

Do - Cost of detonators as fixed by DGS & D in the relevant rate contract of the firm from whom purchases of detonators are made by the contractor for the base period.

D - Cost of detonators as fixed by DGS & D in the relevant rate Contract of the firm from whom, purchases of detonators are made by the contractor for the first month of the quarter under consideration.

P - % of labour component

Q - % of material component

Z - % of fuel component

S - % of explosive component

T - % of detonators component



**Note: The index number for the base period will be the Index Number as obtained for the month of opening of the tender and the quarters will commence from the month following the month of opening tender.**

The adjustment for variation in prices if required shall be made once every quarter in the on-account payments, If more than one on-account Payment is made to the contractor in a quarter, the adjustment, if required shall be made in each bill.

If the amount of variation in prices, either upward or downward is less than 5% of the amount payable to the Contractor (excluding (a) cost of cement, steel and other items supplied by the Railway to the Contractor at a fixed price, and (b) specific consultancy charges as per accepted offer), no adjustment shall be made. Further reimbursement/recovery due to variation in prices shall be made only for the amount in excess of 5% of the amount payable to the contractor.

Total amount of Reimbursement/Recovery due to variation in prices of several components shall be limited to 15% (i.e. 20% - 5% floor price) of the amount finally payable to the contractor excluding (a) cost of cement, steel and other items supplied by the Railway to the contractor at a fixed price, and (b) specific consultancy charges as per accepted offer.

#### Price variation during extended period of contract

The price adjustment as worked out above i.e., either increase or decrease will be applicable upto the stipulated date of completion of the work including the extended period of completion where such extension has been granted under clause 17(3) of the General Conditions of Contract. However, where extension of time has been granted due to contractor's failure under Clause 17(4) of the General Conditions of Contract price adjustment will be done as follows :

(a) In case the indices increase above the indices applicable to the last month of original completion period or the extended period under clause 17(3) the price adjustment for the period of extension granted under clause 17(4) will be limited to the amount payable as per the Indices applicable to the last month of the original completion period or the extended period under clause 17(3) of the General Conditions of Contract; as the case may be.

(b) In case the indices fall below the indices applicable to the last month, of the original/extended period of completion under- clause 17(3), as the case may be then the lower indices will be adopted for price adjustment for the period of extension under clause 17(4) of the General Conditions of Contract.

The aforesaid ceiling of 15% will, however, be applicable whatever may be the actual period of the execution of the contract.

Note: "Materials supplied free by the Railway to the contractors will not form part of the value of the contract entered into and will fall outside the purview of the price variation clause."

**Government of India (Bharat Sarkar)  
Ministry of Railways (Rail Mantralaya)  
(Railway Board)**

No.85/WI/CT/7.

New Delhi, dt. 20.1.1987.

The General Managers.  
All Indian Railways, including CLW, DLW, ICF & MTP  
Railways, Calcutta.

The Chief Administrative Officers,  
MTP (Railways at Bombay and Madras.

The Chief Project Officer,  
MTP (Railways), Delhi.

The General Manager (Construction)  
Southern Railway, Bangalore.

The General Manager,  
Wheel & Axle Plant, Bangalore.

The Director General,  
RDSO Lucknow.

The General Manager (Construction),  
North Frontier Railway Guwahati.

The Officer on Special Duty,  
Rail Coach Factory Kapurthala.

The Chief Administrative Officer,  
DCW/Patiala and COFMOW/New Delhi.

The Principal Railway Staff College,  
Baroda.

Sub :- General Conditions of Contract-Price  
Variation Clauses - amendment thereto.

-----

The Railway Board has nominated a Committee comprising Railway Officers to make an in depth study of the existing price variation clauses of General Conditions of Contract and recommend changes as considered necessary.

2. The Committee has since submitted its Report and based on its recommendations the Board, in partial modification of the existing instructions, have decided the following:-

(i) Price variation clause will not apply if the price variation is upto 5%. Re-imburement/recovery due to variation in prices shall continue to be made only for the amount in excess of 5% of the amount payable to the contractor, as hitherto.

(ii) Price variation clause should be applicable only to contracts where the stipulated period of completion is more than one year. Price variation clause will however, not apply to zonal contracts as they are normally operative for one year only.

(iii) The price variation clause may be applicable to contracts valuing Rs. 10 lakhs and above. However, Chief Engineer will have the discretion not to provide any price variation clause for contracts valuing between Rs. 10 lakhs and Rs. 25 lakhs on account of some special considerations if he deems fit.

(iv) No maximum value for the price variation is to be prescribed.

(v) The fixed cost of the contract value on which no price variation would be permissible may be kept at 15% of the value of the contract.

(vi) For all extensions of time granted to the stipulated date of completion of work, the price variation clause will be applicable except extension(s) granted under Clause 17(4) of General Conditions of contract, in respect of the contract where time was the essence of the contract.

(vii) Revised guidelines for the percentage component of labour, material, fuel etc. in the general category of contract being executed by Railways are given in the Annexure. Chief Engineer will, however, have the discretion to vary these percentages, if required, in consultation with FA & CAO on account of nature of the work.

(viii) The price variation should be based on the average price index of the 3 months of the quarter instead of the price index of the first month of the quarter under consideration.

(ix) The demands for escalation of the cost may be allowed on the basis of provisional indices made available by the Reserve Bank of India. Any adjustment needed to be done based on the finally published indices is to be made as and when they become available.

(x) Before calling for tenders the approval of an Officer not below the rank of SA Grade should be obtained who will satisfy himself about all the pre-requisites required for calling tenders having been fulfilled. He will particularly look into the reasonableness of the period provided for the completion of the work.

3. This has the sanction of the President.

4. The Board desire that the above provisions should be made applicable to all contracts entered into on or after 1.4.87.

5. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

(J.S. Mundrey)  
Executive Director, Civil Engg.

Railway Board.  
No.86.WI/CT/7.

New Delhi, dt. 20.1.1987.

Copy forwarded for information to:-

- i) The ADA(Railways), New Delhi (with 140 spare copies).
- ii) The F.A.& C.A.Os/All Indian Railways.
- iii) The Directors of Audit/All Indian Railways.

(J.S.Mundrey)  
Executive Director, Civil Engg.  
Railway Board.

## Annexure.

Statement showing the percentage of labour components material components, fuel components, etc. in various types of works.

-----

**(A) Earthwork Contracts:**                      **Existing**                      **Proposed**

Labour component	55%	50%
Fuel component	5%	20%
Other material components	5%	15%
Fixed component	35% *	15%

**(B) Ballast and Quarry Products Contracts:**

Labour component	45%	55%
Fuel component	5%	15%
Other material components	10%	15%
Fixed component	40% *	15%

**(C) Tunneling Contracts:**

Labour component	40%	45%
Fuel component	5%	15%
Explosive component	12.5%	15%
Detonators component	2.5%	5%
Other material component	5%	5%
Fixed component	35% *	15%

**(D) Other Works Contracts:**

Labour component	30%	30%
Material component	30%	40%
Fuel component	5%	15%
Fixed component	35% *	15%

\* Will not be considered for any price variation.

Since, it is not possible to legislate the above percentages for every type of work, Chief Engineer/Chief Engineer(Construction), may vary these percentages in consultation with FA&CAO & CAO(Cons.) keeping in view the special features and complexities of the work involved. It should, however, be borne in mind that whatever %ages are to be adopted they should first be decided and indicated in the price variation clause to be included in the special tender Conditions before floating the tenders so that the tenderers are fully aware of them while quoting their rates.

**Copy of Railway Board's letter No. 80/WI/Ct/1. Pt. dt. 16.3.88 from Arimardan Singh, Jt. Director Civil Engg. (G), Railway Board, addressed to The Chief Engineer, Diesel Component Works, Patiala-147 001. and copied to all GMs.**

Sub:- Price Variation Clause.

Ref:- Your letter No.DCW/WW/WA-II/8/30 dated  
16/21/7/87.

-----

With reference to your letter quoted above, it is stated that instructions issued regarding Price Variation Clause vide Board's letter of even number dated 25.4.80 have been amended vide Board's letter of even number dated 20.1.87. However it is clarified that if the rates quoted in negotiated tender are accepted, it is logical that the base month for Price Variation Clause is the month in which negotiations are held. This however, is required to be clarified in the tender conditions or in negotiations.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

-----

Copy to:-

The General Manager,  
Southern Railway,  
Madras-3.

**Copy of D.O.letter No.W/362/O/BG dated 17th May, 1989 addressed to Shri V.K. Raizada, Exe. Director Civil Engg.(P) Railway Board by Shri A.K. Deb Burman, Chief Engineer (Construction) I, N.F. Railway, Maligaon, Guwahati.**

Sub: Price variation clause.

Ref: Railway Board's letter No.86/W1/CT/7 dt.20.1.87.

.....

Para 2(i) of your above letter reads as under:

"Price variation clause will not apply if the price variation is upto 5%. Reimbursement/recovery due to variation in prices shall continue to be made only for the amount in excess of 5% of the amount payable to the contractors, as hitherto."

This para is being included as a clause, as it is, in most of our contract agreements where price variation clause exists. M/s Gammon India Ltd., have raised a query on interpretation of this clause incorporated in their contract for construction of sub-structure for Rail-Cum-Road Bridge across Brahmaputra at Jogighopa. They say that the second sentence of the above clause means that the escalation will be paid in excess of 5% of the price variation amount payable i.e.  $0.95 \times$  amount of price variation will be payable. The following illustration will further clarify the matter.

If amount of price variation is worked out as Rs. 10000/- in a work done of Rs. 1.0 lakh, in our view, first 5% of the work done i.e. Rs. 5000/- is not to be paid. Amount thus due to be paid to the contractor on account of escalation will be only Rs. 5000/- as per our interpretation of the clause. The contractor's contention is that the second sentence of the clause does not refer to the value of work done. He says that the first 5% of the escalation is not to be paid and an amount of Rs. 9500/- will thus be due to him in the subject case towards escalation.

Our view that escalation to the extent of 5% of the value of work done is not to be paid and the amount beyond this only is payable, has been communicated to the contractor.

You are, however, requested to examine the clause. In order to make it totally unambiguous and to safeguard Railway's interests against any misinterpretation of the same, you may like to consider suitable amendment/elaboration to reiterate the Price Variation Clause would always be reckoned with reference to value of work done.

An early action in the matter will be highly appreciated.

## SOUTHERN RAILWAY

Headquarters Office,  
Works Branch,  
Madras-3.

No.W.496/P/O

Dt. 10-8-90.

DRM(W)MAS,PGT,TVC,SBC,MYS,TPJ & MDU

Sub: General conditions of contract - Price  
variation clauses-amendment thereto.

Ref: This office letter No.W.496/P dt.4.3.87.

Please call for this office letter cited above with which, a copy of Railway Board's letter No. 85/WI/CT/7 dt. [20.1.87](#) was sent.

Railway Board in their recent letter No.85/WI/CT/7 dt.19.7.90 have clarified that the rise in cost upto +,- 5% is not to be paid/recovered and that escalation beyond +,- 5% only is payable and that price variation clause would always be reckoned with reference to the value of work done.

In this connection, a copy of Railway Board's letter No.85/W1/- CT/7 dt. 11/19/7/90 addressed to the General Manager(CN) N.F.Rly, Maligaon and a copy of latter's letter No.W/362/O/BG dt. 17.5.89 are sent herewith for information and guidance.

Receipt may please be acknowledged.

Encl: Two

for Chief Engineer.

---

Copy of the copy of Board's letter No.85/W1/CT/7 dt. 17/19.7.90 and NE Rly's letter No.W/362/O/BG dt. 17.5.89 forwarded for information and guidance to:

CAO/C/MS-CE/CN/BNC,CEE/RE/MTP/MS,  
FA & CAO/MAS, FA & CAO/CN/MS,FA & CAO/RE/MS, FA & CAO/MTP/MS  
FA & CAO/CN/BNC.

CAOs/DAOs/MAS, PGT, SBC, TVC, MYS, TPJ & MDU

They are requested to acknowledge receipt.

Encl: Two

for Chief Engineer.



**Copy of Railway Board's letter No.85/W1/CT/7 dt. 17/19.7.90 from S.M. Singla, Executive Director Civil Engg.(G) Railway Board, addressed to GM (Constn.)/N.F.Rly; Maligaon-Guwahati and copied to GM/All Indian Railways etc.**  
.....

Sub: Price Variation Clause.

Ref: Your CE's D.O.No.W/362/O/BG dt. 17.5.89.  
.....

Reference is invited to para 2(i) of the Board's letter of even number dated 20.1.87 which is reproduced below.

"Price variation Clause will not apply if the price variation is upto 5%. Reimbursement/recovery due to the variation in prices shall continue to be made only for the amount in excess of 5% of the amount payable to the Contractor, as hitherto."

It is accordingly clarified that rise in cost upto for +,- 5% is not to be paid/recovered and escalation beyond this is only payable. This escalation is to be worked out as per given formula taking into consideration the price index prevalent at the time of calculating the price variation. In this regard please also refer to this office letter of even number dated 20.1.87. P.V.C. would always be reckoned with reference to value of work done.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.  
.....

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.94/CE.I/CT/1.

New Delhi, Dated. 17.1.94

Addressed to:

As per list `A' attached.

Sub: Contracts where completion period is less than 1 year.

---

In work contracts instances have come to notice where due to failure of the Railway to supply material to the contractor in time, the completion period had to be extended and the Railway incurred loss due to operation of PVC in the contracts.

To avoid such losses, it is desired that wherever the completion period of a contract is less than 1 year (where no PVC is applicable) and Railways have to supply materials to contractors, contracts should be awarded taking into account the time for mobilisation as well as availability of materials etc.

Kindly acknowledge receipt.

Sd/-  
(S.M. SINGLA)  
Exec. Director, Civil Engg.(G)  
Railway Board.

Copy for information to F(X)II and W.I. Branches.

**Government of India (Bharat Sarkar)  
Ministry of Railways (Rail Mantralaya)  
(Railway Board)**

No.85/W1/CT/7 -Vol. I

New Delhi, dated 4-4-1996.

Sub: General Conditions of Contract - Price  
Variation Clause - Amendment thereto,

Ref: Railway Board's letters No.80/W1/CT/10 dt 25-4-80  
and No.85/W1/CT/7 dt 20-1-87

----

Instructions regarding inclusion of Price Variation Clause in the contract were issued vide Railway Board's letter No.80/W1/CT/10 dated 25-4-80. According to this, the maximum value of Price Variation payable was fixed at 15%. (i.e. 20% - 5% floor price). As a result of the deliberations of the Committee in 1987, the 15% ceiling was removed as per Railway Board's letter No. 85/W1/CT/7 dated 20-1-87 though Price Variation Clause would not apply for the first 5%.

The question of provision of a ceiling has been re-examined by the Board and it has been decided to introduce a ceiling on the Price Variation Clause as follows.

I. Price Variation Clause will not apply if the price variation is upto 5% Reimbursement /recovery due to variation in Prices will continue to be made only for the amount in excess of 5% of the amount payable to the contractor .

**a) Contracts upto one Year:**

No price Variation Clause should be provided as it is presumed that the contractor will take care of the price Variation while quoting his rates.

**(b) Contracts between 1 to 2 years duration:**

The total amount of reimbursement/recovery due to variation in prices of the several components shall be limited to 10% (i.e. 15% - 5% floor price) of the amount finally payable to the contractor subject to Note below.

**(c) Contracts of more than 2 years duration**

The total amount of reimbursement/recovery due to variation in prices of the several components shall be limited to 20% - 5% floor price) of the amount finally payable to the contractor subject to Note below.

NOTE:- (1) Material supplied free by Railway to the contractor will fall outside the purview of Price Variation Clause.

(2) Duration of the contract shall be prescribed in the tender and will not include the extended period due to extension if any given. Period of completion of works provided should be reasonable and approval of SAG level should invariably be taken.

II. The Board desire that the above provision should be made applicable to all tenders invited on or after 1-5-1996. Only relevant provision of price Variation Clause as amended now should be incorporated into the tender/contract documents.

III. Other provisions as contained in Board's letter No.80/W1/CT/10 dated 25-5-80 and No.85/W1/CT/7 dated 20-1-87 will remain enforceable.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

(Ved Prakash)  
Executive Director Civil Engg. (G)  
Railway Board.

## South Eastern Railway

Office of the  
Chief Administrative Officer (Con)  
Bhubaneswar

No. CAO/C/BBS/65P/283

Date: 18.06.2001

To The Executive Director;  
Civil Engineering(G)  
Ministry of Railways,  
Railway Board, New Delhi.

Sub: Price Variation Clause - Admissibility during  
extended period of contract

Ref: Board's letter Nos.

(1) Letter 85/W1/CT/7. dated 20.1.87

(2) Letter No. 85/W1/CT/7- Vol.I dated 04.4.96.

-----

Subject to fulfillment of prescribed norms the Contractor can be reimbursed for fluctuations in market rates as governed by the indices published by the Reserve Bank of India, in cases where Price Variation Clause is provided in the agreement. The extent of such reimbursement based on the duration of the contract is laid down in the Board's letter No. 85/W1/CT/7-Vol.I dated 04.4.96.

There is, however, ambivalence as regards admissibility. of Price Variation Clause during extended period of contract in the. letters of Railway Board cited above. In terms of Board's letter 85/W1/CT/7 dated 20.1 .87, Price variation is applicable up to stipulated date of completion of the work including the extended period of completion except where such extensions have been granted under Clause 17 (4) of general Conditions of the Contract.

Subsequently, Railway Board in their letter dated 04.4.96 ( under reference) have prescribed certain ceilings of reimbursement to be made to the Contractor on account of Price Variation. It is stated therein that for contracts with a period of 1 to 2 years' duration, the total amount of reimbursement due to variation of price shall be limited to 10%. In cases of contracts with more than 2 years duration, the total amount of reimbursement due to variation in price is fixed at 20%.

While prescribing such ceiling limits, however, it is stated in note (2) in the said letter of 4.4.96 that duration of the contract shall be prescribed in the Tender document -at the time. of inviting "Tenders and twill not include the extended period due to extension if any given.

From Board's letter dated 04.4.1996, the following needs clarification:

a) Does the stipulation contained in Note 2 of Board's letter dated 04.4.96 mean that PVC is not applicable for extended period of contract.

b) Does Board's letter dated 04.4.96 supersede the provisions of Board's letter dated 20.1 .87 regarding provisions relating to applicability of Price Variation during extended period of contract.

c) In case reimbursement of price variation is made admissible to the contractors during extended period of contract, what would be the rate of such reimbursement beyond the original period of contract.

An early clarification is requested.

This issues in consultation with Associate Finance.

Chief Administrative Officer (Con)  
S.E.Railway, Bhubaneswar

Copy to Executive Director (Finance/Expenditure, Railway Board, New Delhi, for information and necessary action.

Chief Administrative Officer (Con)  
S.E.Railway, Bhubaneswar

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.85/WI/CT/7 Pti

New Delhi date 04-01-2002

The CAO(C),  
S.E. Railway,  
Bhubaneswar.

Sub: Price Variation Chose - Admissibility  
during extended period of contract.

Ref : Your letter No.CAO/C/BBS/65P/283 dt. 18-6-2001  
-----

Board's letter No.85/WI/CT/7 dated [4.4.1996](#) regarding price Variation Clause in General Conditions of Contract is quite clear and sufficient. Clarifications to the specific points raised in your above letter are given below:-

- (a) Yes, PVC is not applicable in the extend period. This is the reason, it has been mentioned in Board's letter referred above that completion period given in the tender should be reasonable and approved by a SAG Officer.
- (b) In this regard, Board's letter referred above may please be connected.
- (c) Already clarified vide (a) above.

This issues with the concurrence of Finance Dte. of Railway Board.

(PARMOD KUMAR)  
Executive Director Civil Engineering (G),  
Railway Board

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.85/WI/CT/7Pt

New Delhi, dated 25.10.2002

Address to: As per List attached

Sub: Price Variation Clause(PVC)-Admissibility during  
extended period of contract.

Ref: (i) Board's letter No.85/W1/CT/7 dated **4.4.96**.

Some of the Railways have sought clarification regarding the applicability of PVC during the extended period of contract and its ceilings i.e. the total amount payable/recoverable on account of price variation as given in Board's letter referred above, The matter has been considered carefully and it is clarified that —

(1) Price Variation is payable/recoverable during the extended period of the contract also, provided the Price Variation Clause was part of the original contract and the extension has been granted on administrative ground i.e. under Clause' 17-A(i), (ii) and (iii) of GCC. Further, the total amount payable/recoverable would be restricted to the ceilings as applicable for the original completion period provided in the contract agreement.

This is issued with the concurrence of Finance Dte. of Ministry of Railways.

(PARMOD KUMAR)  
Exec.Director, Civil Engg. (G)  
Railway Board



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.85/WI/CT/7.Pt.I.

New Delhi, dated 18/19-4-2006.

Addressed to:

As per list attached.

Subject: General Conditions of Contract-Price Variation  
(PVC)- Amendment thereto.

Ref: (i) Board's letter N0.80/W1/CT/10 Dated [25.04.1980](#).

(ii) Board's letters No.85/W1/CT/7 Dated [20.1.1987](#) and  
[04.04.1996](#).

-----

References had been received from various Railways seeking modification in the existing Price Variation Clause in Works Contracts as a result of, sharp rise in the prices of. Steel and cement during the last few years. The matter has been considered and Board have-decided as under:

(i) Prices of Steel and Cement are to be linked with the Wholesale Price Index of the respective subgroups as -per RBI - Index Numbers. Henceforth, the formula for calculating -the amount of variation on account of variation in prices of Steel and Cement would be as indicated below:

$$M_s = R \times (W_s - W_{so}) / W_{so}$$

$$M_c = R \times (W_c - W_{co}) / W_{co}$$

**Where**

**M<sub>s</sub> = Amount of price variation in material (Steel).**

**M<sub>c</sub> = Amount of price variation in material (-Cement).**

**R = value of Steel or Cement supplied key Contractor as per on account bill in the quarter under consideration**

**W<sub>so</sub> = Index No. of Wholesale Price of subgroup (of Steel and Iron) as published in RBI Bulletin for the base period.**

**W<sub>s</sub> = Index No. of Wholesale Price of subgroup (of Steel and Iron) as published in RBI Bulletin for the First month of the quarter under consideration.**

**W<sub>co</sub> = Index No. of Wholesale price of sub-group (of Cement) as published in RBI Bulletin for the base period.**

**W<sub>c</sub> = Index No of wholesale price or subgroup (of cement) as published in RBI bulletin for the first month of the quarter under Consideration.**

(ii) In view of the fact that the price variation of steel and cement would be calculated separately, material component should get reduced in the general PAC

formula. It has, therefore, been decided to reduce the percentage of material component from 40% to 25% and increase the fixed component from 15% to 30%. Board's letter No. 85/WI/CT/7 dated 20.1.1987 would stand amended to that extent. The proportion of different components to be adopted in the revised formula for calculating price variation under "Other Works Contracts" is amended as under:-

Components	Existing Percentage	Revised Percentage
Labour	30%	30%(no change)
Material component	40%	25%
Fuel component	15%	15%(no change)
Fixed component	15%	30%

There would be no change in the Percentages of different components in contracts of other category, namely, Earthwork Ballast Quarry products and Tunneling.

(iii) The revised weightage would be applied on the value arrived at after deducting the cost of Steel & Cement from the total contract value.

(iv) The tender schedule should have separate items for 'Supply of Steel' and supply of Cement' for RCC/ PSC work to know the cost of steel and cement actually consumed at any given point of time.

(v) Payment/recovery on account of variation in price shall continue to be restricted to the ceiling of 10% (15-5) and 20%(25-5) as the case may be, as laid down in Board's letter No.85/W1/CT/7 dated 04.04.1996.

(vi) There will be no change in other provisions contained in Board's letters No.80/W1/CT/10 dated 25.04.1980, No.85/W1/CT/7 dated 20.01.1987 and No.85/W1/CT/7 dated 04-4.96.

(vii) The contract agreements should clearly indicate that price variation implies both increase as well as decrease in input prices and, therefore price variation during the currency of the contract may result in extra payment of recovery as the case may be.

(viii) These provisions shall be applicable with prospective effect.

(ix) This issues with the concurrence of Finance Directorate of the Ministry of Railways.

Please acknowledge receipt

(N.K.SINHA)  
Exec.Director, Civil Engineering (G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

RB/CE-17/2003

No.2003/CE.I/CT/18

New Delhi, dated 17.12.2003

(As per List attached)

Sub: General Conditions of Contract — Price Variation Clause for Track Renewal Works with Contractor's PQRS Portal Machines.

Ref: Railway Board's Letters: (i) No.85/W1/CT/7 dated [20.1.1987](#) and (ii) 80/W1/CT/b dated [25.4.1980](#).

-----

1. Based on suggestions received from some of Zonal Railways, Board have approved to award Track Renewal Works on Works with contractor's portal cranes and decided that following percentage of different components for working out the Price

Variation Clause on provisional basis:

(a)	Labour Component	50%
(b)	Fuel Component	12.5%
(c)	Other Material Component	12.5%
(d)	Fixed Component	25%

2. Para 1 above may be incorporated as Para 'D' and the existing Para 'D' be renamed as Para 'E' in the Annexure to Board's letter referred at (i) above. All other terms and conditions on the subject remains unchanged.

3. The Railway may compile more reliable data of expenditure on variation components in regard to PQRS Machines still to be operated Departmentally. In addition, Railways need to be guided by the actual annual charge on account of cost of machine factored in the offer by the vendor. A Report as to how this Clause has worked may be sent by the Railways within a year's time with recommendations/suggestions, if any, so that the price variation formula could be suitably modified in the light of experience gained.

4. The Price Variation Clause will be applicable from *prospective date* in all future contracts only.

5. This issues with the concurrence of Finance Directorate of the Ministry of Railways.

(PARMOD KUMAR)  
Exec. Director, Civil Engg. (G)  
Railway Board

### III. TENDERS

#### I. (iv) EVALUATION OF OFFERS - RISK

S. No	Subject in Brief	Letter Date
1	Liability of the Contractor If after Acceptance of his Tender he Does Not Sign the Contract Agreement and Or Does Not Take Up the Work	05/07/83
2	Non Payment of Dues Due Non Availability of Budget	12/02/82
3	Extra Liability due to Termination of Contract without Enforcement of the Contractual Provisions	25/01/88
4	Termination of Contract- Effect of Non-Performance by the Contractor within Validity	17.05.04
5	GCC Termination of Contract Under Clause 62 & Procedure for Revival	24.05.01
6	GCC -Termination of Contract Under Clause 62 and Procedure for Revival- Correction Slip No.1.	6.12.99
6	Loss On Account of Failure to Observe the Provision for Enforcement of Risk Action	01/06/88
7	Loss On Account of Failure to Observe Provision of Enforcement of Risk Action	.04.01 23.05.01
8	Non Recovery of Risk Cost From A Contractor Not Barred by Limitation	06/08/88
9	Placing of Risk Purchase Orders with Defaulting Firms Works Contract	01/02/72
10	Placing of Risk Purchase Orders with Defaulting Firms Works Contract	04/03/72
11	Recovery of Risk Purchases Loss General Damages Liquidated Damages, Etc	25/06/75
12	Mangalore Hassan Rly. Project (MG) Risk Action	19.12.74
13	Risk Purchases	/11/79
14	Annexures-98 & 99	17/7/58 & 18/11/76

**GOVERNMENT OF INDIA (BHARAT SARKAR)**  
**Ministry of Railways (Rail Mantralaya).**  
**(Railway Board)**

No. 64/W2/CT/28.

New Delhi, dated 5.7.1983.

The General Manager,  
All Indian Railways including CLW DLW ICF & MTP (RIys) at  
Calcutta. etc. etc.

Sub: Liability of the contractor if after acceptance  
of his tender he does not sign the contract  
agreement and/or does not take up the work.

Ref: Board's circular letter No. 64/W2/CT/28 dated [23.12.1966](#).

-----  
Till December '66, the liability of the contractor in the event of his not executing the contract documents and/or failing to commence the work within the time specified for this purpose, was forfeiture of the earnest money deposited by him along with the tender. A tender form (First Sheet)- Annexure II (Page 1) of the Standard Regulations for Tenders and contracts, was however, forwarded to the Railways for adoption, to enable them to impose penalties and recover damages in terms of Clause 62 of the General Conditions of Contract vide Board's letter of 23.12.1966 referred to above.

In view of various practical difficulties encountered in this regard the question of re-adopting the original Tender Form stipulating the forfeiture of only the Earnest Money in case of such defaults on the part of the contractor has been under consideration of the Board in consultation with the legal Adviser for sometime now. The position in law is that once the acceptance of the tender of the contractor is communicated to him, a legal and enforceable contract comes into being and Earnest Money so deposited by the tenderer with his tender partakes the character of security deposit either in whole or in part for the fulfillment of the contract by the contractor. If, in accordance with the letter of acceptance, the contractor either does not commence work within the period stipulated in the acceptance letter or does not execute the formal agreement, he is deemed to have committed breach of the contract and the consequence of the breach of any of the conditions of the contract by one party entitles the other party to have the work/job executed at the risk and cost of the former and to claim the extra cost/expenditure incurred by the latter.

The Board have, therefore, decided that no change in the existing procedure of taking action against the defaulting contractors on Railways in terms of Clauses 62 of the General Conditions of Contract, should be made. In other words even if a contractor fails to sign the contract agreement after acceptance of his tender he is liable for all the consequences that arise as a result of breach of contract.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

D.O.No.81/WII/21/31

New Delhi, dated 12th February, 1982.

Dear Sir, Ananthanarayan,

A contract for conversion of dry latrines into flush latrines was awarded on the Northern Railway at a cost of Rs. 5.3 lakhs in November 1972 with date of completion as 3-4-1974 (later extended upto 30-4-1974). While six 'on account' bills amounting to Rs. 2.69 lakhs were paid, the Administration expressed inability in making payment to the 7th 'on account' bill amounting to only Rs. 25,000/- in January, 1974 on the ground that the funds were not available in the Budget.

While the contractor informed the Administration in March, 1974 that it would not be possible to carry out the remaining portion of the work at the contracted rates and wanted his contract to be finalised, the Railway took no action either to expedite payment or to terminate the contract in time in accordance with the general conditions of contract. Instead, the Railway invited a fresh tender in December, 1974 to complete the remaining portion of the work, and based upon fresh tenders, awarded the remaining work also to the same defaulting contractor, who again happened to be the lowest, again in the fresh tender, but at higher rates now. This involved an increase in cost by Rs. 1.50 lakhs for the remaining portion of the work. Although the Railway recovered this amount from his dues in the next contract, ultimately the case was taken to arbitration, and the arbitrator in his award not only allowed back the entire amount which had been recovered by the Railway, but also allowed an additional Rs. 18,000/- to the contractor towards his claims arising out of the earlier contract having been left incomplete.

Thus the lacuna involved non-payment of the dues of the contractor for the work already done, giving him a plea to leave the work incomplete altogether, and also not legally terminating the contract before award of a fresh contract for the remaining scope of the work, this making the Railway's claim to recover the difference at the risk and cost of the contract as untenable. This case has figured in para 13 of C&AG's Report for Railway 1979-80.

While formal instructions in this regard had already been issued under Board's letter NO.81/W2/21/31 dated 21/12/1981 Board desire these points be brought to your personal notice so that your officers may be suitably guided by you to avoid recurrence of such lapses.

Yours Sincerely  
Sd/- (S.D. JAIN)  
Additional Director, Civil Engg(G),

## SOUTHERN RAILWAY

FA & CAO's Office,  
Madras - 600 003,  
Dated: 11.2.1988.

No. W.496/F/O  
FA&CAO/WST/PER; FA&CAO/CN/MS; FA&CAO/MTP/MS  
FA&CAO/RE/MS; Dy.FA&CAO/CN/BNC; SAO/CN/ERS  
Sr.DAOs/MAS, TPJ SBC & MYS; DAOs/PGT & TVC.  
SAOs/W&S/PTJ, MYS & PTJ, JAO/XC/MAS, DAO/MDU.

Sub:- Extra liability due to termination of a contract  
without enforcement of contractual provisions.

-----

A copy of Railway Board's letter No.84/BC-W/4 dated 25.1.88  
is sent herewith for information and guidance.

Encl: one.  
for F.A. & C.A.O.

-----  
Copy of Railway Board letter No. BC-W/4 of 25.1.88 to The General Managers,  
All Indian Railways and others.

-----

Sub:- Extra liability due to termination of a contract without  
enforcement of the contractual provisions.

---

The Audit Vide Para 22 of their Advance Report on the Railways for the year 1983-84 have pointed out that Western Railway did not terminate the contract for supply of ballast at the risk and cost of the defaulting contractor and also did not forfeit the Security deposit on account of breach of contract which resulted in incurrence of extra expenditure.

In this connection, reference is invited to Para 62(1) of General Conditions of Contract wherein it is stipulated that in case of default by the contractor, the Railway after due notice in writing may rescind the contract as a whole or any part and carry out the work at his risk and cost and that the Railway shall be entitled to (i) to forfeit the whole or such portion of the security deposit as it may consider fit, and (ii) to recover from the contractor the cost of carrying out the work in excess of the sum which would have been payable to the contractor if the work had been carried out as per the terms of the contract.

Ministry of Railways would like to reiterate the instructions and would like the Railways to scrupulously observe the stipulations of General conditions of Contract.

Please acknowledge receipt.

Sd/-..  
(ARIMARDAN SINGH)  
Jt. Director-Civil Eng.(G)  
Railway Board.

**Government of India  
Ministry of Railways  
(Railway Board)**

POLICY LETTER NO.RE/CE/6/2

No.99/CE-I/CT/28 Pt

New Delhi, dated: 17/5/2004.

Addressed to:

As per list attached:

Sub: Termination of contracts-effect of non performance by  
The contractor within the validity.

-----

A doubt has been raised by one of the Zonal Railways as to whether a contract is required to be necessarily terminated even after the expiry of the date of completion, in the event the contractor has not sought for extension and the Railway has not taken necessary action for terminating the same within the validity period.

The issue has been examined in detail in Board's office. In normal circumstances, no such contingency should arise and the contract signing authority is expected to take necessary action well in time. However in very rare cases, the reasons for which should be recorded, if such an eventuality does arise, it is advised that a notice (sample copy enclosed) claiming damages also for the failure, on the part of the contractor should be issued to the contractor who has not sought/ is not willing to seek extension even after the expiry of the date of completion, and the contract has ceased to exist with effect from the date of expiry; original or extended as the case may be.

This issues with the concurrence of the Legal and Finance Directorates of the Board.

(PARMOD KUMAR)  
EDCE (G)  
Railway Board



## CONTRACT TERMINATION NOTICE

Dated:

Office of the  
GM/PCE/CAO(C)

Sub: -----

Dear Sir,

1. In terms of the conditions of contract agreement No. \_\_\_\_\_ dated \_\_\_\_\_ governing the execution of the above work, it was required to be completed by the stipulated date of completion/mutually extended date of completion, viz. \_\_\_\_\_. You have failed to complete the work by the agreed date of completion. You have also failed to apply for further extension of period of completion on valid and reasonable grounds as acceptable to the Railway. Due to your failure to fulfill your contractual obligations, the contract stands terminated with effect from date of completion of the contract i.e. \_\_\_\_\_(date)

2. Please note that for non fulfillment of the contract the Railway reserve the right to claim damages, under clause 62 of the General Conditions of contract in addition to any other rights available to it under the Law.

3. Final measurements of the work done by you shall be recorded on \_\_\_\_\_. Please arrange to be present at site to witness and to sign the measurements, failing which the work will be measured in your absence and such measurements as per provisions of the contract agreement shall, notwithstanding such absence, be binding upon you whether or not you shall have signed the measurement' book.

Yours faithfully,

For & on behalf of the President, India

No.99/CE.1/CT/1128

New Delhi, dated 24-5-2001

The Chief Engineers,  
All Zonal Railways.

Sub: General Conditions of Contract - Termination of  
Contract under Clause 62 and procedure for revival.

-----

One of the Railways had sought certain clarifications regarding the operation of Clause 62 of GCC for termination of Contract and its revival. The Clarifications are as under:

**(i) REVIVAL OF THE CONTRACT WITHIN 48 HOURS:**

In this context, it is clarified that the contract is alive till the Notice of termination is issued. As such, there is no need of its revival during this period. Notice may be withdrawn if the contractor is able to demonstrate his earnest intention to re-start the work to the satisfaction of the competent authority.

**(ii) REVIVAL OF THE CONTRACT AFTER EXPIRY OF 48 HOURS AND ISSUE OF TERMINATION NOTICE**

Once the formal notice of termination had been issued, revival of the contract, even if on the same terms and conditions, is possible only as a single tender and would require the observance of all relevant orders relating to such tenders.

This issues with the approval of the Finance Directorate of this Ministry.

(PARMOD KUMAR)  
Executive Director, Civil Engg(G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

NO.99/ CE.I/CT/28

New Delhi, dated 6-12-99

Addressed to:

As per list attached.

Sub: General conditions of contract-Termination of contract under clause 62 and procedure for revival.

\*\*\*

The Ministry of Railways (Railway Board) have decided that clause 62 of the General conditions of contract may be amended/added as shown in the enclosed correction slip No. 1 (One).

This issues with the concurrence of Finance Directorate of Ministry of Railways.

Receipt of this letter may please be acknowledged.

DA: AS above

(V.K. Bahmani)  
Exec. Director, Civil Engg. (G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

N0.99/CE.1/CT/28

New Delhi, dated 6.12.99

**CORRECTION SLIP**

Addressed to:

As per list attached.

Sub: General conditions of contract-termination of contract under clause 62 and procedure for revival.

\*\*\*\*

Ministry of Railways (Railway Board) have decided that clause 62 of the General conditions of contract may be amplified as under:-

After the words "after the contract as a whole or in part or parts (as may be specified in such notice)" appearing in para XIII 'e' the following may be added:

"and after expiry of 48 hours notice, a final termination notice (Proforma as Annexure ( V ) should be issued."

(G)

(V.K. Bahmani)  
Exec. Director, Civil Engg.

Railway Board.

**ANNEXURE - V .**

REGISTERED POST A.D. \_\_\_\_\_

\_\_\_\_\_ Railway

(without Prejudice) Dated \_\_\_\_\_

No. \_\_\_\_\_

To

M/S. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contract Agreement No. \_\_\_\_\_

in connection with \_\_\_\_\_

Dear Sir,

Forty eight hours (48 hrs) notice was given to you under this office letter of even number dated \_\_\_\_\_, but you have taken no action to commence the work/show adequate progress of-the work.

Since the period of 48 hours notice has already expired, the above contract stands rescinded in terms of Clause 62 of General conditions of contract and the work under this contract will be carried out at your risk and cost.

Please acknowledge receipt.

Yours Faithfully,

for and on behalf of the President of India.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.88/CE.I/CT/31

New Delhi, dt. 1-6-88

The General Managers,  
The Officer on Special Duty,  
All Indian Railways including Rail Coach Factory,  
CLW,DLW,ICE &MTP/Railways, Kapurthala,  
Calcutta.

The Chief Admn. Officer(con)  
The Chief Admn. Officer,  
MTP/Railways at Bombay and Madras. DCM/Patiala and  
COFMOW/New Delhi.

The chief Admn. Officer (Con)  
Southern Railway/18, MILLERS Rd.  
The General Manager,  
Bangalore Central Organisation,  
Railway Electrification,  
Allahabad

The General Manager(Con),  
N.F. Railway/  
Guwahati.

The Chief Admn, Officer (C), The Principal,  
IRISET/Secunderabad and  
IRMEE/JamalpuR

N.F.Railway/  
Calcutta. The Director, IRICEN/Pune  
and RSC/Baroda

Sub: Loss on account of failure to observe the  
provisions for enforcement of risk action.

A case has come to the notice of the Board wherein a contractor 'A' was awarded six contracts valued at Rs. 13.60 lakhs - five for collection of ballast alongside the track and one for battery relay rooms at 4 stations - in 1981. However, in view of his very poor performance, all the contracts were terminated in April, 1983 at his risk and cost. For the left over works open tenders were invited in which the rates of the contractor 'A' were found to be the lowest. His offers were, however, not considered. on the ground that he had failed in the previous contracts. All the contracts were, therefore, awarded to other contractors, involving an extra cost of Rs. 9.55 lakhs deemed to be recoverable from the contractor 'A' .

2. However, the legal advice obtained by the Railway in December, 1984 showed

the risk action against the defaulting contractor could not be sustained in the Court of law because

(i) the defaulting contractor was not given an opportunity to participate in the risk tender in order to enable him to mitigate his losses,

(ii) a contractor could not be prevented from competing in public tenders on the advice of chief Engineer unless he was black listed.

(iii) in the case of one tender (for Battery Relay rooms) at Check out, the personal approval of the Chief Engineer for rejecting his offer was not taken.

3. Therefore, in December, 1984, the Railway Administration decided to finalise all the terminated contracts of contractor `A' without any risk action, enforcing only a token penalty.

4. Thus, due to various procedure lapsed, as highlighted in the legal opinion, the Railway Administration had to forego their claims towards the risk action.

5. Board have taken a serious view of the matter and desire that there should not be any recurrence of such cases due to the procedural lapses as highlighted in the legal opinion. In such cases, legal opinion, if necessary may be taken, before deciding the risk contracts.

Hindi version will follow.

(J.S. NUNDREY )  
Exe. Director,  
Civil Engineering,  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.88/CE-I/CT/31 Pt.

New Delhi, the -4-2001./23-5-2001.

As per list attached.

Sub: Loss on account of failure to observe provisions for enforcement of risk action .

Ref (i) Board's letter No.88/CE-I/CT/31 dated 1.6.88.  
(ii) Board's letter No.88/CE-I/CT/31 dated 29-1-96.

-----

Instructions had been issued to the Railways regarding risk and cost tenders and participation in the same by the defaulting contractor vide the letters referred above. Some of the Railways have represented that in case a contractor, whose contract was terminated, participates again in a risk and cost tender and his tender happens to be the lowest, award of tender in favour of such a contractor may not serve any purpose

The matter has been carefully considered by the Railway Board and it has been decided as under:-

The defaulting contractor has to be given an opportunity for participating in a risk and cost tender in order to enable him to mitigate his losses keeping in view the spirit of natural justice. It is, however, for the Tender Committee to consider all aspects of the case such as the contractor's capacity, credentials, financial status and changes in the relevant circumstances which might have taken place in the intervening period of award/termination of the earlier contract and opening of risk and cost tender, while deciding the award of the contract. In this connection, reference is also invited to the relevant provision of the Engineering Code wherein it is specified that no work or supply should be entrusted for execution to a contractor whose capacity, credential and financial status have not been investigated before hand and found satisfactory.

This issues in consultation with the Finance Directorate of Ministry of Railways.

This disposes of General Manager/ South Eastern Railway's DO letter No. A/7/W/44/Pt.XVI/000269 dated 23-1-2001.

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
( RAILWAY BOARD )**

No.88/Ilm(b)/21/76/Audit

New Delhi. dated 6/8/88

To

The General Manager, &  
Chief Administrative Officers (CON).  
ALL Indian Railways.

Sub:- Non-recovery of risk cost from a contractor.

----

Vide Para 4.18 of the Comptroller and Auditor General's report on Railways for the year ended 1st March, 1987 it has been brought out that the Central Railway Administration failed to initiate action for recovery of an amount of Rs. 1.65 lakhs towards risks cost from the defaulting contractor, even after lapse of 12 years since termination of the contract.

The Central Railway Administration had explained that delay was partly due to the time taken in finalising the risk cost amount recoverable from the defaulting contractor and partly in seeking legal opinion regarding filing of the suit against the defaulting contractor, after he failed to comply with the demand notice for recovery of the risk cost amount. The Law officer of the Railway has confirmed that, as per the law of limitation any suit by or on behalf of the Central Government can be filed within a period of 30 (Thirty) years from the date of cause of action and the suit which has since been filed would, therefore, not be barred by limitation.

Railway Board desire that all Zonal should conduct a review of all similar cases and ensure that there no avoidable delay in initiating action for recovery of risk cost amounts. As fresh cases of this nature arising in future every Endeavour should be made to complete the desired exercise within a reasonable time frame.

(Rajendra Nath)  
Executive Director Land Management  
Railway Board.

1st February, 1972.

Shri. V.C.A. Padmanabhan,  
Chief Engineer (construction),  
Southern Railway,  
Egmore,  
Madras-8.

No.W.496/P/CN/Vol.IX.

My dear Rao,

Sub: Placing of Risk Purchase orders  
with Defaulting firms -Works Contracts.

-----

During the last inspection of the CRS, I explained to him that in works Contracts where Risk Purchase action is taken we are called upon to give an opportunity to the defaulting contractor on the basis of Board's D.O. No.58/777/Rs(G) dated [17.7.1958](#). In the Law Ministry's note dated 9.12.1956 enclosed with this letter of the Board, it is clearly mentioned that "the defaulter should not be excluded where the contract was broken by delay in supply. The defaulter can submit a tender. If he does so, it must be considered. He is entitled to an opportunity to minimise his loss. His readiness to sell at lower price will be taken as evidence of a lower market price".

CRB felt that in the event of a contractor defaulting due to proved inability to do the work, we should not be constrained to accept his fresh offer, however, lower it may be than the other offers. The CRB also felt that this order pertaining to Stores should not be made applicable to Works Contracts and he desired that I should make a reference to you. This letter is the result.

With best wishes,

Yours sincerely,

Sd/-  
Shri U.S. Rao,  
Director (Works),  
Railway Board,  
New Delhi.

U.S.Rao,  
Director, Civil (Works),  
Government of India,  
Ministry of Railways,  
Railway Board,  
D.O.No.72/W1/CT/7/ New Delhi, Dt: 4.3.1972.

My dear Padmanabhan,

Sub: Placing of Risk Purchase orders with defaulting firms  
- Works Contracts.

-----

Please refer to your DO letter No.W.496/P/CN/Vol.IX dated [1st February, 1972](#). There is no ruling on the subject so far in respect of works contracts, but in the case of supply contracts as pointed out in your DO letter the Ministry of Law has pointed that the defaulting contractor should not be excluded when the contract was broken by "delay in supply". DG, S&D, have reiterated this view in a recent circular issued by them, which says that the defaulting contractor need not be excluded if it is established that the default in making supplies under the original contract, was due to circumstances beyond the control of the contractor. There has also been an instance of a works contract having been awarded to the defaulting contractor on the South Central Railway for earthwork in formation in banks and cuttings on Poona-Miraj conversion. The Railway had taken this action after taking legal opinion and the Board also accepted that on the merits of the case, the award of the contract to the defaulting contract was quite in order.

In view of the above, you will appreciate that if the defaulting contractor's offer is the lowest, it cannot be rejected outright and has to be considered along with the offers, on the merits of the case.

Yours sincerely,  
Sd/-  
(U.S. Rao)

Shri. V.C.A. Padmanabhan,  
Chief Engineer (construction),  
Southern Railway,  
Egmore,  
Madras-8.

**Copy of letter No.75/RS(G)/775 of 25-6-1975 from Railway Board,  
New Delhi to GMs/All Indian Railways.**

Sub: Recovery of risk purchase loss, general  
damages liquidated damages, etc. etc.

-----

Clause 2401 of the I.R.S. Conditions of Contract provides *inter-alia* that whenever any claim for the payment of a sum of money arises out of or under the contract against the contractor, the purchaser shall be entitled to recover such sum by appropriating in whole or in part, the security if any deposited by the contractor etc. Clause 2402 provides for similar appropriation in cases where the contractor is a partnership firm.

In Union of India Vs. Air Foam Industries (P), the Supreme Court had occasion to consider clause 18 of the General Conditions of Contract on the DGS&D side which was more or less similar to Clauses 2401 & 2402 referred to above. The Supreme Court has held *inter-alia* that

"A mere making of a claim by the Purchaser would impose a liability on the contractor to pay it. That surely could not have been the intention of the contracting parties. It would be more consonant with reason and good sense to take the view, which as pointed out above, is plainly and indubitably supported by the language used by the contracting parties, that clause 18 does no more than merely provide an additional mode of recovery to the Purchaser, and the Purchaser is entitled to exercise the right conferred under that clause only where there is a claim for a sum which is presently due and payable by the contractor. This view, indeed, becomes irresistible when we consider the last words of clause, 18, namely, "the contractor shall on demand pay to the purchaser the balance remaining due, which clearly postulate that the reference in the clause is to a sum presently due and payable by the contractor to the Purchaser so that, if any balance remains un-recovered after adopting the special mode of recovery provided in the clause, such balance must be paid by the contractor to the purchaser on demand".

"A claim for damages for breach of contract is, therefore, not a claim for a sum presently due and payable and the Purchaser is not entitled in exercise of the right conferred upon it under clause 18, to recover the amount of such claim by appropriating other sums due to the contractor. On this view, it is not necessary for us to consider the other contention raised on behalf of the respondent, namely, that on a proper construction of Clause 18, the Purchaser is entitled to exercise the right conferred under the clause only where the claim for payment of a sum of money is either admitted by the contractor, or in case of dispute, adjudicated upon by a court or other adjudicatory authority.

We must, therefore, hold that the appellant had no right or authority under clause 18 to appropriate the amounts of other pending bills of the respondent in or towards satisfaction of its claim for damages against the respondent and the learned Judge was justified in issuing an interim injunction restraining the appellant from doing so".

The ratio decided in the above judgment should, therefore, apply equally to cases governed by Clauses 2401 and 2402 of the I.R.S. conditions of Contract, it would follow that after the Supreme Court judgment, it is not open to the Purchaser to recover/appropriate by way of damages by sum whether in the nature of Security Deposit or other dues of the contractor under the relevant contract or other contracts in respect of which the President of India is the Purchaser. It may, however, be noted that the Supreme Court's Judgement does not prohibit the Purchaser from withholding payments due to the contractor but such withholding would be subject to such measures as may be open to the contractor in an appropriate forum for recovery of such amount.

2. In the light of the aforesaid Judgement of the Supreme Court, the Board are now considering the question of amending clauses 2401 and 2402 of I.R.S. conditions of Contract. Based on the advise of the Ministry of law and Justice given to D.G.S & D in the matter, the Board have been advised that the Railway Administrations should , in the meantime, make use of the Demand Notices as in Annexures I & II for the recovery of risk purchase loss and general damages. The Railway Administrations should also observe the following guidelines in this regard;

(i) Copy of the Demand Notice should not be endorsed to the FA & CAO. A separate communication should, however, be sent to the FA & CAO requesting him to advise whether any bills of the defaulting firms are pending in some other contracts. A copy of the Demand Notice issued to the firm should be enclosed with the said communication to the FA & CAO for his information. If the firm fails to deposit the sum within the time specified in the Demand Notice and if some bills of the same firm are pending in some other contracts, the FA & CAO should advise the concerned Purchase Officer about the said bills and, in the meantime, defer payment of such bills till further instructions from the concerned Officer, while intimating the pending bills in other contracts, the FA & CAO should intimate the concerned Purchase Office the details of the sum payable to the firm in other con- tracts and the payment of sums has been deferred till further instructions from the latter. It should be ensured that no part of the correspondence exchanged between the FA & CAO and concerned Purchase Officer is endorsed to the defaulting firm.

(ii) The concerned Purchase Officer would be required to make the following action on hearing from the FA&CAO regarding pending bills of the defaulting firm in other contracts.

(a) Immediately after receiving the intimation from the FA&CAO about the pending bills of the defaulting firm in some other contracts, the concerned purchase officer should examine whether the contract in respect of which a deemed Notice is issued contains an arbitration clause.

(b) If that contract is governed by an arbitration Clause, most expeditious steps should be taken to refer the dispute to arbitration. Simultaneously, a petition under section 41 of the Arbitration Act 1940 read with Schedule 2 of the said Act and order 39 Rule I of the CPC should be filed in consultation with the Law Officer before the court of competent jurisdiction, praying for the grant of an injunction restraining the defaulting firm from realising the sums in other contracts from the FA&CAO to the extent of the Purchaser's claim in the contract, in respect of which

the demand notice was issued and not complied with. If, however, the prayer for injunction is rejected, a further prayer should be made to the Hon'ble Court for directing the defaulting firm to furnish a guarantee, preferably a Bank Guarantee so that Government's interest is protected.

(c) If the defaulting contractor objects to the reference to the arbitration but if it is found that the arbitration is included in the terms and conditions applicable to the contract, in that case a petition under Section 20 of the Arbitration Act and also read with order 39, Rule 1 of the CPC should also be moved before the competent court. The concerned purchase officer of the Railway Administration should ensure that immediate steps are taken to file the above referred petitions expeditiously in consultation with the Law Officer because the amount payable in order contracts cannot be kept deferred indefinitely by the Accounts Officer. As such, most expeditious steps have to be taken to get interim injunction from the competent court otherwise indefinitely. The FA&CAO has also to be advised suitably as per the orders issued by the competent court in respect of the petition for interim injunction.

3. The contractor of stores and other officers purchasing the stores materials for and on behalf of the President of India and FA&CAO of the Railway Administration should ensure strict compliance of the above instructions.

4. The above procedure should also be followed in the case of recovery of liquidated damages or recoveries effected by FA&CAO from pending bill of the contractors in respect of loss or short- age of supplies/stores reported by the consignee. The Demand Notice may be issued in the form at Annexure II with suitable modifications. In cases where recovery of the amount has already been effected by the FA&CAO from the pending bills of the de-faulting contractors, such recovery should be reported to the concerned purchase officer of the Railway Administration for taking necessary action in the light of the instructions mentioned above.

The receipt of this letter may be acknowledge.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(Railway Board)**

No. 69/16/9/L/App.VII.

New Delhi, Dt. 19th Dec. 1974.

To

The General Manger/Constructions,  
Headquarters Office,  
Works Construction Branch,  
18, Millers Road,  
Bangalore- 46.

Sub: Mangalore Hassan Rly. Project (MG) - Ghat Section -  
Reach IX - Construction of Bridges - risk action.

Ref: Your letter No.148/W/26/CN/Vol.II Dt. 21.11.74.

-----

The point raised for my consideration is whether it would be open to the railway administration to recover from the defaulting contractor the extra expenditure incurred by them in completing the bridges according to the new specification. It has been stated that by changing the specification from mass concreting construction to reinforced cement concrete construction for bridges the overall value can be brought down considerably and that this would be in the interest of the defaulting contractor also, as to the extent of the reduction in the cost the damage to be recovered from the defaulting contractor will stand mitigated.

The contract document and other relevant papers are not before me. It is also not clear under that circumstances the contract was terminated and why reinforced cement concrete construction was not resorted to even originally at the time the contract was concluded, if it has all the advantages mentioned in your letter.

Be that as it may, the principle governing risk purchase action which would be equally applicable to the present case is that the risk purchase contract should be on the same terms (apart from the delivery time) as the original contract i.e. the goods should be of the same specification and liable to inspection by the same authority and other terms of payment, provision regarding liquidated damages, arbitration etc. should be the same. The intention is that the terms of the new contract should not be more onerous or more liberal than those of the original contract except to the extent of time of supply i.e. much shorter time for supply of stores would be permissible under the law provided of course a reasonable time is given.

In the light of the principle above stated the new contract in the present case should also be on the same terms as the original contract. The terms of the new contract should neither be more onerous nor more liberal. This would necessarily mean that the work under the new contract should conform to the same specification as is in the original contract. If the specification is changed, the nature of the contract will undergo a substantial change in which case it would be open to the defaulting contractor to contend that his liability for the damage does not at all arise. In such a situation no liability can be legally fastened on the defaulting contractor merely on the ground that there is a reduction in the total cost of the works. In short any deviation in the specification will not be sustained in the event of the defaulting contractor seeking arbitration. Your reference is answered accordingly.

Sd/-  
(G.VENKATASUBRAMANIAM)



## **Extract from "Rules for entering into supply contractors-November "79."**

### **CHAPTER III**

#### **RISK PURCHASE**

3.1 Repurchase should be on identical terms of the original contract such as mode of tender, specification, terms of payment, inspection authority, conditions regarding liquidated damages, arbitration, etc. The intention is that the terms of the new contract should not be more onerous or more liberal than those of the original contract except to the extent of the time of supply.

3.2 The risk purchase must be effected under the same or as nearly as practicable, in the circumstances, similar conditions of competition as the original purchase, so that it is made at the lowest market rate. The Defaulters should not be excluded where the contract is broken by delay in supply. If the defaulter submits a tender, it must be considered. He is entitled to an opportunity to minimise his loss. When repurchase is effected by a limited tender enquiry, the defaulter must also be addressed. Where the quotation of the defaulter is the lowest, he should be called upon to furnish a security deposit to ensure against the second default. The amount of security also can be enhanced in suitable cases where the defaulter's quotation and the next best quotation indicates that the loss is more than 10% subject to the defaulter accepting these special terms. He has the first claim for consideration and if he is excluded, it would end in a risk of being denied the risk purchase extra expenditure exceeding his offer (Railway Board's letter No.58/777/RS(G) of [17-7-1958](#) - Annexure 98).

3.3 The purchase should be effected within 6 months for common items (ie. items easily available) and 9 months in respect of stores not easily available in the market and where procurement difficulties are experienced. (Board's letter No.64/RS(G)/779/49- /App./VI/AB/EM of [18-11-1976](#)- Annexure 99).

3.4 In an installment contract, whole or part of the outstanding quantity may be cancelled; the entire quantity outstanding in contract other than installment contract should be cancelled.

3.5 Normally, repurchase tender should be issued after the breach of the contract. However, an exception may be made where the stores are urgently required or are not readily available in the market. In such cases, standby tenders may be invited previous to the date of breach with a view to minimise the inconvenience, caused due to delay in performance of the contract.

3.6 There may be cases where a contract is initially entered into with a supplier and he fails to deliver the stores, resulting in the contract being cancelled and risk purchase agreement entered into with a second contract at a higher rate. The second contractor also fails to supply and fresh risk purchase agreement is entered into with a third contractor still at a higher rate. The third contractor supplies the stores as per the terms of the contract entered into with him.

3.7 In such cases, if the supplies are of an ordinary commercial nature, we can legally recover from the contractor on whom the contract was initially concluded only the difference between the rates at which the original contract was placed on

him and the market rate on the date on which he committed the breach. So far as the second contract is concerned, the actual extra expenditures (i.e. the difference between the contract price in the contract placed on the second contractor and between the contract price in the third contractor) in risk purchase can be recovered. In cases of stores that are not of ordinary commercial nature, i.e. stores fabricated to specification, etc. which have not got ready market, the purchaser is entitled to recover from the first contractor the difference between the contract price and that of the second contractor and from the second contractor the difference between the contract prices on the second contractor and that of the third contractor.

3.8. In respect of Rate contract, the direct Demand Officer has the right to fix delivery and making time the essence of contract. While he can give notice stating that the contract shall be cancelled under clause 14 of the DGS&D General conditions of contract and the undelivered goods shall be purchased at the risk and cost of the contractor as provided in that clause, the right of cancellation rests only with DGS&D.

3.9 Running Contract: In case of running contracts, DGS&D only will have to take suitable action on receipt of intimation from DDO, about non-supply/ delay in supply.

3.10 If after intimating the DGS&D, about the failure of supply in respect of a supply order placed against a rate contract/Running contract or an acceptance of tender, the indentors make direct purchase without waiting for an authorisation from the DGS&D, it may not be possible to recover from the defaulting contractor any extra expenditure incurred in such purchases. (Para 48A of DGS&D's contract manual).

-----

## **ANNEXURE 98.**

**Confidential**

Copy of DO letter No. 58/777/Rs(G dt. 17th July `58 received from Shri Suderham Lall, Dy. Director, Railway Stores, Railway Board, New Delhi addressed to Shri D.V. Bhatrapkar, Controller of Stores, Western Railway, Bombay-copy to Shri R.K.Tandan, Dy.COS/ICF/PER

Sub: Placing of Risk purchase orders with the defaulting firms.

Ref: 1)Shri Robinson's DO No.Con.S.438/19/2527(P3.56)  
dt.10.4.58.

2) Your DO No. Con/S.438/192527/(P3.56) dt.5-7-78.

-----

The Board have examined the questions, as raised in Shri Robinson's above quoted DO as to whether "risk purchase" order for any stores can be placed on the same firm against whom this action is being taken for their failure to fulfill the contract. In this connection, a copy of the Ministry of law's Note dt. 9-12-`56 is enclosed for your information. The Board agree with the views of the Ministry of Law and desire that this should be kept in view while initiating cases of risk purchase in future.

Copy of D.S. Ministry of law note dated 9-12-56.

There is no reported case in my knowledge on the question whether the defaulting seller must be given an opportunity to offer against a risk purchase enquiry, but I understand arbitrators have taken an adverse view of his exclusion. The principle governing a risk purchase is that it must be effected under the same, or as nearly as practicable in the circumstances, similar conditions of competition as the original purchase, so that it is made at the lowest market rate. While exclusion of a defaulting contractor from the competition could be justified where the breach consisted in the inability to supply goods of the abstract description, this would not be possible where the contract was cancelled on account of default in completing supplies within the delivery period stipulated in the contract since the defaulter might have quoted lower and been in a position to supply. Such a question would also not arise where repurchase is effected of ready goods in the market for the defaulter did not have the goods and therefore he cannot complain. But our risk purchases are usually effected like the original purchase on a forward delivery basis the reason being that ready goods are not ordinarily available in the market. In such cases, exclusion of the defaulter from competition may be made the ground of an adverse decision on our claim to recover the extra expense and this appears to have actually happened. Hence, it has been consistently advised by us that the defaulter should not be excluded where the contract was broken by delay in supply.

When the repurchase is effected by advertised tender nothing special is necessary. The defaulter can submit a tender. If he does so, it must be considered. He is entitled to an opportunity to minimise his loss. His readiness to sell at lower price will be taken as evidence of a lower market price. When,

repurchase is effected by a limited tender enquiry, the defaulter must also be addressed. Likewise, in the case of local purchase by the indentor or a negotiated repurchase (which is rarely permissible in an extraordinary situation he should not be denied an opportunity to offer. We are, however, entitled in all such cases, where the defaulter's deposit so that we ensure against a second default. The amount of security also can be enhanced in suitable cases where the difference between the defaulter's quotation and the next best quotation indicates that our loss is more than 10% subject to the defaulter accepting these special terms, he has a just claim for consideration and if we exclude him, would run the risk of being denied the risk purchase extra expense exceeding his offer.

Sd/-M.C.Daga.  
9-12-56.

**Copy of Shri D.R. Robinson, COS/Rly. Bombay's DO letter No.Cons.438/19/2527(P3-56) dt.10-4-'58 addressed to Shri Sudershan Lall, Dy. Director, Rly. Stores, Rly. Bd.**

Re: Procurement- Direct purchase - Gb1 Class Stores No.2527(56).

The following case, which has some interesting aspects, has been placed before me for a decision. Candidly this is the first of the kind I have come across and I shall be obliged if, after discussion, your considered view are passed on to me. Sundaram and Chowdiah will probably assist you in this matter.

2. In April last year, a Limited Tender was issued for 7 Cwts. of 6"x 3/8" M.S.Blackhez, head bolts and M/s. P.K. Mookerjee & Co. Ltd., Calcutta, quoted Rs. 82/- per Cwt for delivery in three months. Their offer was the lowest and was accordingly accepted. The opening date of the tender was 4-5-57. Since the firm made no mention whatsoever in regard to the issue of either a quota certificate or a Recumbent Quota Certificate, their rate was taken as "firm" and the order was placed with them on 6-6-57 after they had been notified by letter on 20-5-57 that their offer had been accepted. In reply to this intimation, they pointed out that "with effect from 16th May prices of all categories of Iron & Steel have been increased by Rs. 70.00 per ton by order of the Iron & Steel Controller" and they accordingly asked for a corresponding increase in their price and raised their price to Rs. 86/- per Cwt. without any qualifying remark.

3. As you are aware, we have the Bulletin system of issuing Limited Tenders and after we advised the firm of our intention to go out to "Risk purchase" they quoted Rs. 84/- per Cwt. against the Risk Purchase tenders. Incidentally, this rate was the low- est. This was in October last year. The next lowest offer of Rs. 100/- per Cwt. was, however, accepted and the firm was sent the claim bill for the difference in price.

4. The case was referred to the Law Officer who has raised an important issue by stating that it is not understood why the offer of M/s. P.K. Mookerjee & Co., Calcutta of Rs. 84/- per Cwt was not accepted, as we could have still submitted a claim bill on them for the difference between their original quotation of Rs. 82/- per Cwt and their subsequent quotation of Rs. 84/- per Cwt. Para 772-S states, inter alia, that "COS has the authority to purchase any quantity of the Stores ELSEWHERE . . . ." and it has been the practice to ignore the defaulter's offer against Risk Purchase tenders, as this could lead to malpractice. With this, our FA & CAO agrees.

5. In regard to manufactured items, we have always taken a "firm" quotation to mean that the raw material is actually available for taking the work in hand and, therefore, any statutory increase in the price of steel cannot affect the "firm" price quoted. This view has also been upheld by our FA & CAO. Our Law Officer, however, has stated that although the suppliers did not stipulate that they would have to procure raw material for the manufacture of the bolts, he considers that it was not necessary for them to make this stipulation if clause 4 of the IRS conditions of Contract applied and the increase in prices is permitted by the Board. In this connection, please refer to Board's letter No.55/615/4/FR(C) dt. 29-3-'57.

6. I would like to mention that I have a case on hand where the Dos/Calcutta, after placing an A/T on a firm, cancelled the same and on fresh tenders being invited, placed a fresh A/T on the same defaulting firm and recovered the different from them. Was DOS correct in taking this action? If your agreed opinion is in the affirmative, I take it that the same procedure can be adopted by me, in future cases of a similar nature.

7. An early reply will be appreciated.

## ANNEXURE 99

Copy of letter No.64/RS(G)/779/49/App.VI-AR/CR.dt.18-11-76 from Dy. Director, Railway Stores (G), Railway Board, New Delhi to the GMs, All Indian Railways & ICF.

Sub: IRS Conditions of contract - Revision/Addition of claims  
0300(a) and 0702(b),

-----

In terms of clause 0702 of IRS conditions of contract the time limit for the placement of risk purchase order is 6 months. Ministry of Railways have in the past received a number of re-quests form the Railways for enhancing this time limit of 6 months. The matter has therefore been re-examined consultation with the Legal Adviser, Ministry of Railways in the light of the procedure obtaining on the DGS&D side. As per the legal advice there is no objection to enhance the time limit of 6 months to 9 months in respect of stores which are not easily available in the market and where procurement difficulties are experienced. The Ministry of Railways have therefore decided that in respect of such stores the period for making risk purchase will be 9 months instead of 6 months. In order to implement this decision, the Controllers of Stores should identify these stores in consultation with their FA & CAO and incorporate a clause as under in the tender enquiry for purchase of these stores.

"In respect of the stores mentioned in the annexure to this tender the period for making risk purchase shall be nine months instead of six months as provided in clause 0702(b) of IRS conditions of contract."

The clause which is to be inserted in the Tender enquiry as above should also be incorporated in the resultant contract the only change being that instead of the word "Tender" the words "Purchase order" should be used.

Ministry of Railways have also decided to insert a note below clause 0702(b) of IRS conditions of contract to give effect to the above decision.

It has also been decided to amend clause 0300(a) of IRS conditions of contract in the light of corresponding clause of DGS&D conditions of contract.

Advance correction slip No.141-S to the Appendix III to the Indian Rly/Code for the Stores Department is accordingly sent herewith for information and guidance.

Please acknowledge receipt (Hindi version will follow).

-----

### **III. TENDERS**

#### **J. (i) ACCEPTANCE OF OFFERS AWARD AND ADMINISTRATION OF CONTRACTS – AWARD OF CONTRACT**

S. No	Subject in Brief	Letter Date
1	Award of Contracts without Quotation of Rates	06/12/79
2	Deliberate Splitting of Contracts	12/04/82
3	Splitting of Tendered Quantity Between More Than One Firm Against Specific Tender Enquiry Delegation of Powers	26/10/80
4	Splitting of Tendered Quantity Between More Than One Firm Against Specific Tender Enquiry	11/11/77
5	Engaging Unreliable Contractors.	07/09/94
6	Award of Contract to IRCON	23/12/88
7	Delegation of Powers for Entering into Contracts inclusion of Quantum of Excise Duty & Sales Tax	10/05/91
8	Delegation of Powers -Competency for Acceptance of Tenders	16/08/94
9	Delegation of Powers – Acceptance of Tenders	02.11.99
10	Acceptance of Tenders	15/05/68
11	Award of Contract without Acquiring Land	14/12/84
12	Awarding of Contracts	15/07/93
13	Award of EW Contract without Acquiring Land	01/08/95
14	Obtaining the Acknowledgements for the Receipts of Letters of Acceptance by the Contractor	22/06/67
15	Payments of Stamp Duty On Agreements Executed by Railway Administration	19/07/68
16	Guarantee Period for Water Proofing Treatment in the Roofs of Railways Building by Laying Bitumen -Tar-Felt	



Copy of Railway Board letter from Addl. Director, Civil Engg., Railway Board, New Delhi addressed to The General Manager, All Indian Railways - Letter No. 79/W1/CT/22 dated 6.12.1979.

Sub: Award of contract without quotation of rates.

-----

It has come to the notice of the Ministry of Railways (Railway Board) that on one of the Railways, a contract was awarded to a contractor who has submitted the tender papers without quoting any rates therein. During consideration of tenders, negotiations were conducted with this tenderer also on the assumption that his tender was valid because he had deposited standing earnest money with the Railway and, as no rates were quoted by him his offer was assumed by the Railway as the 'highest' one.

The Board would like to point out that in terms of Board's circular letter No.67/W1/Ct/32 dated 25.5.1968, in no case negotiations are to be extended to the tenderers who has either not tendered originally or whose tender was rejected because of unsatisfactory credentials, capacity or unworkable rates, or (in the case of other than stores tenders only) whose tender was not accompanied by earnest money, since in this case the tenderer did not quote any rates, he could not have been considered as having 'tendered originally' even though he had standing earnest money deposit.

The interpretation given by the Railway is not correct and Board desire that such cases should be strictly avoided. This issues with the concurrence of the Finance Directorate of the Ministry of Railways, (Railway Board),

The receipt of this letter may please be acknowledged.

(Hindi version will follow)

Sd/- (Ravinder Singh)  
Addl. Director, Civil Engg., Rly. Bd.

-----  
FA & CAO's Office,  
Madras-600 003,  
Dated: 18th December 1979  
No.W.496/F/O

Copy to: FA& CAO/CN/MS, Dy.FA&CAO/CN/BNC Sr.DAO/MAS/DAOs/OJA TVC  
MDU TPJ MYS Dy.CAO/S/PER, Dy.CAO/W/PNR,SAO/W/GOC,SAO/W/PTJ  
AAO/W&S/MYS,AAO/XC,AAO/FB/TA for information.

for FA & CAO.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAYS BOARD)**

No.82/W1/CT/8

New Delhi  
12.4.1982

The General Manager,  
South Central Railway,  
Secunderabad

SUB: Deliberate splitting of contracts.

-----

During the investigation by Vigilance in a case on your Railway, it was noticed that for getting office tables provided with decolam tape amounting to Rs. 54,000/- the AEN has split up the total contract into 12 works and had called for 12 separate quotations. After accepting the quotations and negotiations the contracts were awarded to a particular party. The act of splitting up of the contract by the AEN was deliberate so as to bring it within the ambit of the powers of DEN concerned.

2. In this connection, reference is invited to Board's circular letter No. 78/W1/CT/9 dated **5.3.1981** addressed to all Indian Railways, which stipulate that powers to dispense with the calling of tenders should be exercised sparingly, and that in special cases where it is felt necessary to do so, reasons for taking such a decision should be recorded by the competent authority in each case, viz. Sr. scale officer upto Rs. 10,000/- and J.A. grade officer upto Rs.25,000/- It also stipulates that the work should not be split up for the purpose of bringing it within the ambit of this dispensation and also the reasonableness of the rates should be gone into by the accepting authority.

3. Board desires that the Railway should ensure that there is no breach of above rules and recurrence of cases of such nature.

4. The receipt of this letter may please be acknowledge.

sd/-  
Additional Director, Civil Engg.,  
Railway Board.

No.82/W1/CT/8 New Delhi 12.4.1982

Copy forwarded to the General Managers, All Indian Railways (Except South Central Railway) including CLW , DLW , ICC and MTP (Railways) at Calcutta, Bombay, Madras and Delhi.

The Director, General, RDSO/Lucknow  
The General Manager, Wheel & Axle Plant, Bangalore  
The CAO, Diesel component Works, Nabha Road, Patiala  
for information and compliance.  
Sd/-

Copy of Rly. Board letter No.79/RS(G)/779/41, dated 26.10.1980. from S.C.Jain,  
Dy. Director, Rly. Stores(G), Rly. Board, New Delhi, to etc.

-x-

Sub: Splitting of tendered quantity between more than one firm a  
against specific tender enquiry - Delegation of Powers.

-----

The question of amending para.4 of this Ministry's letter of even number dated 8.11.1979, wherein it is laid down that difference in the rate (unit cost to administration) between the lowest acceptable rate and the rate of next higher offers should not exceed 10%, has been under the consideration of the Ministry of Railways for sometime past, and it has now been decided to withdraw the above ceiling limit of 10% price differential. Each case may be decided on its merits in consultation with the associate Finance. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Sd/-  
(S.C.Jain)  
Dy. Director, Railway Stores(G),  
Railway Board.

ma/26/11.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No. 76/RS(G)/779/86.

New Delhi,  
dated: 11-11-77.

The General Manager,  
Eastern Railway,  
Calcutta.

Sub: Splitting of the tendered quantity between more  
than one firm against specific tender enquiry.

-----

Reference your letter no. S.550/P/O/Pt.I dated 21.5.56 on the above noted subject. The matter has been carefully examined on the light of the procedure followed by the Railway Board and the DGS&D. There is no change in the rules regarding the procedure for conducting negotiations which may be warranted due to various reasons such as rates considered unreasonable etc. However after obtaining the most competitive rate possible, where the quantity to be procured is quite huge, the Ministry of Railways have no objection to the splitting of the tendered quantity and deciding the tenders in favor of one or more firms on the merits of each case at the lowest acceptable rate with the approval of competent authority in consultation with associated finance having regard to the following factors:-

- (i) Vital/Critical nature of the item;
- (ii) Quantity to be procured;
- (iii) Delivery requirements;
- (iv) Capacity of the firms in the zone of consideration;
- (v) The need for booking developed capacity for manufacture of the items;
- (vi) Past performance of firms;
- (vii) Financial implications involved.

This issues with the concurrence of Finance Directorate of Ministry of Railways.

(H.P.Mehtani)  
DA:Nil. Dy. Director. Rly. Stores(G)  
Railway Board.

No. M.496/P/CN/Vol.XXIV Headquarters Office,  
Works Construction Branch,  
Egmore, Madras-600 008,  
Dt. 7-9-94.

Dy.CE/CN/MAS, TPJ, ERS, PTU, GC/MS. MDU  
XEN/CN/MAS, TOJ, GC/MDU, MS, SA, CLT, TVC, TCR  
PCO, ERS, ALLP, KYJ, MAQ, PTJ, &DL/QLN

Sub: Engaging unreliable contractors.

-----

A copy of Rly. Board's letter No.94/W1/LCT.W/2/CAG(92-93) dt. 16.8.94 on the above subject is sent herewith for information and guidance please.

Encl: As stated. For Chief Engineer

Copy to : FA & CAO/CN/MS, Dy.FA & CAO/CN/BNC SAO/CN/MDU, ERS,  
TPJ with a copy of Rly. Board's letter mentioned above. Encl: 1.

---

Copy of Railway Board's letter No.94/W1/LCT.W/2/CAG(92-93) dated  
16-8-94 addressed to The General Managers All Indian Rlys. and  
copy to: CAO/CN/MS xx xx etc.

Sub: Engaging unreliable contractors.

-----

The Comptroller and Auditor General of India in his report of 1992-93 on the Railways has brought to notice a case wherein a Railway Administration had awarded contracts amounting to Rs.20.11 lakhs and Rs.20.91 lakhs respectively for supply and stacking of the ballast near the track in connection with a doubling project to a contractor who was considered solvent only for works upto a limit of Rs.2 lakhs. When the contractor failed to supply the ballast, the contracts had to be terminated at his risk and cost. As result of the risk purchase, Rs. 36.80 lakhs was recoverable, whereas only Rs. 1.40 lakhs could be recovered.

While legal action is being taken to recover the balance dues, it is felt that the situation could have been averted if the Railway administration had gone by instructions issued from time for not awarding contract without a proper investigation of the contractor's capacity and financial status. Besides provisions in para 1215-E, instructions to this effect have been reiterated on a number of occasions last one being in terms of letter No.91-CEI/CT/1 dated **9.10.91**(copy enclosed for ready reference). The Board would like the Railways to follow those instructions scrupulously and take precautions to avoid recurrence of such cases. Suitable instructions may please be issued to all concerned and receipt of this letter acknowledged.

Sd/-  
(Y.P.Singh)  
Director works  
Railway Board.

No.W.496/P/C. Headquarters,  
Works Branch,  
Madras-3

CAO/CN/MS, CE/CN/BNC CAO/MTP/MS  
CEE/RE/MS. FA&CAO.  
FA&CAO/MTS/MS, FA, CAO/RE/MS, FA&CAO/CN/SNC,  
DRMS/MAS PGT SBC MYS TPU MDU & TVC  
CSTE/CN, CEE, CME,CORS, COS.

Sub: Award of contracts to M/s IRCON

-----

A copy of Railway Board's letter No.88/CE.I/CT/61 dt.23.12.88 advising that before awarding any contract to M/s IRCON on single tender basis, the rates quoted by them should be critically analysed so as to ensure that the contract is awarded at reasonable rates, is appended for information and guidance.

Receipt may please be acknowledged.

for Chief Engineer,  
Copy to: Sr.DAO/DAC/MAS POT TVC SBC MYS TPU & MDU.

Copy of Railway Board's letter No.88/CE.I/CT/SI dt 23.12.88  
addressed to Ms of Indian Railways

-----

Sub: Award of Contracts to M/s IRCON

-----

It has come to the notice of the Board that some contracts have been awarded to M/s IRCON without detailed examination of rates.

Boards desires that before awarding any contract to M/s IRCON on Single Tender Basis, the rates quoted by them should be critically analysed so as to ensure that the contract is awarded to them at reasonable rates.

The receipt of this letter may please be acknowledged.

**SOUTHERN RAILWAY.**

FA & CAO'S Office,  
Madras-600 003,  
Dated: 5.6.1991.

No. G.203/F/1/Vol.21

FA & CAO/MTP/MS; FA&CAO/CN/MS; FA&CAO/WST/PER  
Sr.DAOs/MAS, SBC, TPJ; DAOs/MDU, TVC, MYS, PGT  
SAO/SW/PTJ, AFA/X, AAO/XC, AAO/IG; SAO/SW/GOC.

Sub:- Delegation of powers for entering into contracts Inclusion  
of quantum of Excise Duty and Sales Tax.

-000-

A copy of Railway Board's letter No. F(X)II/91/PW/3 of 10.5.91 is sent herewith  
for information and guidance.

Kindly acknowledge receipt.

for F.A. & C.A.O.

---

Copy of Railway Board's letter No. F(X)II/91/PW/3 of 10.5.91. to The General  
Managers, All Indian Railways and others with copy to FA&CAOs, All Indian  
Railways.

Sub:- Delegation of powers for entering into Contracts- Inclusion  
of quantum of Excise Duty and Sales Tax etc.

-000-

A doubt has been raised as to whether the quantum of Excise Duty and Sales  
Tax is to be added to the basic value quoted to determine whether the tender  
calls within the powers of acceptance by General Manager, as after addition, the  
value of works out to more than Rs. 5 crores and beyond the powers of General  
Manager vide item 47 of the Schedule of Powers.

It is clarified that while deciding such type of cases the criterion for the accepting  
authority should be -"Value of purchase", which would include Excise Duty, Sales  
Tax or any other charges payable to the seller.

The value of option clause, wherever provided for, should also be taken into  
consideration while determining the level of Tender Committee. This would be  
applicable to Tender Committee of all levels covering both Store Tenders and  
Works Tenders.

(This disposes of N.F. Railway's Letter No. W/362/Con/JPZ/90/L/ 14/pt. I dated  
11.1.91).

Sd/-  
(G. SUMAN)  
Director Finance (Exp.)  
Railway Board.

**GOVERNMENT OF INDIA  
(MINISTRY OF RAILWAYS)  
(RAILWAY BOARD)**

No. 94/CE.1/CT/56

New Delhi,  
dated 16-08-94

To,  
General Managers,  
N.F. Railway (const)  
Maligaon, Guwahati.  
and others

Sub: Delegation of powers-competency for acceptance of tenders.

-----

A case has come to the notice of Board and Minister for Railways where a tender was awarded under powers of the General Manager, but the additional works which were got executed by the railway under the contract caused the value of the contract to exceed competency of the General Manager. The concerned officers failed to observe provisions of Para: 1268 -E.

2. Board have taken a serious view of the above lapse which left very little choice/freedom of decision by the competent authority and post facto approval had to be accorded by the Accepting Authority.

3. Board have also noticed that the assessment of quantities in the tender had not been done with due care. Board desire that the system for correct assessment of quantities at the tender stage should be organised on a proper footing and strict compliance of para 1268 E should be ensured whenever the variation in quantities becomes apparent. Prior approval of the higher accepting authority should be obtained if the value of the contract is likely to exceed the competency of the original Accepting Authority, well before the additional quantities of works are got executed.

This issues with the concurrence of associate finance.

Receipt of this letter may kindly be acknowledged.

(Ved Prakash)  
Executive Director Engg (G)



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No. F(X)II/97/PW/4

New Delhi, date 2/11/1999.

The General Managers, All Indian Railways,  
including CLW, DLW, ICF and W&AP.

The Officers on Spl. Duty,  
East Coast Railway, Bhubeneshwar,  
East Central Railway, Hajipur  
North Central Railway, Allahabad,  
North Western Railway, Jaipur,

The General Manager (Cons.),  
N.F. Railway, Guwahati.

Sub: Delegation of Powers - Acceptance of tenders.  
-----

It has been observed that no uniform practice is followed by the Railways while submitting tender cases to the Board for acceptance. In several cases, these are forwarded with the comments of the CAO/C, without the General Managers having seen them.

It is clarified that the delegation of General Manager's powers to CAO/C cannot, obviously, be invoked in this regard when the acceptance of tenders lies with an authority higher than the General Manager. All Works and Stores tenders submitted to the Board for approval should, therefore, invariably be forwarded with the personal comments and recommendations of the General Manager, whether they relate to Open Line or construction. All future cases may be processed accordingly.

Please acknowledge receipt.

(Amit Kaushik)  
Jt. Director Finance (Exp.)  
Railway Board.

Copy of letter No.W.496/II dt. 15th May 1968 from General Manager Southern Railway, Madras addressed to HODs.

Sub: ACCEPTANCE OF TENDERS.

-----

Reference is invited to Para 1 of our circular letter of even No. dated 21st September 1965, extracted underneath:-

It is necessary that officers serving as Members of Tender Committees should record full reasons whenever they pass over offers. This may be specifically brought to the notice of the officers who have to function as Tender Committee Members".

2. Although there is technical compliance with this requirement, yet it is found in a few cases that the Tender Committee, who had rejected the lowest tender and had recorded the reasons therefore, advance at a later stage other arguments which the committee had not recorded at the first instance. This was rather embarrassing and was otherwise commented upon.

3. Tender Committees are therefore enjoined to note that

(i) All arguments which weigh with them for rejecting a lowest tender should be fully recorded at the very first instance;

(ii) Other arguments that are advanced at a later stage for rejecting the lowest tender will not be accepted; and

(iii) The minutes of the Tender Committee must be drawn up in the first instance and signed by all the members before they disperse (Vide Confidential letter No.W.496/II dated [31st March 1965](#)).

4. These instructions are to be circulated to all officers under your control.

Copy forwarded to:-

- (1) The ADAI(Railways), New Delhi (With 45 spare copies)
- (2) The Director of Audit, All Indian Railways,
- (3) The FA&CAOs All Indian Railways.

Copy to

EDW, EDRE, EDEE, OSD(MTP), ED(Track),EDRS, EDLM,EDV,EDCE(P).  
EAD(Track),JDW,JDRE,JDEE,JDVE(I),JDVE(II),F(X)I, F(x)II,  
Elect., RS(G),LM(B), W-I,W-II,CE-II, Vig.-III Branch -(with  
5 spare copies) and in reference to JDVE(I)'s note dt.12.11.87  
of file No.86/V3/N(G)/87

Copy of Railway Board's letter No. 83-BC-S/15 DATED 14.12.1984  
from Director, Civil Engineering, Railway Board , New Delhi  
addressed to GMS ALL India Railway including CLW, DLW, ICF and  
MTP (Railways at Calcutta)

Sub:- Para 15 I(vii) of Advance C&AG's report on

----

Railways for the year 1982-83 Southern Railway provision of underground drainage arrangement arrangements to a staff colony- Award if contract without acquiring the required land.

In the above case, major quantum of work was to be carried out on private land to be acquired. The contract was awarded in Nov, 1977 without acquiring the land. The matter of land acquisition remained under correspondence between the Railway and the state Government for a long time due to non-availability of land the contract had to be closed on contractor's request in June,1982. a fresh contract had to be executed with another contractor in Nov,1982 for the remaining work at higher rates after the alternate land became available form construction organisation.

In this connection reference is invited to the instructions contained in Railway Board's circular letter No. 71/W1/CT/43 dt. 1.9.1972 that the Railway Administration should foresee all delays such as preparation of detailed drawings, availability of site etc. to the extent possible and decide calling of tenders only when they are fully prepared to hand over the sites and supply the plans etc. These instructions have been reiterated vide Board's letter No.82-BC/S/17 dated 14.9.1983 in another Audit case of Southern Railway where extra expenditure had to be incurred on account of delays on Railways account by payment of higher rates to the contractors.

Board wish to reiterate the above instruction and desire that these should be brought to the notice of all concerned so that instances of the type referred to above are avoided.

Receipt of this letter may please be acknowledge.

(Hindi version will follow)

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

F(X) II-93/Contracts/1

New Delhi,  
dated 15-7-1993

The General Managers,  
All Indian Railways/Production Units.

Sub: Awarding of Contracts.  
-----

It has been brought to the notice of the Board that in a case of construction of a New Line Project involving acquisition of land both forest and non-forest, tenders had been floated without actual acquisition of the land. The adverse implications of such premature invitation of tenders can be well imagined. Instructions already exist that all formalities such as finalisation of site plans, acquisition of land, etc., should be completed before calling for tenders to avoid discharging of contracts arbitration and loss to the Railways. It is once again reiterated that tenders should be floated and contracts awarded only after all the formalities like finalisation of plans and drawings, land acquisition have been completed to avoid claims from contractors. This may be circulated to all concerned and strict compliance be ensured.

Hindi version will follow.

(Sd/-)  
(G.Suman)  
Director, Finance (Exp.).

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No. 95//W1/W/Audit para (3.4.5)/ 93-94 dt:1.08.95

The General Managers  
All Indian Railways

Sub: C& AG's Report for 93-94

-----

The C&AG of India in his report has pointed out that on a doubling project on one of the Railways a contract was awarded in December 89 for earthwork with completion date as 5.09.90. There was infructuous expenditure as the contract for earthwork was awarded without ensuring availability of land as the site was not free from hindrances due to existence of telegraph poles and signal wires. The contractor could not even start the work within the stipulated date of completion of the work. The work was started in December 90 but was stopped in April 1991 after completion of 46 percent of the work as the telegraph poles had not been fully removed, Railway Administration was able to clear the site fully in August 1991 and extended the date of completion of the work without penalty upto March 1992.

Due to delay because of non-availability of site, the contractor demanded increase in rates, however, the Administration did not agree to his request and terminated the contract in September 1992 at the risk and cost of the contractor. The administration neither examined the reasonableness of the increased rates demanded by the contractor nor held negotiations with him with a view to obtaining reduction thereon. An amount of Rs. 18.90 lakhs was paid to the contractor for the work done by him.

In February 1993 the administration awarded the remaining portion of the work to another contractor for Rs 58.65 lakhs for completion by 22nd August 1993, later extended to 31 May 1994. The performance of the second contractor was also very poor as he could execute only about 45 % of the work awarded to him upto March 1994. The Railway Administration terminated the contract on 25th May 1994. An amount of Rs 26.90 lakhs was paid to the contractor. Compared with the rates of the first contractor this involved extra expenditure of Rs 16.46 lakhs. the Railways Administration revived the contract with the second contractor in November 1994.

Thus failure of the Railway Administration to provide clear site to the first contractor, led to avoidable extra expenditure of Rs 16.46 lakhs on the work so far completed.

Railway Administration will have to incur extra expenditure of another Rs 19.29 lakhs at least for completion of the remaining work going by the rates quoted by the second contractor.

Board would like the General Managers to see that contract for earthwork are awarded only after ensuring the availability of land free of encumbrances.

Please acknowledge the receipt of this letter.

-Sd-  
(K.P. Singh )  
Executive Director/ Works

Copy of Railway Board's letter No.67/RS/G/779/17 dated 22.6.67 addressed to General Managers, All Indian Railways and others.

Sub:- Obtaining the acknowledgements for the receipt of letters of acceptance by the contractors.

-----

In Continuation of this office letter No.62/RS/G/779/26 dt. [27th December 1962](#) regarding the receipt of acknowledgements to purchase orders, it has been decided by the Board that in cases where the terms and conditions incorporated in the letters of acceptance purchase orders are different from those originally offered but modified by the tenderers subsequently during the course of negotiation, discussion or otherwise, the contractors should be asked to return one copy of letters of acceptance/purchase orders duly signed by the same person who signed the original offer against the tenderers in token of his acceptance of the contract to the revised conditions.

Where the letters of acceptance/purchase orders are placed on the basis of terms and conditions originally stipulated by the tenderers, the procedure as laid down in Board's letter dated 27th December 1962 referred to in Para 1 above should continue to be followed.

Copy of letter No.F(X)I-66/DU-5/2 dt. 19-7-68 from the Dy. Director Finance (X)/ Railway Board, New Delhi addressed to the GMs/All Indian Railways and manufacturing units.

Sub: Payment of Stamp Duty on agreements executed by  
Railway Administrations.

-----

The Southern Railway referred the following points on the above subject for the orders of the Board:-

i) Whether agreements executed by Railway Administrations on behalf of the president of India with outsiders for execution of works, supplies of materials etc., with a clause stating that the cost of stamp duty on the agreement shall be borne by the Railway Administrations will permit such agreements not being stamped:

ii) Whether the introduction of such a clause will require the prior concurrence of the concerned state Government.

"The provision regarding the exemption of duty payable on any instrument executed by or on behalf of or in favour of the Government is contained in provision 1 to section 3 of the Indian Stamp Act. The section no where stipulates that the Central Government will have to obtain the consent of the State Government to claim the exemption. Under the section, it is enough if the instrument is executed by or on behalf of or in favor of the Government. In section 29 of the Stamp Act, an attempt has been made to specify as to by whom the duty should be paid in respect of the documents mentioned therein. The provisions of the section also are subject to agreement between the parties. Therefore, even if in the normal course the stamp duty on a document is not payable by the Central Government, there is nothing to prevent them from agreeing to pay the same.

In the circumstances, we are of the opinion that it is not necessary for the Railways to consult the State Governments concerned for changing the form of agreement to take over the liability for the stamp duty."

It is clear from the above advice of the Ministry of Law that answer to the first point above raised by the Southern Railway is in the affirmative and the answer to the second point is in the negative.

In view of the significance of the points raised and advice given by the Ministry of Law, the same are being brought to your notice for information.



Sub: Guarantee period for waterproofing treatment in  
the roofs of railway buildings by laying  
bitumen-tar-felt etc.

-----

The question of fixing the guarantee period for water proofing roofs of Railway buildings by laying bitumen tar felt had been under consideration of the Board. On the basis of the discussions held with the representative of M/s. Shalimar Tar Products, who are one of the pioneer manufacturers of bitumen tar felt, and taking the consideration the life of the material which does not retain the waterproofing properties when exposed to strong sun- light and under Indian weather conditions after a certain period, it has been decided that hereafter the guarantee period for such works on the Indian Railways etc. should be specified in the tender conditions as 5 years only so as to avoid certain contractors being given any advantage at the time of consideration of tenders on the basis of longer guarantee period quoted in their tenders although using the same material to the same specifications as manufactured by M/s. Shalimar Tar Products.

Receipt of this letter may please be acknowledged.

Sd/-  
(M.B. Anand)  
Dy. Director, Works,  
Railway Board.

### **III. TENDERS**

#### **J. (ii) ACCEPTANCE OF OFFERS AWARD AND ADMINISTRATION OF CONTRACTS – CONTRACTS ADMINISTRATION – GENERAL GUIDELINES**

S. No	Subject in Brief	Letter Date
1	Employment of Civil Engineering Graduates/ Diploma Holders by Contractors for Railway Works	18/03/83
2	Working of Zonal Contracts (Also Enclosed Board's Lr. Dated 7.6.68-Page 25)	28/08/84
3	Irregularities in Execution of Annual Zonal Contracts	21.05.03
4	Grant of Unilateral Extension of Time in Railway Contracts Under Clause No 17 (2) of General Conditions of Contracts.	18/12/87
5	Contract Management On the Railways Works Contracts	04/10/85
6	Loss Due to Irregular Execution of Works Prior Approval to Be Obtained Before Execution Additional Work	10/12/93
7	Execution of Extra Item of Works Against Existing Contracts without Finalisation of Rates	15.12.97 07.11.97
8	Recovery of Railways Dues Against One Contract From the Dues of the Contractor from Other Contracts	05/07/90
9	Framing of Supplementary Agreement	15/11/94
10	Supply of Railway Materials to Contractors	12/07/68
11	Works involving Use of Cement and Steel	07/07/94
12	Penalty Clause for Recovery in Case of Non Return of Materials Issued in Excess of Requirement	15/12/81

Copy of Rly. Board's letter No.81/W1/CT/16 dt. 18.3.83 addressed to GMs of all Indian Rlys.

Sub: Employment of Civil Engineering Graduates/ Diploma-holders by contractors for Railway works.

Ref: Board's circular letters No.  
(i)71/W1/CTEngg. dt. 14.3.1972  
(ii)76/W1/CT/84 Engineering dt.9.11.1977.

-----

With a view to providing employment opportunities to un- employed Civil Engineering Graduates/Diploma-holders, two schemes were introduced as pilot projects and circulated to all Indian Railways including Projects and Production Units under Board's circular letter No.71/W1/CT/Engg. dated 14th March, 1972 for implementation. Under Scheme No. 1 the unemployed Civil Engineering Graduates have been permitted to tender for construction work contracts upto the limit of Rs.1 lakh in each case without depositing the requisite earnest money and security money which on acceptance of their quotations, is required to be built up from their `on account' bills by making deductions at the rate of 10%. The Scheme No.2 required on the part of the contractors so stipulated in contract to employ 2 fresh Civil Engineering graduates and 2 Civil Engineering Diploma-Holders as trainees on stipend basis for works the value of which is Rs. 10 lakhs and above in each case.

2. This matter has been reconsidered by the Board in the context of changed conditions. Scheme No. 2 of Board's letter of 14.3.1972 may now be treated as withdrawn. The Railways may, however, consider necessity of incorporating a special condition in the tender documents regarding employment of technical personnel by the contractor initially after taking into account all relevant local features of Specific work, requirement of technical supervision on the contractor's part, intensity of unemployment in the area, feasibility of compliance of the special condition and resultant advantage to the Railway, etc. Should it be decided to provide a special condition in the tender documents, the following special clause may be provided:

The contractor shall employ the following technical staff during the execution of this work:-

(i) One graduate engineer when the cost of the work to be executed is Rs. 15 lakhs and above.

(ii) One qualified diploma holder (overseer) when the cost of the work to be exacted is more than Rs. 5 lakhs, but less then Rs. 15 lakhs.

Technical staff should be available at site whenever required by the Engineer-in-charge to take instructions. In case the contractor fails to employ the technical staff as aforesaid, he shall be liable to pay a reasonable amount not exceeding a sum of Rs. 2000/- (Rs. two thousand only) for each month of default in case of graduate engineer and Rs. 1000/- (Rs. one thousand only) for each month of default in case of diploma holder (overseer).

The decision of the Engineer-in-charge as to the period for which the required technical staff was employed by the contractor and as to the reasonableness of the amount to be deducted on this account shall be final and binding on the contractor."

3. The other instructions contained in Board's letters referred to above will hold good.

4. Please acknowledge receipt (Hindi version will follow)

## SOUTHERN RAILWAY

Headquarters Office,  
Works Branch,  
Madras-3.

No.W.149/P.

Dt. 14.10.1984.

DRMs/W/MAS TPJ MDU TVC PGT MYS 7 SBC.

Sub: Working of Zonal Contracts.  
-----

A copy of Board's letter NO. 84/W1/CT/20 (Audit) dt. 28.8.1984 on the above subject is sent herewith for information and necessary action.

Enc: 1 (each)  
For Chief Engineer.

Copy to all Addl. CEs, Dy. CEs for information please.

Enc; 1 (each)

---

Copy of Railway Board's letter No.84/W1/CT/20 (Audi) dt. 28.8.84 to The General Managers, All Indian Railway including CLW, DLW & ICF.

Sub: Working of Zonal Contracts  
-----

Arising out of an Audit Para No. 15.IV(i) of the Advance C & AG's Report on Railways for the year 1982-83, a number of deficiencies such as delay in finalisation of contracts, splitting of works, inconsistency in recommending acceptance/ rejection of lowest offer, by tender committee, and inadequate dissemination of information regarding escalation absorbed in revised Schedule of Rates, have come to the notice of the Board in the functioning of the system of Zonal Contracts.

Board wish to reiterate the instructions contained in their circular letter No. 58/WII/CT/9 dated 7.6.1968 (copy enclosed), that it was very necessary for the proper and efficient working of Zonal Contract System that the Schedule of Rates should be kept up-to-date revising it periodically. Whenever the Schedule of Rates is revised it would be desirable to bring out suitably in the foreword of preface, the extent of escalation already accommodated in the Railway's revised Schedule of Rates vis-à-vis the previous Schedule of Rates, so that the tenderers may take it into account while quoting the rates in their tender.

It has also been pointed out by the Audit that in a large number of cases, Zonal Contracts were finalised much later than 31st July as indicated in Board's circular letter No. 63/WII/CT/ 28 dated 18.7.63. Railways should make serious attempt and finalise Zone tenders by 31st July.

As per Para 1209 of the Indian Railways Code for the Engineering Department (Revised Edition-1982), the contracts pertaining to New Works, additions and alternations to existing instructions, specified repair works and supply of building materials etc., subject to the contract value of each such work not exceeding Rs. 50,000/-, are required to be executed through Zonal Contractors. It has been reported by the Audit that in a number of cases the scope of work was split up so as to bring them within the ambit of Zonal Contracts which is not desirable, and should be avoided.

Board also desire that a uniform approach should be adopted by the Tender Committee while recommending acceptance or rejection of the tenders. It has already been emphasised in Board's circular letter No. 84/W1/CT/19 (Audit dt. 30th July '84 that the tender committee should give their reasons in greater details while rejecting the lowest tender. Rejection of the lowest tender for untenable reasons should be avoided by the Railway Administration. If the lowest rates received in one tender are considered un-workable by the Tender Committee, the Committee should not normally consider such rates in another similar contract as reasonable, without recording detailed reasons for doing so. Receipt of this letter may please be acknowledged.

(Hindi version will follow)

D.A/as above.

(Sd.) H.H.Goyal.  
Addl. Director, Civil Engg.,  
Rly. Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.58/WII/CT/19.

New Delhi,  
dated 7/10.6.1968.

The General Managers,  
All Indian Railways.

Sub: Zonal Contracts.

-----

The Board feel that it is very necessary for the proper and efficient working of the zonal contract system that the schedule of rates should be kept up-to-date by revising it periodically (say every five years or so). The Board, therefore, desire that the work of bringing the schedule of rates up-to-date should be taken up immediately, and completed as early as possible. The size of each region for which separate rates are specified in the schedule of rates should also be judiciously selected to ensure that the rates of labour and materials are applicable uniformly throughout the region.

2. The Railway may approach the Board for recruitment of extra staff, if any, required for the above purpose, with full justification duly vetted by their FA & CAO.

(Sd.) N.D. Mehra.  
Director, Civil Engg., Rly. Board.

Copy to all CEs (Const.) except N.E. & N.F. Railways.

**RB/CE/3/2003**

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAY  
(RAILWAY BOARD)**

No.99/CE.I/CT/60

New Delhi,  
dated 21-5-2003

ESO No.17

Addressed to:

As per list attached.

Sub: Irregularities in execution of Annual Zonal Contracts.  
-----

In order to make the execution of Zonal works contracts more transparent and free from irregularities, Board have decided that the following instructions should be followed meticulously :-

(i) Individual work orders required for the Zonal contracts should have sufficient details about locations where the work is to be carried out. The works involving repairs/construction of drains, roads and pipelines should be accompanied with relevant sketches pinpointing the exact locations and type of work required to be carried out ;

(ii) Technical check of each work order shall be done by the Division (CDM) at final bill stage to ensure that the locations and quantities mentioned in the work orders tally with the bills submitted by field units and are technically justified ;

(iii) Date of last repairs of the work under consideration, particularly in case of white-washing/painting etc. shall invariably be mentioned in the work order if the same work was undertaken at the same location within last 3 years ;

(iv) Detailed measurements of repetitive works like white washing etc. should be based upon Standard Measurement Books (SMBs) as prescribed in the Engineering Code Para No, 1327. The system of using the reference SMBs, if in vogue on any of the Railway/Unit, should be discontinued. If necessary, one time exercise may be taken for getting the SMBs prepared.

(v) All Work Orders should be sanctioned by 31" March. However, only in exceptional cases, DEN/Sr. DEN can sanction the Work Order beyond 31st March with the reasons duly recorded. This issues with the concurrence of Finance and Vigilance Dtes. of Railway Board.

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.



Copy of Railway Board's letter No. 87/W-I/CT/5 of 18.12.87 to The Chief Administrative Officer (Con). Central Railway. Bombay.

Sub:- Grant of unilateral extension of time in Railways contracts under Clause No. 17(2) of General conditions of contracts.

Ref:- Your letter No. EW.187/p.465/1 dated 20.5.87.

-----

Your Railway has sought Board's advice as to whether the Railways are empowered to grant unilateral extension of time in Railway contracts. The matter has been examined. As stated in Board's letter No. 67/w-i/CT/9 dated 9.12.67. extensions cannot be given unilaterally. However, where a contractor does not apply for extension well before the expiry of the period/extended period of completion of the contract, action is required to be taken by the Railway under clause 62 of General Conditions of contracts so that the uncompleted portion of the contract can be got executed at his risk and cost.

2. In Case, the contract is required to be terminated under clause 61 the reasons should be recorded by the competent authority as to why the contract with specified completion period was awarded in the first instance when the railway was not fully prepared to discharge its functions i.e. handing over of site, plans, cement and steel and responsibility fixed to the extent possible. Prior Finance concurrence should be obtained before terminating the contract under clause 61.

3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Sd/...  
(ARIMADAN SINGH)  
Jt. Director Civil Engg (G)  
Railway Board.

Addressed to The General Managers, All Indian Railways and etc.  
copy to The FA & CAO's/All Indian Railways and others.

Sub:- Contract management on the Railways (Works Contracts).  
-----

It has been brought to the notice of the Railway Board by the Audit that due to delay in handing over of sites to the contractor there have been serious time and cost over-runs, due to demand for increase in rates and/or termination of contracts and their subsequent award at higher rates.

2. In this connection, your attention is invited to the Board's letter of even number of 22.2.85 endorsed under No. W/496/FO/Vol 13 dt. 4.3.85 vide which the Railway Administrations were advised to forecast all the delays to the extent possible and decide to call for tenders only when they are fully prepared to hand over the sites of the works.

3. Board would like to reiterate that before awarding contractors, the Railway Administrations must ensure that they are fully prepared to hand over the site to the contractor. In exceptional cases, however, where the Railway administrations feel that the award of the contract, without fulfilling the above conditions will be in its best interest, a conscious and deliberate decision may be taken after recording the reasons therefore with the specific approval of the chief Engineer in-charge of the works.

Please acknowledge receipt.

(Hindi version will follow).

Sd/-..  
(V.S. DUTTA)  
Jt. Director Works.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.93/LM(B)/21/7/ER.

New Delhi,  
dated 10/12/93

The General Managers,  
All Indian Railways &  
Production Units.  
(As per Standard List `A')

Sub: Loss due to irregular execution of works.  
-----

Vide Para 4.5 of the Comptroller and Auditor General's Report (Railways) for the year ending 31.3.1991 "loss due to irregular execution of work by a Railway Administration" has been adversely commented upon. In this case a Railway Administration executed additional quantity of works against an ongoing contract without the prior approval of the competent authority. No supplementary agreement was also executed. The contractor finally went for arbitration and claimed payment for quantities of works much in excess of those actually executed. In the absence of supplementary agreement or any other document, Railway failed to convince the Arbitrator about the actual quantity of work executed and as a result of which, the Arbitrator decided against the Railway and the contractor had to be paid Rs. 9.15 lakh additionally for work not actually executed by him.

2. Railway Board desire that the Zonal Railways, before executing additional quantities of works, or undertaking any work not already provided for in the agreement with a contractor, should invariably obtain prior approval of the competent authority under the extant rules/instructions for undertaking additional work/quantity of work through the same contractor.

Sd/-  
(P.K.WAHI)  
Executive Director/  
Land Management.

## SOUTHERN RAILWAY

No.J/N 148/Misc/A/III

Divisional office,  
Works Branch, Palghat  
Date:15/12/97

All supervisory officials/PST In.

Sub:- Execution or of works against existing contracts without  
finalization of rates.

-----

Board's letter No 95/CE-1/CBL/Misc of 7/11/97 conveyed under CE/MS letter No 4/496/P/O/Vol.III of 26/11/97 is enclosed here with for strict compliance.

Encl: typed below:

C/ Sr. DF/C, DN/ S & UEX/X

C/ D. I,II & III MO/TGT for information.

---

Copy of :- Rly. Bds. letter No. 95/CT-I/CBL/Misc. dt. 7/11/97 addressed to CEs/  
zonal Rlys and others.

Sub: Execution of extra item of work against existing  
contracts without finalisation of rates.

\*\*\*\*\*

It has come to notice that in a contract case on a Zonal Rly. a large number of items, not covered in original schedule of items of contract, were executed due to urgency work, without finalisation of rates with the contractor. In this case the work was got done and 100 % provisional payment was also made to the contractor.

After the completion of work the efforts to settle rates of extra items after negotiations with the contractor failed to elicit proper response from the contractor. The scrutiny of case has revealed that contractor was paid much in excess than what was actually due. In this case Railway has sustained a heavy loss.

Thus, it has been decided that in future:

(a) No contractor shall be permitted to undertake any extra work without finalisation of rates.

(b) No provisional payment shall be allowed against such extra items.

This may be given wide publicity among the field units.

The receipt of the letter may please be acknowledged.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.89/CE/1/CT/74

New Delhi,  
Dated: 5-7-1990

The Chief Engineer(S&C)'s Office,  
Eastern Railway (Const Deptt.),  
14, Strand Road (4th Floor),  
Calcutta.

Sub: Recovery of Railway's dues against one contract from  
the dues of the Contractor from other contracts.

Ref: Your letter No. CE/CON/WT/1/1/Pt.IX dated 6.9.1989.

-----

The point raised in your above letter has been examined in details by Legal Advisor/Railway Board who has opined as under/the basis of judgments of Hon'ble Supreme Court of India in the case of Kamaluddin Ansari & Co. Vs. Union of India (reported in 1983-4-SCC.417) and leading case of Raman Iron Foundry (reported in AIR-1974-SC-1265);

"It can be safely assumed that Railway has wide powers to recover the amount claimed by appropriating any sum then due or which at any time may become due to the contractor under other contracts."

2. Please take further action accordingly & acknowledge the receipt. If any legal issue still survives, the case may be referred to us to enable further consideration in any specific case.

(S.M.Singla)  
Exe.Director Civil Engg.(G),  
Railway Board.

Copy to:-

1. The General Managers on All Indian Railways.
2. The Director General, RDSO, Lucknow.
3. The General Managers/DLW, CLW, ICF, RCF/Kapurthala, W&AF/  
Bangalore and Railway Electrification, Allahabad.
4. The Chief Administrative Officer, Central Organisation for  
Modernisation of Workshops, New Delhi.
5. The Chief Administrative Officer, Diesel Components Works,  
Patiala.
6. The Chief Administrative officer (Con.), Central Railway,  
Bombay, V.T.
7. The Chief Administrative Officer (Con.), Northern Railway,  
Fishmere Gate, Delhi.
8. The Chief Administrative Officer (Con.), Southern Railway,  
Madras Egmore.

## **Southern Railway.**

Headquarters Office,  
Works Branch,  
Madras-60 00 03.  
Dated: 25.11.1994.

DRMs/W/MAS PGT TVC SBC MYS TPJ and MDU  
Sr.DAOs/DAOs/MAS PGT TVC SBC MYS TPJ and MDU  
CE/CN/BNC, CE/CN/MS, CPM/MTP/MS, CEE/RE/MS.

Sub: Framing of supplementary Agreement.  
Ref : Rly. Bd's letter No. 94/CE.I/CT/74 dt. 15.11.1994.

-----

A copy of Railway Board's letter under reference, received on the above is subjoined for your information and necessary action.

for Chief Engineer.

Copy to: FA&CAO/MAS for information.

---

Copy of Railway Board's letter No.94/CE.I/CT/74 dt. 15.11.1994 addressed  
GMs/All Indian Railways, CAOs/Construction & CE(S&C) of all Indian Railway etc.,  
etc.,

Sub: Framing of Supplementary Agreement.

-----

The Railway Administration have incurred huge loss on account of inept handling of contract. Adequate preventive steps were not taken by signing of supplementary agreement. In this context the Audit's observations are as under:

i) As per contract agreement the contractor had to bring earth within the lead of 500 matters. How ever, contractor's request for bringing earth from outside Railway land was agreed upon by the Railway with the stipulation of no extra payment. Since the agreement pre-supposes that the contracting parties are equal parties to the contract, unilateral insistence by the Railway fell outside the scope of agreement and established tacit approval of Railways for borrowing earth beyond 500 metres lead. Since Railway's approval was not incorporated into a supplementary agreement, contractor's claim for a non-scheduled rate in his favour rather than in favor of the Railway though not supported by law attracted the consideration of the Arbitrators on ground of natural justice.

(ii) The principles of natural justice has taken precedence in the instant case when the fact involved herein did not fall within the coverage of the Agreement. The failure on the part of Railway Admn. to anticipate the consequences strengthen claims of the contractor.

(iii) Even when the Arbitration award was binding on both the parties and the principle of Natural Justice was weighed highly in favour of the contractor, due to initial lapse of Railway Admn. delay incurred in the process of obtaining redressal from the Hon'ble High Court forced the Railway for further additional payment of Rs.6.59 lakhs by way of interest to the contractor.

All concerned dealing with contract management must ensure the following:

(1) Unilateral decisions are likely to fall outside the scope of agreement. Any change in terms and conditions of contract during execution must be covered under supplementary agreements.

(2) Prompt handling of claims, disputes and other issues should be ensured.

(3) Firm steps be taken so as not to allow any room for the contractor to take any undue benefit out of procedural lapse.

Compliance of the action proposed above may please be reported to this office.

Receipt of this letter may please be acknowledged.

Sd/- Ved Prakash  
Exec. Director, Civil Engineering(G),

Copy of letter No.68/WI/CT/25 of 12.7.68 from the Director, Civil Engineering, Railway Board, New Delhi to GMs/All Indian Railways etc. etc.

Sub:- Supply of Railway materials to contractors.

-----

Certain disputes have arisen in respect of additional lead and lift for taking railway materials to the site of work, because the point where the Railway materials would be supplied was not specified in the contract.

The Board desire that in all contracts where railway materials are to be supplied, the special conditions of Contract should specify the place where various materials are to be handed over to the contractor and it should also be made clear that all lead and lift from that place to the site of work would be at the expense of the contractor.

\*\*\*\*\*



**GOVERNMENT OF INDIA  
(MINISTRY OF RAILWAYS RAIL MANTRALAYA)**

No. 94/CE-1/CT

New Delhi  
dated 7-07-94

General Manager (Works)  
All Indian Railways

Sub: Works involving use of Cement and Steel.  
-----

As per extant policy and practice followed on the Indian Railways, Cement and Steel is purchased in bulk and then supplied free of cost to contractors against works contracts.

With the changed scenario of good availability of cement and steel in the market and their decontrol by the Government the existing policy has been reviewed.

Board have decided that Railway may award contracts with cement and steel being provided by the contractors. However it is not obligatory to award contracts with this stipulation and Railways may exercise this option depending on the needs and requirements of each situation.

While awarding such contracts the following should be ensured.

Cement and steel costs should be built-in in the item rate. However separate rates for the same may also be obtained.

Cement and steel for use in the works should be procured by the contractor from the main producers their authorised dealers/authorised stock yards which should conform to BIS specification.

Cement bags preferable in paper packings should bear the following information in legible markings.

- 1) Manufacturer's Name,
- 2) Registered Trade Mark of Manufacturer, if any
- 3) Type of Cement,
- 4) Weight of each bag in KGS or No of bags/tonne
- 5) Date of Manufacture, generally marked as week of the year/year of manufacture, example 30/93 which means 30th week of 1993.

To ensure quality control, test certificates from the manufacturers should be produced by the contractors which should conform to the relevant specification (latest may be incorporated).

Railways may also take samples during the course of work and get the cement and steel tested to ascertain their conformity to specification.

When such a sampling is done it should have ISI specification.

Tests on the samples to be carried out in the field should be as given below.

Test on Cement to be as per IS 4031. Some of the tests which may be carried out are

- 1) Compressive Strength.
- 2) Initial and final setting time.
- 3) Consistency.
- 4) Soundness.

Tests on steel samples will be carried out as per BIS specification.

While awarding such contracts no provision for cement godowns/steel stacking yards should be made and if already provided in the sanctioned estimate should not be operated. Similarly, no post of Depot Store Keeper, Chowkidars, Khalasies, Clerks, for Cement and steel handling accountal and chasing should be sanctioned or operated. The economy resulting there form should be identified and kept in record.

This issues with the concurrence of Finance directorate of the Ministry of Railways.

Receipt of the letter may be acknowledged.

(VED PARKASH)  
Executive Director, Civil Engg(g)  
Railway Board.

Copy of the Railway Board's letter No.72/W1/CT/60 dated 15.12.81 to the General Managers, All Indian Railways etc.

Sub: Penalty Clause for recovery in case of non- return of materials issued in excess of requirement.

-----

Reference is invited to Board's letter No.65-vig.I/1.102 dated 19.3.1971 with which recommendations of the Study Team on elimination of lacunae and improvement in procedure "Constructions and Supplies" were forwarded to the Railways with Board's orders thereon. In Recommendation No.61 of this Report it was inter alia recommended that a clause should be included in the contract agreements providing for recovery of the cost of cement/steel drawn in excess of the requirements.

2. It is observed that the clauses included in the Contract agreements by various Railways are not uniform and A.D.A.I.(Rlys.) has suggested the adoption of a uniform penalty clause of all the Railways. The Board have accordingly considered the matter and desire that a compensation clause generally on the following lines be stipulated in your future contracts in consultation with your FA&CAO.

In case, cement and/or steel is issued to the contractor(s) either free of cost or on cost to be recovered for use on the work the supply there of shall be made in stage limited to the quantity/ quantities computed by the Railway according to the prescribed specifications and approved drawings as per the Agreement. The cement and/or steel issued in excess of the requirement(s) as above, shall be returned in perfectly good condition by the Contractor to the Railway immediately after completion or determination of the contract. If the Contractor fails to return the said stores, then the cost of cement and/or steel issued in excess of the requirements as computed by the Railway according to the specifications and approved drawing, will be recovered from the contractor(s) at twice the prevailing procurement cost at the time of last issue, viz.  $2 \times$  (Purchase price +5% freight only). This will be without prejudice to the right of the Railway to take action against the contractor(s) under the condition of the contract for not doing/completing the work according to the prescribed specification and approved drawings. If it is discovered that the quantity of cement and/or steel used is less than the quantity ascertained as herein before provided, the cost of the cement and/or steel not so used shall be recovered from the contractor(s) on the basis of the above stipulated formula".

3. This issues with the concurrence of the Finance Director of the Ministry of Railways(Railway Board).

4. The receipt of this letter may please be acknowledged.

Sd/-(Tirath Prakash)  
Director, Civil Engineering  
Railway Board.

### **III. TENDERS**

#### **J. (iii) ACCEPTANCE OF OFFERS AWARD AND ADMINISTRATION OF CONTRACTS – NEGOTIATIONS**

S. No	Subject in Brief	Letter Date
1	Negotiations with Tenderers Acceptance of Original offers in case where Revised Quotations are higher	31/10/65
2	Award of Contracts Procedure for Conducting Negotiations	25/05/68
3	Award of Contract Deviation from the Procedure for Conducting Negotiations	05/12/73
4	Award of Contract Procedure for Conducting Negotiations	15/03/74
5	Award of Contracts-Conduct of Negotiations	29/04/77
6	Procedure for Dealing with Tenders/Holding of Negotiations	12/12/90
7	Negotiations Constitution of Tender Committee Three Members for Value Beyond Rs 10 Lakhs	22/02/85
8	Negotiations in Works Tenders- CVC instructions	15.01.99
9	Negotiations in Works Tenders- CVC instructions	10.07.02
10	Negotiations in Works Tenders- CVC instructions	24.10.02
11	Extension of Completion Period After Calling of Tenders	18/08/94

Copy of Railway Board's letter No.61/WII/CT/24 dated 31st October 1965, addressed to General Managers, All Indian Railways, etc.

Sub:- Negotiation with tenderers - Acceptance of original offers in cases where revised quotations are higher.

-----

The Board have had under consideration certain aspects of cases when the rates submitted by the tenderers are considered high or conditions stipulated by them are considered unacceptable and it is decided to negotiate with the tenderers. In such cases, there is the possibility what a tenderer may resile from his offer on the plea that the negotiations amount to a counter-offer in law and, therefore, amount to a rejection of the original offer. It has been considered that under the law, the original offer does not ordinarily survive, the moment a counter-offer is made.

2. This matter has been examined in consultation with the Ministry of Law and they have advised that although the legal position stated above is correct, it is possible for a tenderer to revive his original offer after the negotiations fail and in that case the original tender becomes available again for acceptance. Such would be the case, if a tenderer before commencement of negotiations intimates that his original offer would be open for acceptance if the negotiations fail. The Ministry of Law, have therefore, suggested that when tenderers are called for negotiations, they should be addressed as follows:- `The rates quoted in your tender are considered high. You are, therefore, requested to come for negotiations of rates on..... (date). (or). It is proposed to discuss with you certain conditions of your tender. You are, therefore, requested to come for negotiations on .....(date). You should however come for negotiations only in case you are prepared to furnish before such date the declaration appended herewith.

#### **Form of Declaration.**

I ..... do declare that in the event of failure of the contemplated negotiations relating to Tender No..... opened on ..... my original tender shall remain open for acceptance on its original terms and conditions'.

The kind of procedure and communication to the tenderer mentioned above, cannot, however, be included in the General Condition of Contract as a positive action has to be taken in each individual case.

3. The Ministry of Law have further advised that it must be understood that if the period of validity of the original offer expires before the close of the negotiations, the original offer will not be available for acceptance. The period of validity of the original offer must, therefore, be got extended wherever necessary.

4. A copy of form in which the contractors might submit their offers after negotiations in use on one Railway is enclosed for adoption with suitable changes that may be considered necessary.

From.....  
Full Address.....

To  
The President of India,  
Through The Chief Engineer (Con),  
Railway,

Sir,

Tender for .....

1. On further discussion with your representative  
on ..... in response to your letter No.....dated.....

I/We am/are not prepared to reduce the rates  
already quoted in the original tender, which remain valid  
upto.....

I/We reduce my/our rates as shown in the enclosed  
Schedule of items.

2. I/We am/are aware that the Instructions to  
Tenderers, Special and General conditions of Contract and appendices to the  
original tender remain valid and binding on me/us.

3. I/We agree to undertake the work or complete  
the supply and complete in all respects by.....

4. I/We agree to abide by this tender on the  
revised rate quoted by me/us it is open for acceptance for the  
period of 60/120 days from date i.e. upto ..... and in de-  
fault of my/our doing so, I/We will forfeit the earnest money  
deposited with the Chief Cashier .....Railway .....  
under receipt No ..... dt ..... already attached with the  
original tender/attached herewith.

Eligibility as valid tender shall be deemed to be the consideration for the said  
forfeiture.

DA: Schedules A,B,C. Yours faithfully,

Signature of witness to the  
Signature of Tenderer(s) Signature of Tenderer

Copy of Board's letter No.67/W1/CT/32 of 25.5.1968 from Joint Director/Civil Engineering, Rly. Board, New Delhi to The GMs/ Indian Railways etc.

Sub: Award of contracts-procedure for conducting negotiations.

-----

The Board have had under consideration for some time past the question of laying down broad guidelines of the procedure to be followed for conducting negotiations as to the procedure in this regard does not appear to be uniform on all the railways. While some railways call for fresh bids (as a preliminary step to the conduct of negotiations) from all the eligible tenderers out of those who had quoted originally, it is observed that on some other railways negotiation are restricted to two or three of the lowest eligible tenderers without calling for any fresh bids(i.e. on the basis of their relative position against the original tender) as required in the Board's letter No.56-86 dated 10-8-61 and final bids are obtained from them only at the end of the negotiations.

2. The Board have carefully considered the matter and decided in supersession of all previous orders that negotiations with the tenderers should be conducted on the basis of the guidelines given below.

3. It should be clearly understood that selection of contractors by negotiation is an exception rather than be rule, and may be resorted to,

(a) Where all the tenders are considered to be unreasonably high in value and it is felt that retendering would not secure better advantage to the railway, and/or

(b) Where the lowest tender is technically unacceptable, or is rejected because of unsatisfactory credentials, capacity or unworkable rates, and the next higher offers to be considered in accordance with the established procedure are found to be unreasonably high.

(c) where in the case of proprietary items of stores, the price demand is considered to be unreasonably high.

4. The decision whether to invite fresh tenders or to negotiate , and in the latter event, with whom to negotiate, should be taken by the competent authority after obtaining the Tender Committee's recommendations. The Board would, however, like it to be ensured that, except where a single quotations has been received in response to a call of tender, the No. of tenderers to be called for negotiation is not less than two. In no case, including where a ring is suspected. should negotiations be extended to the tenderers who had either not tendered originally or whose tender was rejected because of unsatisfactory credentials, capacity or unworkable rates, or (in the case of other than stores tenders only) whose tender was not accompanied by earnest money.

5. After the competent authority has decided to call specified tenderers for negotiations, the latter should be addressed as laid down in Board's letter No.61/W2/CT/24 OF 31-10-65 so that the rates originally quoted by them shall remain open for acceptance in the event of failure of the contemplated negotiations. Revised bids should be obtained in writing from the selected tenderers at the end of negotiations, and read out to such of the representatives of the tenderers as may choose to be present. In case, however, any of the selected tenderers prefers to send a revised bid instead of being present at the negotiations, the offer should be taken into account.

6. The foregoing instructions may not be applied rigidly to tenderers for specialised works and equipment where the tenderers may quote according to their own specifications and designs for various reasons such as improvement in technology etc. and it may become necessary to discuss technical and other details with them to select the most suitable offer. Such cases would necessarily be very few and far between and the procedure of conducting negotiations should be decided on the merits of each case in consultation with your FA & CAO.

7. Board desire that these instructions should be followed in respect of all contracts- works, stores, commercial etc. Receipt of this letter may please be acknowledged.

This disposes of Western Railway's letter No.w.623/5. Vol. III of 10.7.67.

This letter may please be substituted for the Board's letter of even Number dated 28.3.1968.



Copy of letter No.73/WI/S/60 (CT) of 5.12.73 from Sri MP. Singhal, Jt. Director, Civil Engineering, Railway Board to the General Managers, All Indian Railways.

Award of contracts - Deviation from the procedure for conducting negotiations.

-----

Recently a case had come to the notice of the Board in which a tender was called for supply of ballast for a particular division. In this case three rounds of negotiations were held, even though the rates quoted were less than that of previous years.

The views of the Board recorded in the matter are reproduced below:

" The rates received being less than the previous year's rates, there appeared to be no justification for calling for further negotiations. However, this course of action was recommended by the Tender committee and accepted by DS. It would appear that the system prevalent in . . . . Division (as well as in other places in . . . . Railway) of conducting several rounds of negotiations, almost amounting to an auction - has given rise to complaints of this nature. This system is not in accordance with Board's instructions contained in circular letter No. 67/WI/CT/32 dt. [25/5/68](#). The argument advanced by the Railway that this system stimulates competition amongst tenderers and enables the Railway to obtain fairly competitive rates is not very convincing and this practice is not desirable in view of the position that this may lead to misuse and afford opportunities to favor 'picked' contractors."

Attention of the Railways are invited to Board's letter No.67/WI/CT/32 dt. 25.5.68 wherein detailed instructions for award of contracts and procedure for conducting negotiations have been laid down.

The Board desire that these instructions should be strictly adhered to and strict compliance ensured.

Receipt of this letter may please be acknowledged.

-----

Copy of Railway Board's letter No. 73/W.I/CP/15 dt.15.3.74 addressed to General Managers, All Indian Railways and PDSO Lucknow.

Sub:- Award of Contract - Procedure for conducting negotiations.

.....

Please refer to Board's circular letter No. 67/W1/CT/ 32 dated 25.5.68 on the above noted subject inter-alia laying down the guidelines of procedure to be followed for conducting negotiations.

A case has come to the notice of the Board wherein it was alleged by one of the contractors that the Tender committee, while conducting negotiations, showed favoritism to certain contractor by calling the successful tenderer last of all, which enabled him to give the lowest rate, thereby implying that the Tender Committee leaked out the rate of other contractors to the last tenderer.

The Board have, therefore, decided that henceforth the Tender Committee after obtaining clarification wherever necessary from each tenderer separately, should ask the tenderers to give their sealed quotations which should be opened by the Tender Committee in the presence of the tenderers or their representatives who choose to be present.

Receipt of this letter may please be acknowledged.

.....

**CONFIDENTIAL**

Copy of letter No.77/W1/CT/20 of 29.4.77 from Railway Board New Delhi to GMs / All Indian Railways and others.

Sub:- Award of contracts- Conduct of negotiations for-

Ref :- Board's letter No. 67/W1/CT/32 of 25.5.68 and No.73/W1/8/60(CT) dt. 5.12.73.

-----

A case has come to the notice of the Board, where tender Committee considered the offers received in response to an open tender for removal of cold ashes as low and accordingly recommended negotiations. This course of action was approved by the competent authority and, as a result of negotiations, better rates become available. The highest negotiation rate received was conditional and was not recommended by the Tender Committee. Hence the Tender Committee recommended the second highest negotiated offer for acceptance. Before these recommendation were made, the party who had offered the second highest rate gave a letter raising his offer by Rs. 5,000. The Tender Committee in their minutes of meeting mentioned about this revised offer, but did not recommend it for acceptance, on the ground that it was not received either in response to the tender, or at the time of negotiations. The tender approving authority accepted the recommendation of the Tender Committee and awarding the contract to the party at the negotiated rate.

2. It is true that the Tender Committee and the accepting authority should be guided by the offers received at the time of negotiations and the offer subsequently received should not vitiate the consideration of the tender. In this case, however, whether or not, the party to whom the tender was being awarded would have remained the same. Even if the more advantageous revised offer received after negotiations was accepted, the consideration of the tender would not have been vitiated. There is also no directive of the Board forebidding such a course of action.

3. The Board, therefore, observe that in this case the fundamental requirements of safeguarding Railway's financial interests have not been observed. This is being brought to the notice of the Railways for future guidance.

4. Please acknowledge receipt.

-----

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.90/CF-I/CT/1

New Delhi, dt. 12.12.90

As per list attached.

Sub: Procedure for dealing with tenders/holding of negotiations.

.....

1. The Circumstances under which negotiations may be held with tenderers, have been explained in detail in Board's letter No.67/WI/CT/32 dated [25.5.1968](#) (reiterated under Board's letter of even No. dt. 11.4.90). As would be observed there from, negotiations are to be held as an exception and not as a rule and only if.

i) the rates quoted in all the offers received from the tenderers are unreasonably high & re-tendering would not secure better advantage to the Railway, and /or ii) after excluding all the lower offers that are unacceptable because of technical reasons or on account of unsatisfactory credentials of the tenderers, the rates quoted in all other remaining offers are considered to be unreasonably high as per established procedure.

2. Despite the clear-cut instructions on the subject, a large number of instances keep on coming to the notice of the Board indicating that.

i) Negotiations are being held as a rule rather than as an exception.

ii) Negotiations are held un-necessarily even when the rates received are considered reasonable.

iii) Negotiations are held repeatedly in the same case,

iv) Negotiations are held to start with, on the plea of rates being un-reasonably high. After holding negotiations (sometimes repeatedly), the rates are certified as reasonable, even though the reduction obtained is insignificant. In several such cases the ranking of the tenderers got altered, leading to complaints & doubts as regards the very purpose of negotiations. It would be appreciated that holding of negotiations under the foregoing circumstances, is not a healthy procedure. It can often lead to delay, undue favouritism/discrimination and complaints.

3. The Board wish to reiterate that holding of negotiations should be an exception and not a rule. Normally, there should be no question of holding negotiations, if the rates secured are reasonable.

4. Appropriate action may be taken to avoid unnecessary, rounds of negotiations, Instructions contained in this letter are applicable to both works & stores tenders and are being issued in consultation with the Finance Directorate of the Ministry of Railways.

5. Receipt of this letter may be acknowledged.

(Sd.)  
S.M. Singla  
Exec. Director, Civil Engg. (G)  
Railway Board.

## SOUTHERN RAILWAY

No. W. 496/CE/P/Vol.V.(i)

Office of the CE/CN/BNC  
Dated:- 24.6.1985.

XENS/CN/BNC, HUP, ATP, CTA, DL/GTL  
and M.H. Rly., BNC, Dy. CE/CN/MYS.

Sub:- Draft Para No.5 of the C&AG's report on Railways  
for 1983-84- S.C.Railway- "Extra expenditure in  
the execution of earthwork and bridge works in  
Reach No. III of Manickgarh-Chandur New B.G.  
line, Kazipet-Blaharahah Section.

Ref:- Board's letter No. 84, BC-SC -5 dated  
22.2.1985.

\*\*\*\*\*

A copy of Railway Board's letter under reference on the above subject is sent  
herewith for information and guidance.

The instructions contained in the Railway Board's letter should be strictly  
adhered to.

Encl :-1.

for CE/CN/BNC.

Copy to:- Dy.CE/CN/I,II, III and IV  
" SEN/W, G and Br.,

-----  
Copy of letter No. 84-BC-SC-5 dated 22.2.85 from Director Civil Engg. Railway  
Board addressed to the GMs of all Indian Railways -forwarded under CE/MAS  
letter No. W. 496/P dated 7.5.85.

Sub:- Draft Para No.5 of the C&AG's report on Railways for 1983-84  
S.C. Railway- "Extra expenditure in the execution of  
earthwork and bridge works in Reach No.III of Manickgarh  
Chandur New BG line, Kazipet- Balharahah Section.

\*\*\*\*\*

In the above draft para, the Audit had observed that while conducting  
negotiations, with a contractor for fixing a rate for quantities in excess of 25% of  
the contracted quantities, the Tender Committees consisted of only 2 officers  
instead of 3 officers as prescribed, even though the cost of work negotiated was  
more than 10 lakhs.

In this connection, Board desire that the Railways should ensure that the instructions contained in Board's circular letter No. 72/W1/CT/12 dated **11.3.1981** regarding constitution of Tender- Committee consisting of minimum 3 members (out of which one should essentially be from the Accounts Department) for works contracts valuing more than 10 lakhs are adhered to strictly.

Receipt of this letter may please be acknowledge.

Sd/-  
(Tirath Prakash)  
Director, Civil Engg./Rly.Board.

**GOVERNMENT OF INDIA/BHARAT SARKAR  
MINISTRY OF RAILWAY/RAIL MANTRALAYA  
(RAILWAY BOARD)**

Engineering Standing Order No. 9. (Nine)

Sub: Negotiations in works tender.

Ref : CVC's letter No.8 (1) (4)98(1), dated [18.11.1998](#)  
-----

In the light of instructions from CVC, Board desire that the guidelines issued by CVC be implemented for works contracts. These are contained in Para 2.4 of the, above referred letter, which are reproduced below:

2.4 Tenders:

Tenders are generally a major source of corruption. In order to avoid corruption, a more transparent and effective system must be introduced. As post tender negotiations are the main source of corruption, post tender negotiations are banned with immediate effect except in the case of negotiations with Li (i.e. Lowest tenderer)."

2. Board desire that the above instructions should be strictly adhered to with immediate effect.

Receipt of this letter may please be acknowledged.

(V.K. Agnihotri)  
Member Engineering  
Railway Board

No. 99/CE-I/CT/1  
Dated 15.1.99.



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

Rail Bhavan  
New Delhi-I10 001,  
ESO No.30/10/6.

Addressed to:  
As per list attached.

Sub: Applicability of CVC's instructions on post tender negotiations.

Ref : (i) Board's letter No. 99/CE.I/CT/I dated [15.1.1999](#) - ESO-9.

(ii) CVC's letter No.98/ORD/1 dated 28.3.2002.

----

Instructions have already been issued by Board not to hold post tender negotiations except with the Lowest Tender (L1) vide letter at (i) above. These instructions have further been reviewed by CVC vide letter at (ii) above (copy enclosed) and it has now been decided that the instructions for holding of negotiations only with L1 will not be applicable for works/projects being funded from the sources other than consolidated fund of India.

(2) Board desire that these instructions be implemented with immediate effect

(3) This is issued with the concurrence of Finance Directorate & approval of Board (ME)

(4) Please acknowledge the receipt of this letter.

(PARMOD KUMAR)  
Exec. Director, Engg.(G)  
Railway Board.  
DA: One

No.90/CE.I/CT/1 Pt.  
Dated: 10.7.2002.



Relevant extract from Sudhir Chandra Committee Report circulated vide Board's Letter No. 94/CE-1/CT/4 dated **17.10.2002**, on the above subject is as follows:-

### **NEGOTIATIONS**

- (3.4.1) L-1 should be defined as the lowest, valid, eligible and technically acceptable tenderer who would have been otherwise considered for award of contract directly, if the rates were not unreasonably high.**
- (3.4.2) Negotiations should be held with L-1 only as defined above.**
- (3.4.3) In tenders, providing for "Purchase Preference" in favour of PSUs, if the quoted rates of L-1 are considered high and negotiations are resorted to, such negotiations may be held with the original L-1 as also the lowest PSU whose original offer is not higher by more than 10% of the original L-1. Further, if after such negotiations the revised offer of the PSU is higher by more than 10% of the negotiated offer of the original L-1, offer of PSU may not be considered for award of contract. If it is less than 10% the existing procedure for awarding the contract to the PSU may be followed.**
- (3.4.4) If negotiations are approved by the Tender accepting authority, the call letter for negotiations should be as per the instructions contained in Board letter No.61/W-II/CT/24 dated [31/10/65](#) and all guidelines as contained in Board's letter No 73/W-II/CT/15 dated [15/03/74](#) and letter No.84/W-I/CT/28(P) dated 09/07/85 with the modification that it will apply L-1 only and not to all tenderers.

### **COUNTER OFFERS**

- (4.5.2) In cases where the overall value of L-1 is not unreasonably high but the rate(s) for certain item(s) in a schedule or the total value for a schedule happen to be higher than those quoted by other tenderers in the same tender or higher than the last accepted rates, the method of counter offering the lower rate(s) obtained in the same tender or if all these are higher, any other rate(s) considered reasonable by Tender committee may be adopted while finalizing the tender.

**GOVERNMENT OF INDIA  
(MINISTRY OF RAILWAYS)  
(RAILWAY BOARD)**

No. 94/CE.1/CT/54 New Delhi,

dated 18-08-94

To,  
General Managers,  
N.F. Railway (const)  
Maligaon, Guwahati.  
and others.

Sub: Extension of completion period after calling of  
tenders.

-----

It has been observed that in one case tenders were invited initially from the pre-qualified tenderers on the basis of 21 months completion period. On representations from a few of those who had quoted, during the first round of negotiations, they were given the alternative of making their offers separately on the basis of completion period of 21 months/ and 30 months. The response to this indicated that substantial reductions were offered when the completion period was increased from 21 months to 30 months. It would have been prudent to make it (about the increase in completion period) know to all the pre-qualified tenderers who were invited initially since the change had a material bearing on the prices offered as also the capability of tenderers themselves.

Since such changes in completion period have a material bearing on the prices offered as also the capability of the tenderers themselves, it is desired that all tenderers who were short listed (pre-qualified) in the first instance are invited to quote alternate rates for the original and increased completion period.

Please acknowledge receipt of this letter.

(Ved Prakash)  
Executive Director Civil Engg.

### **III. TENDERS**

#### **J. (iv) ACCEPTANCE OF OFFERS AWARD AND ADMINISTRATION OF CONTRACTS – ADVANCES TO CONTRACTORS**

S. No	Subject in Brief	Letter Date
1	Grant of Advances to Contractors	16-04-70
2	Advances to Contractor for Civil Engineering Works	21/03/85
3	Grant of Advances Advance Correction Slip 1E 1989	19/02/91
4	Cancellation of above Correction Slip	20/02/91
5	Grant of Advances to Contractors	30/07/91
6	Grant of Advances to Contractors	4.06.92
7	Advances to Contractors	21.05.97
8	Advances to Contractors	21.11.97
9	Various Advances to Contractors	1.09.05

**Southern Railway**

Headquarters Office,  
Works Branch,  
Park Town,  
Dated, 27-4-1970.

No. W/496/2

FA & CAO/CN/MAS  
CE/CN/MS  
ENC/P/BNC

Reg: Grant of advance to contractors.

---

A copy of Board's letter No. 70/WI/CT/6 of 16-4-70 is enclosed for your record.

(Sd)  
for General Manager

-----  
Copy of letter No. 70/WI/CT,6 dated 16-4-1970 from Jt. Director, Civil Engineering, Railway Board, New Delhi 66 the General Managers, All Indian Railways, including DLW etc.

-----

Sub: Grant of advance to contractors.

-----

Recently, one Railway came up with a proposal for granting an advance to a civil engineering contractor at specified rate of interest, where the contractor had made such an advance a condition for a rebate on the tendered rate.

2. The Board after careful consideration have decided that the present practice of permitting advance only in exceptional circumstances should continue and no relaxation should be made.

\*\*\*\*\*

## SOUTHERN RAILWAY

No.W.496/P.

Headquarters Office,  
Work Branch,  
Madras-3. Dt.7-5-85

DEM/W/MAS, TPJ, MDU, TVC, PGT, SBC & MYS..

Re: Advances to contractors for Civil Engineering works.

Ref: Boards letter No.85/W1/CT/11 Advance dt. 21.3.85.

---

A copy of Board's letter under reference, is sent herewith for information and necessary action.

for Chief Engineer.

Copy of letter No.85/W1/CT/11 (Advances) dt.21.3.85. from Director, Civil Engineering, Railway Board. to The General Managers, All Indian Railways, etc.,

Sub: Advances to Contractor for Civil Engineering Works.

-----

According to Para 1264 of the Indian Railways Code for the Engineering Department (Revised Edition-1982), the General Managers are empowered to sanction advance to contractors in exceptional circumstances, upto the maximum, extent of Rs. 2 lakhs subject to the conditions that:-

- (i) a contractor does not receive advances for different works from different offices;
- (ii) arrangements are made with the Accounts Officer for proper accounts being kept with regard to these advances; and
- (iii) all necessary precautions are taken to secure Government from the possibility of loss and for preventing the system becoming more general or continuing longer than that may be absolutely necessary for the proper progress of the work.

A case has come to the notice of the Ministry of Railways (Railway Board) wherein the contractor was given an advance of large amount exceeding Railway's power of sanction, and thereafter the Railway approached the Board for the post facto sanction. The Ministry of Railways (Railway Board) have taken serious view of the non-observance of Codal provisions.

3. The Ministry of Railways (Railway Board) desire the Railways to ensure that the provision made in Para-1264 of the Indian Railways Code for the Engg. Department (Revised Edition-1982) is adhered to strictly and that no advance exceeding their power of sanction is granted to a contractor under may circumstances without prior approval of the Board.

Copy of Railway Board's letter No. 90CE-I/Ct/1 dated 19-2-1991 addressed to The General Manager/Southern Railway/Madras. etc.

-----

Sub:- Grant of advances to Contractors.

-----

A high powered Committee, known as Sreedharan Committee recommended:-

1. Grant of Mobilisation advance to contractors
2. Advances against Machinery and plant to Contractors, and
3. Grant of advance for accelerating the progress of the work during the course of execution of the contract.

II. These recommendations had been accepted by Board vide Board's Circular letter No. 85/W.I./CT/GCC dt. [31-1-1986](#) with a specific provision that these advances will not exceed 5% of the total contract value or Rs.5.00 lakhs whichever is less.

III. Vide para No.1264 of Code for the Engineering Deptt. (Revised Edition) - 1989 the powers of General Managers are limited to Rs. 2.00 lakhs only for grant of advances to contractors. Accordingly para No. 1264-E may be amended to read as given in the enclosed Correction Slip No. I-E.

IV. Receipt of this letter may be acknowledged.

Sd/-  
(S.M.Singla)  
Exe. Director, Civil Engg.(G)  
Encl:As stated (one page).  
Railway Board.

-----



Advance Correction Slip to the Indian Railway Code for the Engg. Department  
(Revised Edition) 1982.

Advance Correction Slip No. IE(1989) Edition.  
-----

The existing para No.1264 should be deleted and substituted as under:-

Para 1264 - ADVANCES TO CONTRACTORS:- It will be duty of Executive Engineers to abstain as far as possible from giving advances, and they should endeavour to maintain a system under which no payments are made except for work actually done. General Managers, are, however, empowered to sanction advances, not exceeding Rs.5,00 lakhs in tender for works which are capital intensive and of a specified nature if the estimated value of tender exceeds Rs.50 lakhs and if the works warrants grant of advance as available to all contractors and duly incorporated in the Tender Documents in following circumstances.

- i) Mobilisation advances.
- ii) Advances against Machinery and Plant.
- iii) Advances for accelerating the progress of the work during the course of execution of the contract.

The actual payment of the advance(s) and recovery thereof as also the rate of interest etc., will be governed by separate administrative instructions in force from time to time.

Following specific conditions may, however, be particularly kept in view for achieving the objective intentions of this system.

- a) that the grant of advance is primarily in railway's own interest;
- b) that a contractor does not receive advances for different works from different offices;
- c) that arrangements are made with the accounts Officer for proper accounts being kept with regard to these advances; and
- d) that all necessary precautions are taken to secure Government from the possibility of loss and for preventing the system becoming more general or continuing longer than that may be absolutely necessary for the proper progress of the work.

(Authority -Railway Board's letter No.90/CE-I/CT/1 dt. 19-2-91.)

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

XXR Wireless  
Issued on 20-2-1991.

The General Manager,  
Southern Railway,  
Madras. etc.

No. 90/CE.I/CT/1 (@) Board's letter of even number dated **19-2- 1991** regarding grant of advances to contractors and Correction to Para 1264 of Code for Engineering Department may be treated as cancelled repeat as cancelled (.) Revised instructions will issue within next few days (.) Confirm Receipt (.) Singla/Railways

Copy By Post.

Sd/-  
(S.M.Singla)  
Exec. Director, Civil Engg.(G)  
Railway Board.

-----

Copy of Railway Board letter No.90/CE-I/CT/1 dated 30-7-91 Addressed to : As per list attached.

-----

Sub: Grant of advances to Contractors.

-----

A Committee consisting of officers of Engg. A/Cs., S&T and Electrical departments recommended:-

1. Grant of mobilisation advance to Contractors.
2. Advances against machinery and plant to Contractors and
3. Grant of advance for accelerating the progress of the work during the course of execution of the contract.

II. The acceptance of the recommendation was circulated vide Board's circular letter No.85/W.I/CT/23-GCC dt.[31-1-1986](#).

III. Vide para No. 1264 of Code for the Engineering Deptt. (Revised Edition)- 1989 the powers of General Managers are limited to Rs. 2.00 lakhs for grant of advance to contractors. Accordingly para No. 1264- E may be amended to read as given in the enclosed correction slip No. I-E.

IV. Receipt of this letter may be acknowledged.

Encl: As stated (one Page)

Sd.

Exec. Director, Civil Engg (G)  
Railway Board.

No. 90/CE.I/CT/1.

New Delhi, dated 30-7-1991.

Copy forwarded for information and necessary action to:-

1. A.D.A.I(Rlys), New Delhi (with 40 spares.)
2. The Directors of Audit, All Indian Railways, Production Units/ Construction Organisations.

Sd.

Encl: One (one Page) Exec. Director, Civil Engg(G)  
Railway Board.

Copy forwarded to:-

1. A/CS(III) F(X).I/F(X). II/Vig.(I)- Railway Board.  
(with 15 spares).
2. EDV(R)/ED(W)/EDLM/ED(RE)/ED(Track) (M)/ED(Track/EDCE(B&S) EDCE(PL) - Railway Board.
3. Adv(CE)/Adv(W)/Adv(S&T)/Adv(Comml)/Adv(Stores)/Adv(MS), Adv(B)/Adv(Elec)/Adv(MTP)/Adv(Mech) - Railway Board.
4. PS(CRB)/IS(FC)/PS(ME)/PS(MM)/PS(MT)/PS(MS)/PS(M.Elec)/ Ps(Secy) - Railway Board.

Advance Correction Slip to Indian  
Railway Code for Engg. Deptt.  
(Revised Edition - 1989)

Advance Correction Slip No.1-E(1989 Edition)

---

The existing para No.1264 should be deleted and substituted as under:-

1264 -ADVANCES TO CONTRACTORS:- It will be the duty of the Executives to abstain as far as possible from giving advances and they should endeavour to maintain a system under which no payments are made except for work actually done. General Manager may, however, sanction advances within their delegation of powers, as per limits indicated hereunder for such of the works which are capital intensive and of specialised nature, if the estimated value of the tender exceeds Rs.50 lakhs. Suitable provisions may be included in the special conditions of the tender for grant of Mobilisation advance and advance against machinery and equipment, if the work warrants grant of such advances subject to conditions stated hereunder.

**a) Mobilisation Advance:-**

This shall be limited to 10% of the contract value and payable in 2 stages as indicated below:-

Stage I:- 5% of Contract value on signing of the contract agreement.

Stage II:- 5% on mobilisation of site-establishment, setting up offices, bringing in equipment and actual commencement of work. The two stages of advances shall be payable immediately after signing of contract documents and at the time of mobilisation, respectively.

**b) Advance against Machinery and Equipment :-**

This advance shall be limited to a maximum of 10% of the contract value against the new machinery and equipment involving substantial outlay, brought to site and essentially required for the work. The advance should not exceed 75% of the purchase price of such equipment and will be payable when hypothecated to president of India by a suitable bond or hypothecated to Nationalised bank or State Bank of India. The plant and equipment should be insecured for the full value and for the entire period, they are required for the work.

**c) Advance for accelerating progress of the work during course of execution of Contract:**

This advance is to be decided on the merits of each case for contracts lying within the powers of G.M. (Rs.5 crores & less) and shall be restricted to a maximum of 5% of contract value or Rs.5.00 lakhs whichever is less. This is to be granted by the G.M. on the recommendations of the Chief Engineer in charge, in consultation with the Associate Finance.

**d) Advances in exceptional cases:-**

G.M. are further empowered to grant advances in exceptional cases upto a maximum of Rs.5.00 lakhs in respect of even contract of value of less than Rs.50.00 lakhs if considered absolutely essential, depending on the merits of each cases and circumstances in each situation, to be recommended by the Chief Engineer in charge and in consultation with Associate Finance. The above advances are subject to the following conditions:-

- i) The advances shall carry an interest of 10% P.A
- ii) Advance except those against machinery and equipment, shall be payable against irrevocable bank guarantee from a Nationalised bank in India or State Bank of India in a form acceptable to the Railways.
- iii) The recovery shall commence when the value of contract executed reaches 15% of original contract value and shall be completed when the value of work executed reaches 85% of the original contract value. The installments on each "on account bill" will be on pro-rata basis.
- iv) that the grant of advance is primarily in railway's own interest;
- v) that a contractor does not receive advances for same work from different officers;
- vi) that arrangements are made with the Accounts officer for proper accounts being kept with regard to payment and recovery of these advances; and
- vii) that all necessary precautions are taken to secure Government from the possibility of loss and for preventing the system becoming more general or continuing longer than what may be absolutely necessary for proper progress of the work.

(Authority -Railway Board's letter No.90/CE/CT/1 dt. 30-7-91).

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

NO.90/CEI/CT/1

New Delhi, dated 04-06-92

Addressed to :

As per list attached.

Sub: Grant of advances to contractors.

-----

Advance Correction slip No. I-E to para No.1264-E of Engineering code was issued under Board's letter of even numbered dated **30.7.91** in which the 'Modus Operandi' of grant of advance to contractors was laid down.

2. Sub para (b) of para 1264-E of Advance Correction slip No.I-E (1989 Edition) to Engg. Code may be replaced with the clause as per attached Advance Correction Slip No.6.

3. Para No.5.3 of accepted recommendations of Sreedharan committee on the subject as circulated under Board's letter No.85/WI/CT/23/GCC dated **31.1.1986** also stands amended to that extent.

4. Receipt of this letter may please be acknowledged.

Sd/-

(S.M.Singla)  
Exec. Director, Civil Engg(G)  
Railway Board,

Advance Correction Slip to Indian Rly. Code  
for Engg.Deptt. (Revised Edition - 1989)

Advance Correction Slip No.6  
(1989 Edition)

In partial modification of Advance Correction Slip No. 1-E  
to para No. 1264-E, following be substituted against earlier para (b)

1264- Advances to Contractors:-

(b) Advance against Machinery and Equipment.

This advance shall be limited to a maximum of 10% of the contract value against new-machinery and equipment involving substantial outlay, brought to site and essentially required for the work. This advance should not exceed 75% of the purchase price of such equipment and will be payable when hypothecated to President of India by a suitable bond or alternatively covered by an irrevocable bank guarantee for full cost of the plant and equipment from a Nationalised bank in India or the State Bank of India in a form acceptable to Railways. The plant and equipment should be insured for the full value and for the entire period, they are required for the work. This plant and equipment shall not be removed from the site. of work without prior written permission of the Engineer.

(Authority Railway Board No.90/CEI/CT/1 dt. 04-06-92)

List of addresses

General Managers  
Southern Railway,  
Madras and etc.

## **SOUTHERN RAILWAY.**

FA & CAO'S Office,  
Madras – 600 003.  
Dated: 2.6.1997.

No. W.496/F/O/Vol.IV

FA&CAO/CN/MS; FA&CAO/WST/PER; FA&CAO/MTP/MS  
Sr. DAOs/MAS, TPJ, MDU, SRC, MYS, TVC  
DAOs/PGT, AAO/IG, AAO/XC

Sub:- Advances to Contractors.

Ref :- Railway Board's letter No. 90/CEI/CT/1 of 21.5.97.  
-----

A copy of aforesaid Board's letter is sent herewith for information and compliance.

Encl:

For F.A. & C.A.O.

-----  
Copy of Railway Board's letter No. 90/CE.I/CT/1, of 21.5.97. New Delhi addressed to FA & CAOs, All Indian Railway.

Sub:- Advances to contractors.  
-----

In partial modification to the provisions of Correction Slips No. 1-E and 6 issued on the above subject vide Board's letters of even number dated [30.7.91](#) and [4.6.92](#) respectively, Board have decided as follows:

1. Grant of advances for a capital intensive and specialised nature of work may be considered in case the estimated tender value of the work exceeds Rs. 1 crore.
  2. No advance must be given against old Plant & Machinery.
  3. The interest borne on advance payments must be increased to 18% (eighteen per cent).
2. As regards recovery of interest, the following method to be adopted.

'Interest will be recovered on the advance outstanding for the period commencing from the date of payment of advance till date of particular on account bill (through which recovery of principal is effected) and adjusted fully against such on-account bills along with pro-rata principal recovery. In the event of any shortfall the same will be carried forward to the next on-account bill & will attract interest at 10%.



"The bank Guarantee for such advance should cover principal plus interest."

3. Advance correction slips (No.16,b,d,e) amending para 1264 of Indian Railway code for the Engineering Deptt. (Revised Edition-1989) are enclosed.

4. This issues with the concurrence of Associated Finance of Ministry of Railways.

Receipt of this letter may please be acknowledged.

Sd/-  
Exec.Dierctor, Civil Engg,  
Railway Board.

-----  
Advance Correction Slip No. 16 to para 1264 of the Indian Railway Code for the Engineering Deptt. (Revised Edition 1989). As inserted vide CS. No. 1-E

-----  
The figures 'Rs. 50 lakhs' appearing in this para may be substituted by 'Rs 1(Crore)'  
(Authority Railway Board's letter No.90/CE.I/CT/1. dt. 21.5.97.)

-----  
Advance Correction Slip No. 16 to para 1264 of the Indian Railway Code for the Engineering Deptt. (Revised Edition 1989).

-----  
The following sentence may be provided as last line to para 1264(b) advised vide correction slip No.6 (1989 Edition).

"No advance should be given against old Plant & machinery".

(Authority Railway Board's letter No.90/CE.I/CT/1. dt. 21.5.97.)

Advance Correction Slip No. 16(d) (e) to para 1264 of the Indian Railway code for the Engg. Deptt. (Revised Edition 1989).

-----

The sub-para under Para 1264(d) beginning in the above advance are subject to the following conditions may be renumbered as (e).

The figures and worth 10% p.a. appearing in re-numbered sub-para (e) (i) of para 1264 may be substituted by 18% p.a. ("Eighteen percent per annum").

(Authority: Railway Board's Letter No. 90/CE-I/CT1 dt 21.5.97.

**Government of India  
Ministry of Railways  
(Railway Board)**

No. 90.CE.I/CT/1

New Delhi, dated 21.11.97

Addressed to

As per list attached.

Sub: Advances to Contractors

Ref : S. Rly's letter No W.496/CN/X/Advances dated 4.7.97.

-----

In continuation to Board letter of eve number dated [21.5.97](#), it is advised that the charging of higher rates of interest on mobilisation advances given to contractors in the case of risk and cost tenders will not be regarded as a benefit to the contractor. As such, this change in the rate of interest is not expected to affect the tenability of risk and cost action or to pose any difficulty in its enforcement. The Railways may accordingly proceed with the revised instructions as contained in Board's letter dated 21.5.97.

This issues with the concurrence of the Finance Directorate of this Ministry.

(V.K. Bahmani)  
Exec.Director, Civil Engg (G)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No. 2004/BC/AP/3.9/2002-03

New Delhi, dated: 01.09.2005

The General Managers,  
All Indian Railways.

The PCEs/CE(Co-ord)  
All Indian Railways.

The FA & CAO (Operating & Const)  
All Indian Railways.

Subject:- Various advances to the contractors.

-----

Para 1264 of Indian Railways Code for the Engineering Department specifies various types of advances which can be given to the contractors such as Mobilization Advance, Advance against Machinery and Equipments etc. This para also stipulates various conditions for granting these advances in order to ensure timely recovery of these advances and also to safeguard Railway's interest in the event of failure of contractor to repay the advance. It is also mentioned in Para 1264 of Engineering code that Railway may incorporate suitable provisions in the special conditions of the tender for grant of Mobilization Advance and Advance against the Machinery and Equipments. If the work warrants grant of such advances subject to the conditions specified therein.

In one of the tender cases of South Central Railway, Audit has pointed out that there had been a failure on the part of the Railway(s) to ensure adequate safeguards against the failure of the contractor in repaying the advance so granted, that had resulted in non recovery of sum of Rs.2.83 crores towards principal and Interest even after lapse of 6-7 years after awarding the contracts.

It is, therefore, once again reiterated that Railway should strictly follow the instructions as contained in the Engineering Code Pars 1264 and ensure that the adequate safeguards are in built in the contract conditions to effect timely recovery of advance.

This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

(PARMOD KUMAR)  
EDCE (G)

### **III. TENDERS**

#### **K. GENERAL GUIDELINES**

S. No	Subject in Brief	Letter Date
1	Interpretation of Clause 17 (4) of the General Conditions of Contract	<a href="#">22/11/64</a>
2	Examination Clause General Conditions	<a href="#">23/04/71</a>
3	Enforcement of Labour Laws Contract Labour (Regulations & Abolition )Act and Rules	<a href="#">28/08/86</a>
4	Maintenance Tenders of Less than Rs 5 Lakhs each.	<a href="#">18/03/93</a>
5	Preventive Check Conducted by Vigilance Directorate of the Railway Board	<a href="#">09/12/87</a>
6	Report of the PAC (1988-89) On MTP Calcutta Delays in Completion of Projects	<a href="#">11/08/89</a>
7	Tender Contracts and Execution of Gauge Conversion Works On South Central Railway Supplementary instructions	<a href="#">04/05/93</a>
8	Expenditure on Unsanctioned Work	<a href="#">22/12/94</a>

Copy of letter No.61/WII/CT/91 dated 22nd November 1964 from the Railway Board, New Delhi to the General Managers, All Indian Railways, C.L.W., R.C.F., RE Project and Chief Administration Officer, D.B.K. Railway Projects.

\* \* \* \* \*

Subjects: Interpretation of clause 17 (4) of the General  
Conditions of Contract for Engineering Department.

\* \* \* \* \*

In partial modification of Railway Board's circular letter of even number dated the 30th October 1962, on the above subject, please read "Contract" for the work "work" occurring in the last sentence of that letter.

2. In this connection, a question has also raised as to the meaning of the words "total value of the contract" occurring in the sentence referred to above. It is clarified that the total value of the contract means the total value of the work indicated in the contract agreement subject to agenda/corrigenda thereto agreed to between the contractor and the Railway in this regard.

3. This disposes of Western Railway's letter No.W.118/11/6 dated the 13th March, 1963.

Sd/- Joint Director, Civil Engg.Rly

Copy to: The Chief Engineer, (CON.II) Northern Rly., Chopan.  
The Chief Engineer, (Sy & Con.) N.F. Rly., Kurseong.  
The Chief Engineer, (B.G. Con.) N.F. Rly., Kurseong.

Copy to: F (X) III

## **Southern Railway.**

No.W.496/P

DS/W/MAS GTL MYS OJA MDU TPJ

Headquarters Office,  
(Works Branch)  
Madras-3, 12-5-1971

Book Examination Clause-General Conditions  
of contract.

-----

A copy of Board's letter No. 67/W1/CT/39 of 23-4-71 is sent herewith for your information and guidance.

Encl: 1  
for General Manager.

Copy together with a copy of Board's letter quoted above is forwarded to CE/CN/MS CEE CSTE COS CME CMO COPS CCS CSO FA & CAO DY. FA & CAO/CN/MS MS/RH/PER DAO/MAS GTL MYS OJA MDU TPJ

-----  
Copy of letter No. 67/W1/CT/39 of 23/4/1971 from Railway Board New Delhi to GMs All India Rlys. etc.

Book Examination Clause-General Conditions of contract.

With a view to tightening up the conditions of works contracts on Indian Railways, the issue regarding inclusion of a "BOOK EXAMINATION CLAUSE" in the General Conditions of Contract has been under Consideration of the Board. It has now been decided in consultation with the Ministry of Law that the following new clause (i.e. Clause No.51-A) may be incorporated in the General Conditions of contract.

" 51-A (i) For a contract of value more than one crore of rupees, the contractor shall, whenever required, produce or cause to be produced for examination by the Engineer any quotation, invoice, cost or other account, book of account, voucher, receipt, letter, memorandum, paper or writing or any copy of or extract from any such document and also furnish information and returns verified in such manner as may be required in any way relating to the execution of this contract or relevant for verifying or ascertaining the cost of execution of this contract (the decision of the Engineer on the question of relevancy of any document information or return being final and binding on the parties). The contractor shall similarly produce vouchers etc., if required, to prove to the Engineer, that materials supplied by him, are in accordance with the specifications laid down in the contract.

(ii) If any portion of the work in a contract of value more than one crore of rupees be carried out by a sub-contractor or any subsidiary or allied firm or company (as per clause 7 of the General Conditions of Contract), the Engineer shall have power to secure the books of such sub-contractor or any subsidiary or allied firm or company, through the contractor, and such books shall be open to his inspection.

iii) The obligations imposed by sub-clauses (i) and (ii) above is without prejudice to the obligations of the contractor under any statute, rules or orders binding on the contractor."

The Board desire that action say please be taken accordingly  
Receipt of this letter may please be acknowledged.



**RBE No. 151/86**

**Government of India/Bharat Sarkar  
Ministry of Transport/Pariwahan Mantralaya  
Department of Railways/Rail Vibhag  
(Railway Board)**

No.E(LL)86AT/CNR/1-57

New Delhi-1, dated 28-08-1986

The General Managers  
All Indian Railways, CLW, DLW & IGF  
M.T.P(Rlys), Calcutta  
The General Manager(Const),S.Railway, Bangalore  
The General Manager(Const), NF Railway, Maligaon  
Addl.GM, Railway Electrification, Allahabad  
The CAO, COFMOW, Railway offices Complex, Tilak Bridge, New Delhi  
The CAO, Diesel Component Works Patiala

Sub: Enforcement of Labour Laws- Contract Labour  
(Regulation & Abolition) Act and Rules.

.....

Reference this Department's letter No. E(LL)82AT.MRW/2 dated 14.3.1982 wherein, in the context of Supreme Court's observation in a writ petition filed by the Peoples' Union for Democratic Rights & others vs. Union of India, the Railways were asked to ensure strict and effective enforcement of various Labour Laws and letter No. E(LL)83/Misc/RRC/dated 5.9.1985 wherein in the light of Recommendations of the Railway Reforms Committee the Railways were asked to set up Special Cells to monitor implementation of various Labour Laws. These instructions were in addition to orders issued from time to time for strict compliance with the various Labour Laws. In spite of all these instructions, during the year 1985 and upto July, 1986, 189 proposals for prosecution of Railway Officers from the Ministry of Labour were received under Contract Labour (Regulation and Abolition )Act,1971 and Rules there under. Railway-wise position of the cases are given below:-

Railway	1985	1986
Central	16	6
Eastern	10	13
Northern	9	16
Northeast Frontier	3	3
North Eastern	5	13
Southern	17	4
South Central	19	10
South Eastern	11	9
Western	15	6
Railway Electrification	6	3
Metro Railway	1	2
Diesel Locomotive Works - 1		
	-----	-----
Total	103	86
	-----	-----

In this context, it is also mentioned that, in the past 4 prosecutions were launched against Railway Officials and was very difficult to get the cases withdrawn in spite of the matter having been taken up by the Member Staff with the Labour Secretary. It is, therefore, necessary to avoid such irregularities in future. A list of the irregularities generally detected by the Inspecting Officials of Central Industrial Relations Machinery under Contract Labour(Regulate and Abolition) Act, 1970 and Rules there under are given in the Annexure.

The Department of Railways desire that the Special Cell set up on the Railways should check at the beginning of each year that none of the irregularities mentioned in the list recur in any of the establishments. The results of such checks of each and every establishments where contract labour are employed should be communicated to this Department by the first week of February each year.

Please acknowledge receipt of this letter.

(R.N.Datta)  
Jt. Director, Establishment(LL)  
Railway Board

## **Annexure**

List of irregularities generally detected by CIRM officials under Contract Labour(Regulation and Abolition)Act and Central Rules thereafter.

.....

1. Non-obtaining of Registration Certificate for executing work. Section 9.
2. Non-display of notices showing the rates of wages, hours of work, wage periods, date of payment of wages, names and addresses of the Inspectors having jurisdiction and date of payment of unpaid wages have not been displayed in English, Hindi and local language in contravention of Rule 81(1)(i).
3. Non-submission of copy of notices displayable under Rule 81(1)(i) to the Inspector in contravention of Rule 81(2).
4. Non-maintenance of Register of contractors in Form-XII at the work spot in contravention of Rule 74.
5. Non-submission of notice of commencement/completion of contract work in Form-VIB. Rule 81(3).
6. Non-submission of annual return in duplicate of the year within the statutory time as per Rule 82(2).
7. Non-payment/short payment to contract labour by the contractor vide Rule 25(2)(iv) and (v).
8. Whether the PE has taken action to ensure the presence of his authorised representative to be present at the place and time of disbursement of wages by the contractor(s) Rule 72.
9. Non-registration of the establishment. Breach of Section 7.
10. Failure to intimate change in certificate of Registration within prescribed time limit as required. Section 18(4).
11. Adequate and suitable welfare facilities for first-aid canteen and latrines and urinals have not been provided. Section 16,17,19 & 20.
12. Register of Contractor is not maintained in respect of each registered establishment where he employs contract labour in Form XIII.

## SOUTHERN RAILWAY

No.W.496/P/CN/Vol.23

Headquarters Office,  
Works Construction Branch,  
Egmore, Madras-600008  
Dated: 31/5/93.

Copy of the following is forwarded to CE/GC/BNC, CE/CN/BNC,  
Dy CE/GC/MS, TBM, GL/I/MDU, GU II/MDU  
Dy.CE/CN/TPJ, ERS & PTJ, MMC/MAS

for Chief Engineer/CN.  
-----

Copy of Railway Board's letter No.91/CE.I/CT/S dated 18.3.93. addressed to The Chief Administrative Officer/Construction, Southern Railway Bangalore xx xx etc. etc.

-----  
Sub: Maintenance tenders of less than  
No.5 lakhs each.  
-----

In the Chief Engineer's conference held at Delhi in October, 1991 the subject of contract management was discussed at length. It was decided that tenders to be invited for maintenance works should not be less than Rs. 5 lakhs each. This was again reiterated in the CE's conference held at Pune in July '92. These instructions may be adhered to clubbing together smaller works where necessary, to ensure a viable special tenders in case the special works cannot be accommodated within the Zonal contracts. In case a tender of value less than Rs.5 lakhs is to be invited, prior personal approval of Sr.DEN(Co-ord) should be obtained.

Sd/-  
(S.M.Singla)  
Exec.Director, Civil Engg.(G)  
Railway Board.

Copy of Railway Board letter No. 87/WI/CT/8 dated: 9.12.87 to The General Managers. All Indian Railways and others with copy to the FA&CAOs /All Indian Railways and others.

-----

Sub:- Preventive check conducted by Vigilance Directorate of the Railway Board.

-----

1. In the course of the preventive checks conducted by the Vigilance Directorate of Railway Board on one of the Railways, it was observed that on the basis of single tender the work for the construction of a compound wall of an Officers bungalow was taken up and completed at high rates before the offer was accepted by the competent authority. On another Railway, it was noticed that SA Grade and even JA Grade Officers were inviting single tenders as a matter of routine without obtaining prior Finance concurrence. It was also found that single tenders were being accepted rather too frequently without adequate justification and also without following the proper procedure.

2. The cases noted by Vigilance did not bring out any specific urgency or speciality warranting calling and acceptance of single tenders for execution of the works and were thus avoidable.

3. Board have taken a serious view of the matter and desire that calling of single tenders should be resorted to only in exceptional circumstances with proper justification as laid down in paragraphs 1210 to 1212 of the Engineering Code and 330 and 331 of the Stores Code after recording the necessary certificates and in accordance with the procedure laid therein. It should also be ensured that prior Finance concurrence is invariably obtained before obtaining single tender for execution of works, which should not be below the level of SA Grade Officers. The offer should as usual be considered by the Tender Committee before acceptance by the Competent Authority.

4. Board further desire that the power for calling single tender should not be redelegate below the SA Grade level officers by the General Manager.

5. The receipt of this letter may please be acknowledged.

Sd/-...  
(ARIMARDAN SINGH)  
Jt. Director Civil Engg (G).  
Railway Board.'

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)**

No. 85/WI/CT/7. New Delhi,

dt. 11-8-1989.

The General Managers,  
The Chief Administrative Officers,  
MTP/Railways, Delhi, Bombay & Madras.

The Chief Administrative Officers(Con).  
Southern Railway, 18, Millers Road, Bangalore,  
S.E.Railway, Waltair.

The General Manager(Con).,  
N.F.Railway, Guwahati.

The Officer on Special Duty,  
Rail Coach Factory, Kapurthala.

The Chief Administrative Officers,  
DCW/Patiala and COPMOW/New Delhi.

The Principal,  
IRISET/Secunderabad & IRMEE/Jamalpur.

The Director,  
IRICEN/Pune and RSC/Baroda.

Sub : 142nd Report of the PAC(1988-89) on Metropolitan  
Transport Project, Calcutta need to update tender values.

-----

Public Accounts Committee in para 3.59 of their 142nd Report on Metropolitan Transport Project, Calcutta have observed that in a number of tenders, values of works quoted by the contractors and accepted by the Project authorities were far in excess of those indicated in the tender documents. These differences arose on account of the reason that the tender values in these cases were based on the estimates which had not been up-dated to reflect the current market rates. The PAC have recommended that all estimates of works should be revised and up-dated with reference to the latest rates before invitation of tenders.

Board have accepted the above recommendation of the PAC and desire that the Railway Administrations should take appropriate action in this regard.

(Ashok Kumar)  
Executive Director CE(G),  
Railway Board.

No.93/V(C)/SC/G/2

DATED: 4.5.93

Reg: Tender contracts and execution of Gauge conversion  
works on S.C. Rly- Supplementary instructions.

-----

Based on the preliminary investigations into tender and contract works on Gauge Conversion Projects of S.C. Rly., the following are to be implemented with immediate effect as ordered by the Board:

i) The list of pre-qualified contractors should be finalised for all categories of work without any further delay.

ii) Future tenders should generally be invited from the list of pre-qualified contractors. In situations where it is considered essential to further prune the list for inviting any particular tender, detailed reasons should be recorded and got approved from the competent authority with prior finance concurrence.

iii) Invitation of tenders on single tender basis should be an exception rather than a rule and should be resorted to only in exceptional cases by recording adequate justifications for the same.

iv) Proper estimation of quantities should be done prior to floating of tenders. Variations in quantities should be controlled and to be kept to the barest minimum. If it becomes unavoidable due to some reasons like change in policy, the procedure laid down in the Engg. Code to deal with variations, should be followed.

v) Frequent quality and quantity checks in the field should be ensured by the executive concerned.

2. Suitable instructions may kindly be issued to S.C. Rly. from Civil Engg. Dte. under advice to vigilance Dte.

Adv.(V)

Adv.(CE)

(Sd/-)  
(S.R. Agrawal)  
EDV(R)  
4.5.93

**GOVERNMENT OF INDIA  
(MINISTRY OF RAILWAYS)  
(RAILWAY BOARD)**

No. 94/M(W)645/15 New Delhi,

dated 22-12-94

The General Managers and  
Zonal Railways/Production Units,  
DG/RDSO, Lucknow

Sub: Expenditure on Unsanctioned work  
-----

Vide para 44 of the CAG's Report (Railways) for the year ending 1/08/90. the failure of a Railway Administration in construction of a shopping complex without making provisions for the same in the estimate has been adversely commented upon. The Railway sought to regularise the expenditure incurred on this item by including the same in the revised estimate which was not approved by the competent authority.

In this connection, it is advised that while taking up any work which does not form a part of the estimate, sanction of the competent authority must be obtained prior to the execution of the work notwithstanding the urgency of the work.

This may be brought to the notice of all concerned so as to avoid such lapses in future.

(Sd/-)  
(M.Sanwal)  
Director, Mechanical Engineering  
Railway Board



### **III - TENDERS**

#### **L - AMENDMENT TO GCC – (WORKS CONTRACTS )**

SI.NO.	SUBJECT	LETTER DATE
1.	AMENDMENT TO GCC- (WORKS CONTRACTS)	<a href="#">12/16.05.06</a>

### **III - TENDERS**

#### **M - SUDHIR CHANDRA COMMITTEE REPORT**

SI.NO.	SUBJECT	LETTER DATE
1.	SUDHIR CHANDRA COMMITTEE REPORT	<a href="#">17.10.02</a>

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

NO. 2003/CE-I/CT/4/PT.I

New Delhi, dated 12/16-5-2006.

To,

As per list attached.

Sub:- Amendment to General Conditions of Contract(works contracts)

-----

The Ministry of Railways has decided to amend/add certain clauses in the existing General Conditions of Contract (works contracts) to enable more effective and efficient contract management. The modifications to tile existing GCC is enclosed (page I-12). The existing provision and the revised/modified provision in the GCC is shown in juxtaposition.

2. The existing clauses of the GCC may be modified accordingly and shall be applicable to all prospective works contract tenders.
3. The modification has the approval of Finance Directorate.
4. The modifications is also available on Indian Railways website ([www.indianrailways.gov.in](http://www.indianrailways.gov.in))

(N.K.SINHA)  
EDCE (G)

S.N.	GCC Item No.	Existing	Revised
1.	Earnest Money (Regulation for tenders and contractors (Clause 5))	<p>The tenderer shall be required to deposit earnest money with the Tender for the due performance of the stipulation to keep the offer open till such date as specified in the tender under the conditions of Tender Annexure-1. The earnest money will be as under.</p> <p>Contract Value Earnest money for due performance of stipulation to keep offer open till the date specified.</p> <p>(i)for works up to Rs. 5 lakhs 2-1/2%ad valorem subject to a maximum of Rs, 10,000/-</p> <p>(ii)for works more than Rs.5 lakhs but up to Rs. 20 lakhs 2%ad valorem subject to a maximum of Rs. 20,000/-</p> <p>(iii) for works Above Rs. 20 lakhs but up to Rs. 50 lakhs 1% ad valorem subject to a maximum of Rs. 35,000/-</p> <p>(iv)for works above Rs. 50 lakhs ¾% ad valorem subject to maximum of Rs. 50,000/-</p> <p>(b) It shall be understood that the tender documents have been sold/issued to the tenderer and the tenderer is permitted to tender in consideration of stipulation on his part, that after submitting his tender he will not resile from his offer or modify the terms and conditions thereof in a manner not acceptable to the Engineer. Should the tenderer fail to observe or comply with the said stipulation, the aforesaid amount shall be liable to be forfeited to the Railway.</p> <p>(c) If his tender is accepted this earnest money mentioned is sub clause (a)</p>	<p>The tenderer shall be required to deposit earnest money with the tender for the due performance with the stipulation to keep the offer open till such date as specified in the tender under the conditions of tender. The earnest money shall be 2% of the estimated tender value as indicated in the Tender Notice. The earnest money shall be rounded to the nearest Rs. 10. This earnest money shall be applicable for all modes of tendering.</p> <p>No Change</p>

S.N.	GCC Item No.	Existing	Revised										
		<p>above will be retained as part security for the due and faithful fulfillment of the contract in terms of Clause 16 of the General Conditions of Contract. The Earnest Money of other Tenderers shall save as herein before provided, be returned to them, but the Railway shall not be responsible for any loss or depreciation that may happen thereto while in their possession, nor be liable to pay interest thereon.</p> <p>(d) The Contractors approved for the works in various categories will have the option to deposit the Earnest Money for each individual works or furnish standing Earnest Money at the rates indicated below:</p> <table border="0" data-bbox="441 766 1083 1281"> <tr> <td style="padding-right: 20px;">Contract Value</td> <td>Amount of Lump sum Earnest Money</td> </tr> <tr> <td>Up to 5 lakhs Rs.</td> <td>Rs.10,000/-</td> </tr> <tr> <td>Above Rs. 5 lakhs But up to Rs. 20 lakhs</td> <td>Rs. 20,000/-</td> </tr> <tr> <td>Above Rs. 20 lakhs But up to Rs.50.lakhs</td> <td>Rs. 50,000/-</td> </tr> <tr> <td>Above Rs.50 lakhs</td> <td>Rs. 1,00,000/-</td> </tr> </table> <p>(2) No part of this fixed lump sum deposit as Earnest Money can be accounted against the Security Deposit a contractor has to make on the acceptance of his tender and on execution of an agreement. It may, however, be noted by the Contractors that this Earnest Money deposited by them is available for forfeiture to the extent specified, in cases where they tender but due to any circumstances fail to keep the offer open for the period specified in the tender documents. The earnest money should be in cash or in any of the following forms:-</p>	Contract Value	Amount of Lump sum Earnest Money	Up to 5 lakhs Rs.	Rs.10,000/-	Above Rs. 5 lakhs But up to Rs. 20 lakhs	Rs. 20,000/-	Above Rs. 20 lakhs But up to Rs.50.lakhs	Rs. 50,000/-	Above Rs.50 lakhs	Rs. 1,00,000/-	<p>No Change</p> <p>The practice of allowing Standing EMD is dispensed forthwith for all tenders. Therefore, Sub clause (d) stands deleted.</p> <p>The Earnest Money should be in cash or in any of the following forms:</p> <p>(i) Deposit receipts, pay orders, demand drafts. These forms of earnest money could be either of the State Bank of India or of any of the nationalized banks. No confirmatory advice from</p>
Contract Value	Amount of Lump sum Earnest Money												
Up to 5 lakhs Rs.	Rs.10,000/-												
Above Rs. 5 lakhs But up to Rs. 20 lakhs	Rs. 20,000/-												
Above Rs. 20 lakhs But up to Rs.50.lakhs	Rs. 50,000/-												
Above Rs.50 lakhs	Rs. 1,00,000/-												

S.N.	GCC Item No.	Existing	Revised
		<p>(i) Deposit receipts, pay orders, demand drafts. These forms of earnest money could be either of the State Bank of India or of any of the nationalized banks. No confirmatory advice from the Reserve Bank of India will be necessary</p> <p>(ii) Deposit receipts executed by the Scheduled Banks (other than the State Bank of India and the Nationalised Banks) approved by the Reserve Bank of India for this purpose. The Railways will not, however, accept deposit receipt without getting in writing the concurrence of the Reserve Bank of India</p> <p>(b) Standing or permanent earnest money may be accepted in the following forms.</p> <p>(i) A deposit in cash,  (ii) Government securities at 5% below the market value,  (iii) Deposit receipts or demand drafts of the Nationalised Banks,  (iv) A deposit in the Post Office Saving Bank,  (v) National Savings Certificates,  (vi) Twelve Year National Defence Certificates,  (vii) Ten Year Defence Deposits,  (viii) National Defence Bonds,  (ix) National Savings Certificates,  (x) Time Deposit Account which came into force on 16.3.1970 and notified under Ministry of Finance, Notification No. F3(7)NS/70 dated 28.2.1970,  (xi) IRFC Bonds.</p> <p>Note:- (vi) to (viii) These certificates/bonds may be accepted at their surrender value.</p>	<p>the Reserve Bank of India will be necessary.</p> <p>(ii) Deposit receipts executed by the Scheduled Banks (other than the State Bank of India and the Nationalised Banks) approved by the Reserve Bank of India for this purpose. The Railways will not, however, accept deposit receipt without getting in writing the concurrence of the Reserve Bank of India.</p> <p>The phrase " Standing or Permanent' stands deleted.</p>

S.N.	GCC Item No.	Existing	Revised
2.	16 (1) Security Deposit	<p>(I) The Earnest Money deposited by the Contractor with his tender will be retained by the Railways as part of security for the due and faithful fulfillment of the contract by the contractor. The balance to make up the security deposit, the rates for which are given below may be deposited by the Contractor in cash or in the form of Government Securities or may be recovered by percentage deduction from the Contractor's "on account" bills. Provided also that in case of defaulting contractor the Railway may retain any amount due for payment to the Contractor on the pending "on account bills" so that the amounts so retained may not exceed 10% of the total value of the contract.</p> <p>(2) Unless otherwise specified in the special conditions, if any, the rates for deposit of security amount by contractors will be as under:</p> <p>(i) for contracts up to Rs 1 lakh-10% of the value of the contract</p> <p>(ii) for contracts more than Rs.1 lakh and up to Rs. 2 lakhs- 10% of the first Rs.1 lakh and 7-1/2% of the balance.</p> <p>(iii)for contracts, more than ,Rs. 2 lakhs and up to Rs. 2 crore-10%.of the first 1 lakh, 7-1/2% of the next Rs. 1 lakh and 5% of the balance subject to the maximum of Rs. 10 lakhs. The amount over and above Rs. 3 lakhs to be recovered from the progressive bills of the contractors at the rate of 10% till it reaches the required value.</p> <p>(iv) for contracts above Rs. 2 crore 5% of the contract value. The amount over and above Rs. 3 lakhs to be recovered from the progressive bills of the contractors @ 10% till it reaches 5% of the contract value.</p>	<p>The sentence in the form of Government Securities" stands deleted.</p> <p>Unless otherwise specified in the special conditions, if any, the Security Deposit/rate of recovery/mode of recovery shall be as under:-</p> <p>(a)Security Deposit for each work should be 5% of the contract value,</p> <p>(b) The rate of recovery should be at the rate of 10% of the bill amount till the full security deposit is recovered,</p> <p>(c) Security Deposits will be recovered only from the running bills of the contract and no other mode of collecting SD such as SD in the form of instruments like BG,FD etc. shall be accepted towards Security Deposit.</p> <p>Security Deposit shall be returned to the contractor after the physical completion of the work as certified by the Competent Authority. The Competent Authority shall normally be the authority who is competent to sign the contract. If</p>

S.N.	GCC Item No.	Existing	Revised
		<p>(3), No interest will be payable upon the Earnest Money and Security Deposit or amounts payable to the Contractor under the Contract, but Government Securities deposited in terms of Sub Clause (I) of this clause will be payable with interest accrued thereon.</p>	<p>this Competent Authority is of the rank lower than JA Grade, then a JA Grade Officer (concerned with the work) should issue the certificate. The certificate, inter-alia, should mention that the work has been completed in all respects and that all the contractual obligations have been fulfilled by the contractors and that there is no due from the contractor to Railways against the contract concerned. Before releasing the SD, an unconditional and unequivocal no claim certificate from the contractor concerned should be obtained</p> <p>No Change</p>
3.	Introduction of Performance Guarantee (P.G)	Nil	<p>The procedure for obtaining performance Guarantee is outlined below:</p> <p>(a) The successful bidder should give a Performance Guarantee in the form of an irrevocable bank guarantee amounting to 5% of the contract value.</p> <p>(b) The Performance Guarantee should be furnished by the successful contractor after the letter of acceptance has been issued, but before signing of the agreement and should be valid up to expiry of the maintenance period. The</p>

S.N.	GCC Item No.	Existing	Revised
			<p>agreement should normally be signed with in 15(fifteen) days after the issue of LOA and Performance Guarantee should also be submitted within this time limit.</p> <p>(c) Performance Guarantee shall be released after satisfactory completion of the work and maintenance period is over. The procedure for releasing should be same as for Security Deposit,</p> <p>(d) Wherever the contracts are rescinded, the security deposit should be forfeited and the Performance Guarantee shall be encashed and the balance work should be got done separately.</p> <p>(e) The balance work shall be got done independently without risk and cost of the original contractor,</p> <p>(f) The original contractor shall be debarred from participating in the tender for executing the balance work. If the failed contractor is a JV or a partnership firm then every member/partner of such a firm would be debarred from participating in the tender for the balance work either in his/her individual capacity or as a partner of any other JV/ partnership firm.</p>
4.	Mobilization advance	Nil	No Change
5.	Equipment/Machinery Advance	Nil	No Change



<b>S.N.</b>	<b>GCC Item No.</b>	<b>Existing</b>	<b>Revised</b>
6.	Price Adjustment	Nil	The Price Variation Clause is under examination and necessary Instructions shall be issued later.
7.	Fixing Milestones	Nil	The concerned executive in-charge of the work may fix appropriate milestones and monitor.
8.	Incentive for early completion and compensation due to delay	Nil	Not accepted.
9.	(a) Rescinding of contract- Risk & Cost clause	<p>Determination of- contract owing to default of contractor –(I) if the Contractor should -----</p> <p>(i) Become bankrupt or insolvent, or</p> <p>(ii) Make an arrangement with -assignment in favour of his creditors, or agree carry out the contract under a Committee of Inspection of his creditors, or</p> <p>(iii) Being a Company or Corporation, go into liquidation (Other than a voluntary liquidation purpose of amalgamation or reconstruction), or</p> <p>(iv) Have an execution levied on his goods or property on the works,</p> <p>(v) Assign the contract or any part thereof otherwise than as provided in Clause 7 of these conditions or</p> <p>(vi) Abandon the contract or</p> <p>(vii) Persistently disregard the instructions of the engineer or contravene any provision of the contract or.</p> <p>(viii) Fail to adhere to the agreed programme of work by a margin of 10% of the stipulated period, or</p> <p>(ix) Fail to remove materials from the site or to pull down and replace work after receiving from the Engineer notice to effect that the said materials or works have been condemned or</p>	No Change in sub-clauses (i) to (xiii)

S.N.	GCC Item No.	Existing	Revised
9. Cont		<p>rejected Under Clause 25 and 27 of these conditions, or</p> <p>(x) Fail to take steps to employ competent or additional staff and labour as required under Clause 26 of the conditions, or</p> <p>(xi) Fail to afford the Engineer or Engineer's representative proper facilities for inspecting the works or any part thereof as required under Clause (28) of the conditions, or</p> <p>(xii) Promise, offer or give any bribe, commission, gift or advantage either himself or through his partner, agent or servant to any officer or employee of the Railway Or to any person on his or on their behalf in relation to the execution of this or any other contract with this Railway.</p> <p>(xiii) (A) At any time after the tender relating to the contract has been signed and submitted by the contractor, being a partnership firm admit as one of its partners or employ under it or being an incorporated company elector or nominate or allow to act as one of its directors or employ under it in any capacity whatsoever any retired engineer of the Gazetted rank or any other retired Gazetted officer working before. his retirement whether in the executive or administrative capacity, or whether holding any pensionable post or not in the Engineer Department of the Railways for the time being owned and administered by the President of India before the expiry of two years from the date of retirement from the said service of such Engineer or Officer unless such Engineer or Officer has Obtained permission from the President of India or any officer duly authorized by him in this behalf to become a partner or a director or to take employment under the contractor, as the case may be, or</p> <p>(B) Fail to give at the time of submitting the said tender.</p> <p>(a) The correct information as to the date of retirement of such</p>	<p>No Change</p> <p>No change in sub-clauses (B) (a) to(e)</p>

S.N.	GCC Item No.	Existing	Revised
9. Cont		<p>retired Engineer or retired officer from the said service, or as to whether any such retired engineer or retired officer was under the employment of the contractor at the time of submitting the said tender, or</p> <p>(b) The correct information as to such engineers or officers obtaining permission to take employment under, the contractor, or</p> <p>(c) Being a partnership firm, the correct information as to, whether any of its partners was such a retired engineer or a retired officer, or</p> <p>(d) Being an incorporated company, correct information as to whether any of its directors such a retired engineer or a retired officer, or</p> <p>(e) Being such a retired engineer or retired officer suppress and not disclose at the time of submitting the said tender the fact of his being such a retired engineer or a retired officer or make at the time of submitting the said tender a wrong statement in relation to his obtaining permission to take the contract or if the contractor be a partnership firm or an incorporated company to be a partner or director of such firm or company as the case may be or to seek employment under the contractor, and after expiry of 48 hours notice, a final termination notice (Proforma as Annexure v) should be issued.</p> <p>Then and in any of the said clause, the Engineer on behalf of the Railway may serve the Contractor with a notice (Proforma at Annexure III) in writing to that effect and if the Contractor does not within seven days after the delivery to him of such notice proceed to make good his default in so far as the same is capable of being made good and carry on the work or comply with such directions as aforesaid to the entire satisfaction of the</p>	<p>No Change</p> <p>The sentence "and adopt either or both of the following courses read with proviso (x) &amp; (y) stands deleted.</p>

S.N.	GCC Item No.	Existing	Revised
9. cont		<p>Engineer, the Railway shall be entitled alter giving 48 hours notice (Proforma at Annexure IV) in writing under the hand of the Engineer to rescind the contract as a hole or in part or parts (as may be specified in such notice) and adopt either or both of the following courses.</p> <p>(x)to carry out the whole of part of the work which from which the contractor has been removed by the employment of the required labour and materials, the costs of which shall include lead, lift freight, supervision and all incidental charges,</p> <p>(y)to measure up the whole or part of the work from which the contractor has been removed and to get it completed by another contractor, the manner and method in which such work is completed shall be in the entire discretion of the Engineer whose decision shall be final:</p> <p>and in both the cases (x) and (y) mentioned above the Railway shall be entitled (i) to forfeit the whole or such portion of the security deposit as it may consider fit and (ii) to recover from the Contractor the cost of carrying out the work in excess of the sum which would have been payable according to the certificate of the Engineer to the Contractor if the works had been carried out by The, Contractor Provided, however that such recovery shall be made only when the cost incurred in excess is more than the security deposit proposed to be forfeited and shall be limited to the amount by which the cost incurred in excess exceeds the security deposit proposed to be forfeited. The amounts to be forfeited or recovered may be deducted from any money due or which at any time there after may become due to the Contractor by the Railway under this or any other Contract or otherwise.</p> <p>Provided always that in any case in which any of powers conferred upon the by sub. Clause (1) of Clause 62 here of shall have</p>	Deleted

S.N.	GCC Item No.	Existing	Revised
9. cont		<p>become exercisable and the same shall not be exercised, the non exercise thereof shall not constitute a waiver of any of the conditions thereof and such powers shall notwithstanding be exercisable in the event of any, future case of default by the contractor for which his liability for past and future shall remain unaffected.</p> <p>(2) Right of Railway after rescission of contract owing to default of Contractor — In the event of any or several of the courses, referred to in sub-clause (1) of this clause, being adopted:</p> <p>(a)The Contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any commitments or made any advances. on account of or with a view to the execution of the works or the performance of the contract and Contractor shall not be entitled to recover or be paid any sum for any work there to for actually performed under the contract unless and until the Engineer shall have certified the performance of such work and the value payable in respect there of and the Contractor shall on1y be entitled to be paid the value so certified.</p> <p>(b) The Engineer or the Engineer representative shall be entitled to take possession of any materials, tools, implements, machinery and buildings on the works or on the property on which these are being or out to have been executed and to retain and employ the same in the further execution of the works of any part thereof until the completion of the works without the Contractor being entitled to any compensation for the use and employment thereof or and for wear &amp; tear pr destruction there of,</p> <p>(c) The Engineer shall as soon as may be practicable after removal of the Contractor fix and determined ex-parte or by or under reference to the</p>	<p>No Change</p> <p>No Change</p>

S.N.	GCC Item No.	Existing	Revised
9. cont		<p>parties or after such investigation or enquiries as he may consider fit to make or institute and shall certify what amount(if any) had at the time of rescission of the contract been reasonably earned by or would reasonably accrue to the contractor in respect of the work then actually done by him under the contract and what was the value of any unused, or partially used materials, any constructional plant and any temporary works upon the site.</p> <p>(d) The Railway shall not be liable, to the Contractor any moneys on account of the contract until the expiration of the period of maintenance and thereafter until the costs of completion and maintenance, damages for delay in completion (if any) and all other expenses incurred by the Railway have been ascertained and the amount thereof certified by the Engineer. The Contractor shall then be entitled to receive only such sum or sums (if any) as the Engineer may certify would have been due to him upon due completion by him after deducting the said amount, but if such amount shall exceed the sum which would have been payable to the Contractor, then the Contractor shall upon demand pay to the amount of such excess and it shall be deemed a debt due by the Contractor to the Railway and shall be recoverable accordingly.</p>	<p>The following line is added at the end of sub clause (2) (c):-</p> <p>The legitimate amount due to the contractor after making necessary deductions and certified by the Engineer should be released expeditiously.</p> <p>Sub-clause 2(d) is deleted.</p>
10.	Clause 51(3)	The payment of Security Deposit	Deleted. Deleted since it is already covered under revised Security Deposit Clause 16(1)

**RB/CE-1/3/2006**

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

NO. 2003/CE-I/CT/4/PT.I

New Delhi, dated 30/5/2006.

To,

As per list attached.

CORRIGENDUM

Subject:- Amendment to General Conditions of Contract(works contracts)

Reference:- Board's letter of even number dated  
12/16.5.2006 (Policy letter No. RB/CE-I/2/2006)

-----

In the AMENDMENT TO GENERAL CONDITIONS OF CONTRACT (WORKS CONTRACT) circulated vide letter under reference, S.N. 1, Clause 5/2(b) at page 3 pertaining to Standing or Permanent Earnest Money stands DELETED. In the revised column against clause 2(b), "the phrase Standing or Permanent stands DELETED" is substituted by the word DELETED.

2. The modification has the approval of Finance Directorate.
3. The modifications is also available on Indian Railways website

(N.K.SINHA)  
EDCE(G)

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.94/CE-I/CT/4

New Delhi, Dated 17/10/2002

To

As per list 'A' attached.

Sub: Report of the committee on appointment of Works Contractors  
Finalization of tenders.

Ref : Board's letter of even No. dated 22/10/2001.

----

In continuation of above cited reference, Board (ME, FC) have further considered the remaining 23 recommendations of the committee and approved 12 of them as per details in the Annexure. The remaining recommendations are still under consideration of Board.

Recommendations (27 Nos) already approved and communicated to Railways vide Board's letter referred above have also been included in this letter for the sake of convenience and the same are shown in italics. The recommendations as approved by Board now are shown in normal font with clause number in bold. Thus total 39 recommendations as approved by Board are sent herewith.  
(Annexure-I)

The recommendations as now approved would be applicable prospectively only as before and will preclude contracts which have already been entered into or have been called and are under process of finalization.

Further action is also being taken by Board to issue necessary Correction Slips to the relevant paras of Engineering/Finance Codes so as to modify Codal provisions in line with these recommendations. Pending issue to Correction Slips, these recommendations as approved, would override the Codal provisions, G.C.C. or any other instruction issued earlier by Board as separate circular etc. to that extent. This issue with the concurrence of Finance. Dte of Railway Board.

Encl: as above (10 pages).

(Parmod Kumar)  
Executive Director Civil Engineering (G)  
Railway Board



**RECOMMENDATIONS OF THE COMMITTEE OF  
SHRI B.S SUDHIR CHANDRA  
AND et al AS APPROVED BY THE RAILWAY BOARD.**

---

- Note: i) Recommendations showing in ITALIC font had already been approved by board and circulated to Rlys vide their letter no.94/CE-I/CT/4 dated. 22/10/2001.
- ii) Recommendations shown in NORMAL font are now approved by Board.

**SYSTEM OF TENDERING- OPEN TENDERS**

**Para No. of  
The report**

**(2.3.4.1)** Stipulation of minimum eligibility criteria as given in the table below for open tenders costing above Rs. 10 lakhs.

1.	Revenue / Banker's Solvency certificate. (i) For works costing less than Rs.1 crore. (ii) For works costing more than Rs.1 crore.	(i) Not required.  40% of Advertised Tender value of work.
2.	Should have completed from start to finish, in the last three financial years ( i.e. current year and three previous financial years):	At least one similar single work, for a minimum value of 35% of advertised tender value of work.
3.	Total contract amount received during the last three years as per current ITCC:	Should be a minimum of 150% of advertised tender value of work.

Note: However the above eligibility criteria may be modified on case to case basis in respect of urgent Project /Works and specialised nature of with concurrence of FA&CAO (Associate Finance) and, personal approval of General Manager.

(2.3.4.2) The following documents should be specified for submission along with tender.

**a) List of Personnel, organisation available on hand and proposed to be engaged for the subject, work.**

**b) List Plant & Machinery available on hand (own) and proposed to be inducted (own and hired to be given separately) for the subject work.**

c) List of Works completed in the past three financial years giving description of work, organization for whom executed, approximate value of contract at the time of award, date of award and date of scheduled completion of work. Date of actual start, actual completion and final value of contract should also be given.

d) List of works on hand indicating description of work, contract value, approximate value of balance work yet to be done and date of award.

Note: 1) In case of items (c) and (d) above, supportive documents/certificates from the Organizations with whom they worked / are working should be enclosed.

2) Certificates from private individuals for whom such works are executed / being executed should not be accepted.

### **LIMITED TENDERS (L.T.)**

**(2.4.4.1) Limited tenders should be invited from the contractors borne on the "Approved List" only.**

**(2.4.4.2) Notice for inviting Limited tenders shall be published in local newspapers and displayed on the notice boards kept in the concerned "Railway Office" and also put on Internet where ever possible. It will be the duty of the prospective tenderers to keep track of the tender notices issued through any of these media.**

- (2.4.4.4) Existing monetary ceiling for calling of Limited tenders may be raised from Rs.40 lakhs to Rs 1 crore
- (2.4.4.5) Existing five monetary slabs for calling Limited tenders would be reduced to four as indicated below.:

<b>Sl.No.</b>	<b>Monetary slab for LT.</b>	<b>Lowest authority who can approve calling of LT</b>
(i)	Up to Rs. 10 lakhs	Dy CE(C)/Sr.DEN.
(ii)	More than Rs. 10 lakhs and up to Rs.25 lakhs	SAG/DRM
(iii)	More than Rs. 25 lakhs and up to Rs. 50 lakhs	PHOD
(iv)	More than Rs. 50 lakhs and up to Rs.1 crore.	CAO(C)/GM

**(2.4.4.5) Individual Railways may decide the "category of works" for which list of approved contractors should be maintained for each monetary slab.**

- (2.4.4.6) Contractors approved in the higher monetary slab for a particular category of work may not be allowed to participate for works in the lower monetary slab unless they are separately registered in the lower monetary slab for a particular category of work.

### **APPROVED LIST OF CONTRACTORS**

- (2.5.4.1) The upper monetary ceiling for Approved List of contractors will be Rs. 1 crore, same as the limit recommended for invitation of Limited Tenders.

**(2.5.4.2) The Approved List will be in four monetary slabs only as below:**

<b>(i)</b>	<b>Class "D"</b>	<b>Upto Rs: 10 lakhs.</b>
<b>(ii)</b>	<b>Class "C"</b>	<b>More than Rs.10 lakhs and upto Rs. 25 lakhs.</b>
<b>(iii)</b>	<b>Class "B"</b>	<b>More than Rs. 25 lakhs and upto Rs. 50 lakhs.</b>
<b>(iv)</b>	<b>Class "A"</b>	<b>More than Rs. 50 lakhs and upto Rs.1 crore</b>

- (2.5.4.3) The Approved List as a whole will be valid for a period of three years.**
- (2.5.4.4) The List will be reviewed every year for deletion which will be effective from 1<sup>st</sup> July and additions, if any, will be done once in six months which will be effective form 1<sup>st</sup> January and 1<sup>st</sup> July.**
- (2.5.4.5) Once the contractor is borne on the Approved List, it will be valid for three Years, unless deleted during the Annual Review, or the expiry of the validity of the "Approved List" as a whole, whichever is earlier.**
- (2.5.4.6) There will be separate Approved Lists for the Open Line and the Construction Organisations for each identified category of work**
- (2.5.4.7) In Open line, Approved Lists for classes "B" , "C" and "D" will be maintained Division-wise and for Class "A" there will be one common list for the Railway as a whole. In the Construction Organisation, Approved lists for Classes "B", "C" and "D" will be for a particular pre-determined geographical area or Dy.CE (C) -wise and for Class "A" it will be CAO ( C)/GM(C) wise.**
- (2.5.4.8) Selection Of contractors for enlistment in the Approved List should be done by a committee nominated by authority not below the Accepting Authority as given below The composition of the Committee will be as follows.:**

<b><u>Class of Contractors</u></b>	<b><u>Selection Committee Composition</u></b>	<b><u>Accepting Authority</u></b>
<b>Class "A"</b>	<b>One SAG officer each of executive department and finance department</b>	<b>Executive Department PHOD</b>
<b>Classes "B" And "C"</b>	<b>One JAG officer each of Executive Department and Finance Department</b>	<b>DRM in the Division/SAG officer of the Executive Department</b>
<b>Class "D"</b>	<b>One Senior scale officer each of Executive Department and finance Department</b>	<b>Sr.DEN(Co) in Division and Dy CE(C) in Construction</b>

**Note: Normally in Construction no contract below Rs.10 lakhs value should be called.**

**(2.5.4.9) For registration in the Approved list, the contractor will have to furnish a non-refundable fee of Rs 5,000/ for 'D' class /Rs. 7,500/- for Class "C" Rs 10,000/ for class "B" and Rs 15,000/- for Class "A". This fee will cover the entire period of three years or part thereof. Contractors desirous of registration should submit the application in the proforma prescribed by the Railway with the prescribed fee for each 'category of work' in each slab.**

(2.5.4.10) The contractors borne on the Approved List only will have the facility of Standing earnest Money. The Standing Earnest Money for the various works shall be as follows :

(i)	For works costing up to Rs.10 lakhs-class "D" contractors	Rs. 15,000/-
(ii)	For works costing more than Rs.10 lakhs and up to Rs.25.lakhs -class "C" contractors	Rs. 35,000/-
(iii)	For works costing more than Rs.25 lakhs and up to Rs.50 lakhs -class "B" contractors	Rs. 75,000/-
(iv)	For works costing above Rs.50 lakhs and up to Rs.1 crore-class "A". contractors	Rs,1,50,000/-

- (i) The standing earnest money of a particular monetary slab has to be separately deposited for both i.e open line organisation and for Construction organisation and with respective organisation as recommended vide para 2.5.4.11.
- (ii) The standing earnest Money shall be counted as valid Earnest Money for open tenders also for works costing upto the upper limit for the class for which contractor is registered. This facility will be available to the contractor for open tenders of various branches ( for example , Electrical S&T etc) within the organisation where he is registered. This is in line with Board's letter. No. 88/CE-I/CT/46. Dated [6/02/1989](#) (Annexure-8 of ESO No. 10)
- (iii) A contractor registered with construction, however, will not have this facility for participating in open tenders with this Standing Earnest Money , for tenders Invited by Open line and vice - versa as recommended in para 2.5.4.11.

**(2.5.4.11) Contractors having standing Earnest Money (SEM) may avail this facility in that organization only**

### **SPECIAL LIMITED TENDERS (S.L.T.)**

(2.6.4.1) Special limited tenders may be adopted in the following situations in consultation with FA&CAO.

- (i) Works of specialised nature (to be approved by the PHOD personally).
- (ii) Works of Urgent nature (to be approved by the GM personally).
- (iii) Consultancy works.( To be approved by the GM personally)

**(2.6.4.2.) Special limited tenders may be invited from specialised and reputed contractors/organisation/agencies.**

(2.6.4.3.) A proposal detailing the circumstances and the necessity for going in for special limited tenders should be initiated and got concurred by FA&CAO (In respect of Open Line) and FA&CAO (C) in respect of Construction Organization) before personal approval of the PHOD is obtained.

**(2.6.4.4). Tenderers from whom Special limited tenders are to be invited should preferably be more than six but not less than four.**

(2.6.4.5). Tenderers need not necessarily be borne on the approved list.

## **DISPENSING CALLING OF TENDERS- CALLING OF QUOTATIONS**

(2.7.4.1) Sub-paras (i), (vii) & (ix) of para 1211 (E) may be modified as under:-

**(a) Sub-para (i):-** Normally the powers to dispense with calling of tenders should be exercised sparingly. The circumstances under which quotations have to be called should be spelt out. The financial limits for calling Quotations of different grades with finance concurrence have been revised as under:

Rank of Officer	Financial limit to dispense with tenders and accept quotations per case	Annual Ceiling
Sr. Scale holding independent charge	Rs. 50,000/-	Rs. 2,00,000/-
JAG/SG	Rs. 1,00,000/-	Rs. 5,00,000/-
SAG	Rs. 2,00,000/-	Rs. 10,00,000/-

Note: These powers will be exercised by the officers with their own administrative approval and no separate administrative approval is necessary.

**(b) Sub-para (vii):-** Quotations should normally be invited from at least these well experienced contractors/agencies not necessarily borne on the approved list...

**(c) Sub- para (ix):-** A register showing the full particulars of works through quotations will be maintained by the officer having powers to dispense with calling of tenders. The register may also be sent to Associate Finance while seeking their concurrence.

(d) Other sub paras (ii),(iii),(iv),(v),(vi) & (viii)  
**-No change.**

## **TWO PACKET SYSTEM OF TENDERING**

- (2.8.5.1)** *"Two packet system" of tendering may be adopted in specially identified situations for obtaining consultancy services for highly technical works where parameters cannot be precisely pre-defined or for execution of works which are either technically complicated or specialized in nature and / or which are executed very rarely.*
- (2.8.5.2)** *The "qualifying criteria" in the tender document for selecting the tenderer should be precisely defined duly concurred by FA&CAO/FA&CAO(C) and approved by GM/CAO.*

## **NEGOTIATIONS**

- (3.4.1)** *L-1 should be defined as the lowest, valid, eligible and technically acceptable tenderer who would have been otherwise considered for award of contract directly, if the rates were not unreasonably high.*
- (3.4.2)** *Negotiations should be held with L-1 only as defined above.*
- (3.4.3)** *In tenders, providing for "Purchase Preference" in favour of PSUs, if the quoted rates of L-1 are considered high and negotiations are resorted to, such negotiations may be held with the original L-1 as also the lowest PSU whose original offer is not higher by more than 10% of the original L-1. Further, if after such negotiations the revised offer of the PSU is higher by more than 10% of the negotiated offer of the original L-1, offer of PSU may not be considered for award of contract. If it is less than 10% the existing procedure for awarding the contract to the PSU may be followed.*
- (3.4.4)** *If negotiations are approved by the Tender accepting authority, the call letter for negotiations should be as per the instructions contained in Board letter No.61/W-II/CT/24 dated [31/10/65](#) and all guidelines as contained in Board's letter No 73/W-II/CT/15 dated [15/03/74](#) and letter No.84/W-I/CT/28(P) dated 09/07/85 with the modification that it will apply L-1 only and not to all tenderers.*



## **COUNTER OFFERS**

- (4.5.2) In cases where the overall value of L-1 is not unreasonably high but the rate(s) for certain item(s) in a schedule or the total value for a schedule happen to be higher than those quoted by other tenderers in the same tender or higher than the last accepted rates, the method of counter offering the lower rate(s) obtained in the same tender or if all these are higher, any other rate(s) considered reasonable by Tender committee may be adopted while finalizing the tender.

## **VARIATION IN CONTRACT QUANTITIES**

- (5.3.1) *Tender schedules are to be prepared with utmost care, following all the existing provisions in the Code as also Administrative instructions without fail, after detailed site inspection and soil investigations, wherever necessary, eliminating as far as possible the need for bringing any new items during execution of works.*
- (5.3.2) *These tender schedules may be approved by the JAG/SAG officers. Vetting of tender schedule should be necessary only in the rare urgent cases where tenders are called without sanction of detailed estimate. Pre-vetting will also not be necessary in case of zonal works, and revenue works in Open-Line for which detailed estimates are not to be framed.*
- (5.3.3) *System of indicating rates for individual items in the schedule(s) and asking the tenderers to quote a common percentage for all items in a schedule/all schedules may be preferred where ever possible.*
- (5.3.6) *For controlling payment in case the agreemental value goes beyond +25%, a regulatory mechanism as part of the contract itself should be built in. For the first 15% increase in the value beyond 25% of agreemental value, the rates will have a reduction of 2% in the incremental value of the agreement and for the next 10% increase in the value, rates will have an additional reduction of 2% in the further incremental value of the agreement.*
- (5.3.7) *Execution of quantities beyond (+)50% of the overall agreemental value should not be permitted and if found necessary, should be only through fresh tenders or by negotiating fresh rates with existing contractor as per procedure laid down by Railway Board in their letter no. 94/CE/CT-I/37 dated [5/5/1995](#) for variation beyond 25%.*

**(5.3.9) To decide whether the agreemental value will go beyond 50%, as and when 75% of the agreemental has been executed, the contract should be subjected to a detailed review and administrative decision by an appropriate authority (agreement signing authority) should be recorded in writing and quantities monitored carefully and from this stage onwards, execution of further quantities will have to be monitored at least at the level of JAG Officers.**

**(5.3.10) For variation in value beyond 25% of the agreemental value, the present instructions for holding discussions with the contractor will be dispensed with.**

**\*\*\*\*\***

## III - TENDERS

### N. BILLS

S. No	Subject in Brief	Letter Date
1	Provisional Payments	08/01/60
2	Refund of Part Amount of Security Deposits to Contractors	24/08/60
3	Imperative Need for Correct and Concurrent Maintenance of Original Records Furnishing the Basis of Claims Against Or Payment to Outsiders	18/06/64
4	Imperative Need for Correct and Concurrent Maintenance of original Records Furnishing the basis of Claims Against or Payment to Outsiders	15/12/65
5	Refund of Security Deposit	14/06/66
6	Provisional Payment of Final Bill and Refund of Security Deposit	31/03/67
7	Classification of Soil for Payment of Earthwork	07/08/68
8	Delegation of Powers in respect of Measurements	09/07/71
9	Deduction of income Tax At Source instructions -Regarding	19/09/73
10	Earthwork Payment to Contractors on the Basis of Cross Section-Provision of a Clause in the Special Conditions of Contract	14/05/75
11	Measurements of Earthwork by the AENs	10/07/75
12	Test Check by Junior Administrative Grade officers	12/09/75
13	Responsibility of the Assistant Engineer 20 % Test Check of the Hidden Works 2927 (B) of the Indian Railways Way and Works Manual	07/09/76
14	Recovery of Outstanding Dues From the Contractor's Dues in Terms of Clause No 52 of the General Conditions of Contract	30/04/77
15	Irregularity in Ballast Supply Contract	04/08/77
16	Earthwork in Cutting in formation Classification of Soils, Measurement and Checks of Earthwork etc	22/08/79
17	Recovery of Hire Charges for Plant and Machinery Given to Contractors	20/11/79

S. No	Subject in Brief	Letter Date
18	Earthwork Contract -Overpayment to a Contractor	02/07/81
19	Recording of reasons for Acceptance of Work Or Material not confirming to the Original Design Specification or the Approved Sample	05/09/81
20	Earthwork Contract Overpayment to a Contractor	21/11/81
21	Delegation of Powers to IOWs /PWIs in Respect of Measurements.	22/01/82
22	Withholding of Payment of Arbitration Award towards Risk Damages Due to Railway in a Defaulted Contract	28/05/82
23	Extracts From Contractors Ledger	19/06/86
24	Recovery of Cost of Empty Cement Bags from the Contractors	26/08/85
25	Classification of Soil in Cutting for formation	/01/87
26	Preventive Checks Conducted by Vigilance Directorate Railway Board On Ballast Supply and Method for Measurement of Ballast	21/04/87
27	Delegation of Powers to IOWs /PWIs in Respect of Measurements of Open Line Works Where AENs have responsibilities for Track Maintenance and Administration	23/07/87
28	Recording of Measurements of Electrical Open Line and Construction Works	25/08/87
29	Conversion of Security Deposit in Cash into Fixed Deposit Receipts	30/12/87
30	Deduction of Sales Tax From Contractors Bills in Works Contracts	28/05/90
31	Zonal Contracts Limit of Work Orders	20/11/90
32	Measurements of Works involvement of JA Grade officers	05/02/91
33	Acceptance of Standard Security Deposit in Agreements in Case of Contracts for Welding	01/05/91
34	Test Check Measurements by Next Higher Authority	27/10/92
35	Delegation of Powers to IOWs /PWIs for Recording Measurements	23/07/93
36	Payment of Sales Tax On Railway Material	02/11/93
37	Deduction of income Tax At Source	03/04/95

Copy of Railway Board's letter No. 60-AC.II/22/1 dated 8-1-60, to  
GMs/All Indian Railways etc.

.....

Sub: Provisional payments.

-----

A reference is invited to Railway Board's letter No.59- 8(C)/PAC/11/15th Report/36 dated 21-5-59 (Copy enclosed for ready reference) on the above subject. In the concluding portion of this circular, attention was drawn to the already existing position "that no provisional payments to non-Railway persons or parties, other than progress or other payments clearly covered by a valid contract, should be permitted without the prior approval of the Railway Board."

2. It has come to the Board's notice that the foregoing stipulation is open to the interpretation of limiting the discretion of Railway Administrations to make payments even in case such as those covered by para 346-A. It is clarified hereby that this discretion is not in any way reduced or altered by Board's circular of 21-5-59 which was issued in the context of an altogether different type of case as was explained therein. Where there is only a technical objection, as for instance, the contractual quantity/or the date of completion specified in a contract has been exceeded and sanction to the extension of the contract has not been accorded or a supplementary agreement to cover the extra quantity has not yet been formally executed but the Railway's liability itself is clear, provisional payments should be made as hitherto. Such payments will be made on the specific request in each case from the departmental or executive officer of the appropriate level, after taking whatever declaration is necessary from the contractor (viz. that the rate shown in the bill is accepted by him and that he will execute a supplementary entry agreement as may be required by the Administration) and after making any recovery which it may be considered prudent to make from such provisional payments.

3. This has reference to his letter No. Secy. Misc/CE(C) of 13-12-59 to the Board and also disposes of his D.O.letters No. Secy/4833 of the case date as well as his D.O.letter No. Con/Misc. Constn. of 4/5-12-59. A question was also raised in these reference about the part refund of security deposit pending the preparation of final bills. As security deposit is taken for the due fulfillment of a contract (Vide para 1123-E) it is for the Railway Administration to determine, on the merits of each case, what portion of the security deposit need continue to be held by the administration to cover possible loss to the Railway. If delay is anticipated in obtaining the 'no claim' certificate and preparing the final bill etc., the Railway Administration will no doubt consider that portion of the security deposit can safely be refunded, having regard to the consideration that contract rates are likely to rise to the disadvantage of the Railway large sums due to contractors are held up with the Railway for longer periods than is necessary.

Sd/-

C.T. Vennopal, Addt. Member,  
Finance (Railway Board)

**Annexure `C'**

**NO CLAIMS CERTIFICATE.**

I, Sri . . . . .

contractor has no claim against the Southern Railway

Administration for the work. . . . .

Executed by me under Executive Engineer . . . . .

under Special Agreement No. . . . .

Signature of the Contractor.

Witnesses:

1)

2)

## **SOUTHERN RAILWAY**

Head quarters Office,  
Works Branch,  
Madras, 10/24.8.1960.

JOINT CIRCULAR NO.W.149/ dated 24th August 1960.

Ref: Refund of part amount of security deposits  
to contracts.

-----

The following instructions are issued for information and guidance in regard to refund of part amount of security deposits in respect of works contracts in the light of the orders contained in para 3 of Railway Board's letter No. 60.AC.II/22/1 dated 8.1.60 copy enclosed for ready reference. In terms of clause 59 of the General Conditions of the contract (Form CE. 16 in use on this Railways the contract shall become entitled to receive the total amount of security deposit after the completion and at the end of the period of maintenance on producing to Railway the Engineer's final certificate stating that the works have been executed to his satisfaction. Similar clause exist in the standard conditions of contract received with Railway Board's letter No.52/46-7/Part dated 5.12.55 (vide clause 51 (2).

Railway Board have in their letter quoted above stated that if any delay is anticipated in obtaining the "no claim" certificate from the contractor and preparing the final bill etc., Railway Administration will consider what portion of the security deposit can safely be refunded having regard to the consideration that contract rates are likely to rise to the disadvantage of the railway, if large sums due to contractors are held up with the Railway for longer periods than is necessary and that it is for the Railway Administration to determine on the merits of each case what portion of the security deposit need continue to be held by the Railway Administration to cover possible loss to the Railway.

In the light of these instructions, it has been decided that refund of part amount of security deposit can be made in respect of works contracts, subject to the following conditions.

- (1) That the work has been completed in all respects, final measurements have been made and the period of maintenance as stipulated in the contract has also been fulfilled satisfactorily.
- (2) The Engineer's final certificate stating that the works have been executed to his satisfaction is produced.
- (3) A certificate from the Engineer that there are no further outstanding claims of the Railway against the contractor beyond those included in a statement to be furnished by him is produced.
- (4) Period of delay anticipated in making the final payment will be more than 3 months from the date of completion of the works certified by the engineer and the expiry of the period of maintenance as provided for in the contract.
- (5) The portion of the Security Deposit to be refunded should not exceed 90% of the Deposit lying with the Railway after setting off the recoveries due as per the recovery statement referred to in (3) above.
- (6) The total amount of security deposit lying with the Railway.
  - (a) Exceeds Rs. 5000 in respect of contracts executed by the D.S.
  - (b) Rs. 10,000 in respect of contracts executed at Headquarters level.

The receipt of this circular may please be acknowledged.

Sd/-  
for Chief Engineer.

All DS/GS, Dy.CE/CN/MS.  
All DAOs and SAO/CN/MS.  
FA&CAO/for information.



Copy of D.O.No.64/W2/CT/5 dated 18-6-1964 from the Director/Civil Engg., Ministry of Railways (Railway Board), addressed to the General Manager/Western Railway, Bombay and copy to all the General Managers/Indian Railways(Except Western Railways).

\*\*\*\*\*

Sub: Imperative need for correct and concurrent maintenance of original records furnishing the basis of claims against or payments to outsiders.

Ref: Your D.O. letter No. W. 376/O dated 21-5-64 to AMW.

\*\*\*\*\*

The procedure mentioned in para 2 of Additional Member, Finance's D.O. letter No.6/W2/CT/5 dated 2-3-1964 according to which the cross-sections should normally be taken by the AEN himself, is in conformity with para 2930(b) of the Way and Works Manual. The Board, however agree that it may not always be practicable for the AEN to take all the cross-sections himself, particularly in view of the present day heavy workload of the AEN. But the responsibility for correctness of the levels will have to rest squarely on the AEN. He has to ensure to correctness of the levels by personally checking the levels at as many cross-sections as he finds necessary (depending on the competence and reliability of the IOW concerned) and he should sign a certificate on the Level Book that has checked and satisfied himself about the correctness of the levels.

There should be no time lag in plotting the cross sections as indicated in your Railway's circular letter No.W.376/O dated 11-3-1960. The cross-sections should be plotted by IOW or his Assistant. They should be inked and signed by the AEN and the contractor or his authorised representative, and it should not be necessary for the level Books to be sent to the XEN for carrying out the technical check before plotting the cross-sections. There should be the least possible delay in plotting the cross-sections and in obtaining the contractor's signature.

It is proposed to amend para 2930(b) of the Way and Works Manual suitably and a Correction Slip will be issued in due course.

Copy of Circular letter No. 64/W2/CT/5 dated 15-12-1965 from JDCE/Railway Board to the GMs/All Indian Railways, including CLW, DLW/ JCF and RE, the CAO & CE/DBK Railways, Projects/Waltair, the DG.RDSO and Commissioner of Railway Safety/ Meerut.

\*\*\*\*\*

Sub: Imperative need for correct and non-current maintenance of original records furnishing the basis of claims against or payments to outsiders.

\*\*\*\*\*

Further to the instructions issued under D.O. letter of even number dated 18-6-64 on the above subject (copy enclosed) the Railway Board have considered the issue regarding the extent of check of cross sectional levels to be carried out by the AEN for both original ground profiles and finished work on construction projects. It has now been decided to issue the following instructions for check by AENs on Constructions.

- (a) 100% in the case of levels along the centre line of the alignment.
  - (b) Not less than 20% of the remaining levels of the cross sections with the provision that this check should invariably be carried out in cross- sections having heavy cross slopes. The DEN should also give guidance as to the places where this check in to be carried out.
2. Also, in order to safeguard against any mutilation of, or tampering with, the entries in the field books, the following safeguards may be adopted.
- (a) All reduced levels in the field should be recorded in ink or inked before these are checked by the AEN.
  - (b) All corrections in the field book must be initialed by the AEN and no subsequent corrections should be made by any person other than AEN, who while doing so should records reasons for the same.
  - (c) After the AEN has checked the levels, he should record a clear certificate in each field book in the following manner:-

"Certified that I have fully checked the levels along the centre line and not less than 20% of the remaining levels and satisfied myself about the correctness of the levels. The entries checked by me in this respect have been duly initialled by me in the field book"

- (d) It is essential that the contractor or his authorised agent also signs every field book, accepting the correctness of the levels recorded therein;
- (e) Plotting of the cross-sections on graph paper should be done with the minimum possible delay and therefore the field level books should be sent to the office of the XEN immediately for safe custody.
- (f) After plotting of the cross sections on graph paper, the levels should be signed by the XEN, AEN and the contractor.
- (g) In addition to signing each cross sections and field book, the contractor should give a forwarding letter that all cross sections and levels in field book are accepted without any protest.

This disposes of General Manager/Northern Railways letter No. 113/W/77/33/Pt.III dated 31-7-1965.

Sd-/(U.S.Rao)  
JDCE Railway Board

**MINISTRY OF RAILWAYS  
(Railway Board).**

No. 65/WI/CT/41

Dated the 14th June, 1966.

The Chief Administrative Officer & Chief Engineer,  
D.B.K. Railway Projects, Waltair.

Sub: Refund of Security Deposit.

-----

Board have considered the issues raised in your letter and feel that if disputed claims are resolved (even by resort to arbitration where necessary) and where they arise during the execution of works, the kinds of problems envisaged in your letter under reference would normally not arise. Even so, the cases and the extent to which security deposit can be refunded would depend on the merits of each individual case and this discretion has, therefore, been left to the Railway Administration vide Board's letter No. 60./AC.II/22/1 dated 8.1.60.

The presumption made in para 2 of your letter that normally security deposit can be refunded only after due fulfillment of the contract (para 1122-E) and the submission of a no- claim certification by the contractor (Clause 51 of G.C.C.I is confirmed. The Instructions issued in Board's letter dated 8.1.60 were intended to mitigate the hardship caused to contractors in individual cases due to delays in the settlement of final claims.

As regards the interpretation of the provisions relating to tall claims and demands made against the Railway for and in respect of any damage or loss" etc. the matter is under consideration and a further communication will follow in due course.

Sd/- U.S. Rao,  
Joint Director, Civil Engineering  
Railway Board.

-----

Copy of letter Mp/E/187/72 Pt.VIII dated 31/03/67 from the Chief Engineer Construction Central Railway New Administrative Building Bombay addressed to the Dy legal Adviser to the Government of India, Ministry of Law Bombay

Ref: Payment of final bill and refund of Security Deposit

-----

Final bills are prepared after the satisfactory completion of the works in accordance with clause 51(1) of General conditions of Contract. Any recovery to be made from the contract or due to excess issue or consumption of Railway materials, services rendered to the contractors by way of hire of plant and machinery, recovery under Workmen Compensation Act (CI 57 of General Conditions of Contract) and any other recoveries and demand from Income tax, Sales Tax from Central or State Government authorities, are made from the final bills. The total security deposit of a contractor is generally refunded after the maintenance period is satisfactorily completed.

2. Some times it happens that the rate of extra items of work or rate for any claim from the contractor could not be settled before the preparation of the final bill. In such cases, in order that the payment to the contractor are not necessarily blocked, they are permitted to sign final bills with a qualified No Claims Certificate, a sample copy of which is enclosed for your perusal. The practice on this Railway so far been to pass the final bill after obtaining a qualified No Claim certificate and arrange the refund of Security deposit after the maintenance period is satisfactorily completed. After the maintenance period is over the security deposit is also refunded after making sure that nothing is due for recovery from the contractors on account of the maintenance period. The claims of the contractor are subsequently dealt with according to merits of each case.

In accordance with clause 51(2) of the General Conditions of Contract, the security deposit can be refunded only after all claims and demand against the Railway for and in respect of damage or satisfied. The exact legal interpretation of the words Damage or loss in clause 51(2) is not clear. This office is of the view that mentioned in para 2 above and the contractor having given a qualified No Claim Certificate if he has any claim against the Railway, the Railways should not hold up the refund of the Security Deposit, when it is clearly free for refund, merely because he has certain claims against the Railways, genuine or otherwise, as per clause 51(2) of General Conditions of contract. Further this office is of the view that the words "Damage or Loss" in clause 51(2) should be confined to the description and definition under clause 24 of General Conditions of contract. If no recovery is due form the Contractor as per Clause 24 of General Condition of Contract then the Security Deposit should be free for refund. Will it be correct for the Railway to with hold the Security Deposit till all the claims are settled, even though the security deposit may be entirely free from refund.

Your are requested to give your valued legal opinion whether the security depository can be refunded to the contractor after satisfactory completion of the work, the final bill passed for payment and the work maintained properly by the contractor according to the stipulations of the Agreement after all recoveries have been recovered from the contractor.

**Notes in the Ministry of Law, Dept, of Legal Affairs, Bombay.**

The scope and effect of clause 51 of the General conditions of Contract is referred to us. Clause 51 has two sub clauses, one regarding the final payment and the other regarding the repayment of the security deposit. Sub clause (1) states that on the Engineer's certificate of completion in respect of works, an adjustment shall be made and the balance of account based on the Engineer's certified measurements etc. should be made and paid to the contractor subject to two provisos stated therein viz. that the payment is subject to any deductions which may be made under the contract and further subject to the contractor having delivered to the Engineer, either a full account in detail of all claims he may have on the railways or having delivered a no claim certificate. It is thereupon stated that on receipt of such account, the engineer shall give a certificate in writing that such claims are correct, that the whole of the work to be done under the contract had been completed, that they have been inspected by him since their completion etc. On a careful examination of sub-clause (1) it appears there are two conditions, one is that the contract had to be completed and the contractor shall make an account giving his claims therein or a no claims certificate. On receipt of the account giving the details of his claims, the engineer has to give a certificate that such claims are correct and that he has inspected the works and that they have been executed as per the contract etc. and on receipt of such certificate from the Engineer, an adjustment shall be made between the dues and liabilities of the Railways and any balance outstanding will be paid to the contractor and that is known as final payment. On a careful examination of Clause 51 (1) we have a feeling that the payment by the Railways after obtaining a qualified no claim certificate as per annexure to the Deptt. note is not strictly according to clause 51 (1) of the General Conditions of Contract. It appears to us that either the contractor will give an account of his claims pending or give a no-claim certificate and on receipt of such account of claims, the engineer has to either certify that the claim are in order or not in order and once that certificate is given which is known as the Engineer's a certificate of completion, then an adjustment shall be made and a balance struck and the final payment made to the contractor. The analysis of the conditions mentioned in Clause 51 (1) make it clear that there is no via-media between final payment and receipt of no claim certificate.

The question then is regarding repayment of Security deposit. Sub-clause (2) says that the security deposit shall become due and shall be paid to the contractor after expiration of the period of maintenance on which the Engineer shall have passed Certificate of completion. .... Therefore, it presupposes that the Engineer shall have passed on the certificate of completion before the security deposit is to be refunded and the Engineer shall have passed the certificate of completion as per clauses (1).

Only after he had verified the claims if any of the contractor or on receipt of a no claim certificate from the contractor. Sub-clause (2) again has two provisions. Firstly, that all stipulations of this clause have been fulfilled by the contractor and all claims and demands, made against the Railways for and in spite of damage or loss by, from or in consequence of the works have been finally satisfied and the legal proviso says further that in the event of difference maintenance periods, the

expiry therefore, seems to us that the security deposit should only be refunded, firstly after the Engineer shall have issued the certificate after completion as per clause (1) thereof and thereafter the maintenance period is over as per the terms of the tender. This is subject again to any dues to the Railways by way of any damage or loss by the contractor in respect of the contract howsoever arising. It, therefore, seems to us that the procedure followed by the Railways do not appear to be strictly in accordance with the provisions of clause 51 of the General Conditions of Contract in accepting a qualified no claims certificate.

All this appears to be hypothetical discussion of the scope and effect of clause 51 of the General Conditions of Contract. Each case has to be looked into with reference to its own facts. We should be glad if any specific case is referred to us along with the comments of the Financial Adviser so that we may look into the position and give our advice thereon.

Sd/-  
(M.S.Rao)  
Dy. Legal Adviser to the Govt. of India,  
Bombay.

Chief Engineer (Con.), C.Rly/BS  
D.O.No. 608/67-Adv. BOM ft. 11.4.67 Min. of Law.

Copy of letter No.68/W1/CT/30 of 7.8.1968 from the Joint Director, Civil Engineering, Railway Board, New Delhi, to the General Managers, All Indian Railways, including C.L.W. etc. etc.

Sub: Classification of soil for payment of earthwork.

-----

A copy of Paragraph No.3.11 (A) of Efficiency Bureau's study on Arbitration cases is enclosed as Appendix `A' for information and necessary guidance.

-----

Copy of Efficiency Bureau, Railway Board's study No.4/1967 on Arbitration cases on Indian Railway. Paragraph No.3.11 (A).

-----

**(A) Earthwork Classification:**

Disputes have arisen in respect of earthwork contracts, where initial payments were made for a particular classification, and these classifications were later in downgraded to a lower category. In these cases, the contractor's contention was that once they have been paid under certain classification, downgrading of that classification to a lower category by another authority same or other than the one who initially measured it was not acceptable. There have also been cases where the contractors did not accept the classification initially itself. A large number of these cases arose in the earthwork contract on the South Eastern Railway during the early years of the Second plan when the schedules followed by the South Eastern Railway contained as many earthwork classification as 18, with very subtle variations between one and the other, which subtlety perhaps, was very difficult to distinguish in field conditions.

Annexure IV gives the various classifications of earthwork adopted by the South Eastern Railway. The difficulty with such a large number of classifications is that there can always be disputes in regard to the certain variations from one to the other, and in fact even different who may inspect the work after the same is completed, can have difference of opinion. Therefore, it is necessary that the number of classifications should be reduced to a practically workable limit so that filed Engineers may not have any difficulty in interpreting classifications and contractors may not have any scope for dispute on this account.

Subsequent to 1959, the position has been remedied on the South Eastern Railway where the number of earthwork classifications has been reduced to practically workable limits on major earthwork projects. Generally it is suggested that the following pattern of classification might be adopted as a practicable arrangement by the Railways.



### **Embankments:**

- (i) Earthwork by head load from Railway limits in forming embankment, with cinder or ashes.
- (ii) Earthwork by head load from railway limits in forming embankment in ordinary soils which can be dug by phowrah only in all classes of soil other than moorum, kankar, laterite, or soft rock etc.
- (iii) Earthwork by head load from Railway limits in forming embankment with hard soils requiring loosening by pick, with moorum, kankar or pebble or boulder mixed soils etc.
- (iv) Earthwork by head load from Railway limits in forming embankments in soft rocks or other hard soils requiring digging by pick axe or bars.

### **Cuttings:**

- (i) Earthwork in cutting including side drains in all ordinary soils which can be dug by phowrah only i.e., in soils other than moorum, kankar, laterite soft rock, hard rock etc.
- (ii) Earthwork in cutting including side drains in hard soils requiring loosening by pick axe and bars, e.g. in soils like moorum, kankar, or pebble or boulder mixed soils etc.
- (iii) Earthwork in cutting including side drains in rocks which require light blasting.
- (iv) Earthwork in cutting including side drains in soft rock or soils to be dug by pick axe or bar only e.g. hard moorum, hard kankar etc.
- (v) Earthwork in cutting including side drains in hard rock requiring extensive blasting.

In any more or less classifications are required, depending upon the nature of any particular terrain, the Railway can, of course, include suitable categories, keeping in view the practical feasibility of classification in the field, and not merely based on fine distinction given by laboratory samples.

As regards the assessment of quantities of rock, there two practices in vogue.

- (i) Assessing the rock/hard rock from the cross section after the work is completed.
- (ii) Assessing the rock/hard rock quantity from stack measurements with a specified deduction of voids.

The disputes that usually arise are in respect of the rock/hard rock quantities since the rate for these items are considerably higher than those for other items of classification. If the quantities are to be assessed only from the nature of the profiles it sometimes happens, that either isolated boulders or outcrops of hard rock in the centre of the cutting do not get reflected in the measurement. It is, however, a fact that special conditions of contract will cover the specified mode of measurement for the rock/hard rock and that the contractors should have taken care of this aspect while tendering their rates. Therefore, so long as the special conditions of the contract specify the method of measurement, there will really be no reason for the contractors to dispute on this aspect. The exact mode to be adopted can be left to the Railways who make schedules depending upon the circumstances and nature of the terrain; for e.g. in area where no space is available for stack measurements alternative (i) is the only choice. As regards classification of items other than rock/hard rock, this should preferably be done by the nature of soil in the profile.

The question arises in this connection as to what can be a reasonable period in which an authority, higher than the initial recording officer, can reclassify the soils in such profiles based on further inspection. It has to be stated in this connection that the difficulty encountered in excavating a particular soil cannot be gauged with cent percent accuracy, from a profile, if the profile is seen long after its exposure to the weathering effect of the seasons. Therefore, if any inspecting officer wants to classify the soil in a particular formation (whether embankment or cutting) this should be done not later than six months after the work has been excavated. This would also ensure direct settlement of any disputes, if they still arise.

\*\*\*\*\*

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.71/W1/CT/16

New Delhi, the 9th July,1971.

The General Managers,  
All Indian Railways including C.L.W., D.L.W., and I.C.F.

The Director General,  
R.D.S.O., Lucknow.

Sub: Efficiency Bureau Study No.5/1969 - Item 15 wider  
delegation of powers of AIOWs/APWIs in respect of  
measurements.

.....

With reference to Efficiency Bureau's Study No.5/1969 item 15, on the above noted subject, the Board have accepted the recommendation made by the Efficiency Bureau and have decided to modify the delegation of authority to take measurements. Powers for recording measurements for Capital, Revenue or special Revenue works may be delegated to the Engineering staff as under-

(a) Sub Overseers Mistries.

Those holding diploma in Engineering and having more than 3 years service or those not holding diploma but having six years service to be nominated by name by the Divisional Engineer, with 20% test check by the I.O.W.

Upto Rs.10,000/-

(b) Asstt. Inspectors of works/  
Asstt. Permanent way Inspectors.

Those holding diploma in Engineering and having more than 3 years service and to non-diploma holders having by more than 6 years services.

(i) upto Rs.25,000/-  
with 20% test check  
IOWs; in addition  
10% test check by  
AEN where total value  
of work exceeds  
estimated value by  
more than 10%.

(ii) Rs.25,000/- to  
Rs.100,000 with 50%  
check by IOW and 20%  
check by AEN;

(c) Inspectors of Works/ Permanent Way Inspectors

- i. Upto Rs. 25,000/- with 10% check by AEN where total value of work exceeds estimated value by more than 10%.
  - ii. Above Rs. 25,000/- with no limit except for ballast and earthwork sectional measurements; full power with 20% test check by AEN;
  - iii. For ballast, full powers of classification and measurement, subject to a 100% check on the quantity and quality by the AEN.
  - iv. For earth work sectional measurements, full powers, if nominated by AEN on consideration of competency and reliability with check by AEN at his discretion.
- (v) Those in scale Rs. 450-575 may finalise measurements for works upto Rs. 10,000 even where total value of the work exceeds estimated value by more than 10%.

(d) Asstt. Engineers.

Full powers.

It is reiterated that as per provision made in para 2007(a) of the Indian Railways Way & Works Manual, the Assistant Engineer shall be responsible for the correctness of the measurements for all works in his charge. He should ensure that the measurements are made in the specified manner and should either record them himself or have them recorded by the Inspector-in-charge of the work.

(J.K.Mathur)  
Joint Director, Civil Engineering,  
Railway Board.

Copy to F (X) II & E.B.Branches, Railway Board.

.....

**SOUTHERN RAILWAY**

P.B.CIRCULAR NO. 125/73.

=====

No.P(B)356/P/Vo1.VI.

General Manager's Office,  
Personnel Branch,  
Park Town, Madras.3.

Dated: 19-9-1973.

DS(P)MAS, MYS, MDU, OJA, GTL, TPJ, SMW/PER, SMW/GOC,  
Dy.CSTE/W/PTJ, WM/MYSS,WM/EWS/AJJ/, DCOS/GSD/PER, MSD/PER,  
SPS/RPM, DCOS/GOC, ACOS/NGT, MYSS, SCO/RR/MAS, CSO/MSB,  
SOR/S/TPJ, SOR/N/BNC,SOR/MAS, ASO/SIB/MSB, ASO/CUB/MSB, ASO/TPJ,  
MDU, PTJ, GTL, SBC, AW/TPJ, RPF/TC/TPJ, DSTE/W/MAS, PTJ, OJA,  
TEM, GTL, RM/MS, MW/PER, SRTS/TR, PTS/SPC, FA & CAO/MAS (15  
copies), FA & CAO/CN/MS (10 copies), Dy.CAO/W&S/PER, SAO/W&S/GOC  
(4 copies), SAO/CN/BNC, SAO/T/TPJ, SAO/W/TPJ, DAOS, MAS, MYS,  
MDU, OJA, GTL, TPJ, AAO/W&S/MYS, CE/CN/MS and CE/CN/BNC (each  
20 copies for distribution among the various offices under their  
control) CCS/TPJ, Medical Supdt., RH/PER.

Sub : Deduction of Income - Tax at source - Section 194C of the  
Income - Tax Act, 1961 - Deductions from payments made to  
Contractors and Sub-Contractors - Instructions regarding.

=====

A copy of Railway Board's letter No. F(X)I-72/TX-13/5 dated 29-8-1973, is sent  
herewith for information and guidance.

A copy of Board's letters referred to therein, has been forwarded as indicated  
below :

Board's Reference.

Headquarters Personnel Branch's  
Reference, under which circulated

1. No.F(X)I-72/TX-13/5 dated  
23-6-1972

P(B)356/P/Vo1.V. dated 14-8-72.  
P.B.Circular No.165/72.

2. F(X)I-72/TX-13/5 dated  
23-10-1972.

P(B)356/P/Vo1.V.dated 13/20-12/72.  
P.B.Circular NO.236/72.

3. F(X)I-72/TX-13/5 dated - DO -  
25-11-1972.

Encl : 1 letter,  
KRR - 11

FOR CHIEF PERSONNEL OFFICER.

Copy forwarded to: PA to CE/MAS for information and necessary action. 15 Spare copies are sent herewith. Encl: 15 copies.

" Law Officer, MAS for information.

" CPO, Dy.CPI/IA, Dy.CPO/G, All SPOs, All APOs, All Heads of Departments, Office Supdts of All Branches, Head Clerk, Bills, Group I and II, Personnel Branch, COS's Office, PER for information and guidance.

" Office Supdt., Personnel Branch (4 copies) for Gazette notification.

=====

Copy of letter No.F(X)I-72/TX-13/5 dated 29-8-1973, received from the Deputy Director, Finance (EXP), Railway Board, New Delhi, addressed to the General Managers of All Indian Railways, etc.

.....

Sub : Deduction of Income - Tax at source - Section 194C of the Income - Tax Act 1961. Deductions from payments made to Contractors and Sub-Contractors- Instructions regarding.

=====

Ref : Board's letters of even number dated 23-6-1972, 23-10-1972 and 25-11-1972.

=====

The Board have received some references from the Railways seeking clarifications on certain points arising out of the scheme of deduction of Income Tax at source. These points have been examined in consultation with the Ministry of Finance and necessary clarifications are given as under:

## **POINT RAISED.**

1. Should the recoveries effected from the bills for services facilities (rendered by Railways to contractors) like Water Charges Electricity Bills, Hire Charges, for tools and plants, rent for accommodation etc., be taken into account to reduce the gross payment amount for the purpose of deduction of Income-Tax?
2. Would the instructions of Ministry of Finance be applicable to payments made to Contractors in satisfaction of the arbitrator's award?
3. Where the contracts are composite (both works contract and supply contracts) should the value of material supply sold to the Railway be excluded from the taxable amount?
4. In the Case of Civil Engineering Contracts, where the material is supplied free by the Railway, if the contractor uses excessive material, excess is treated as sale outside the contract under the extant instructions Should the value of such excess be included in the taxable amount?
5. The contracts relating to supply of building material, such as bricks, tiles, lines, ballast etc., are termed as 'Works Contract' as distinguished: from 'Stores Contracts'. Inspect of these contracts, whether Income-Tax deductions have to be made.

## **REPLY.**

Tax bill have to be deducted at source from the gross amount without deducting the various charges indicated.

Where the payment is made in satisfaction of an award which has merged into a decree on the rule of the court, there will be no liability for deduction of Tax @ 2% on such payment.

Normally, in the case of composite contract involving work contract as well as contract the provisions will be attracted. However, if the value of the supply portion is distinct and is ascertainable, deduction to the payment for work contract.

Value of the excess material utilized will have to be included in the gross payment and subjected to taxes.

In relation to payments made for merely supplying the materials, the provisions are not attracted and no tax is deductible at source.

6. In terms of para I(vi) of the Ministry of Finance letter No. 275/9/72/-ITJ dated 29-5-72, no deduction will be required to be made if the consideration for the contract does not exceed Rs.5,000/- It is not uncommon that a contractor, who has been awarded contract valuing for more than Rs.5,000/- may also be awarded another contract valuing less than Rs.5,000/- Whether such contracts may be clubbed or not for the purpose of deduction of Income Tax. Also there are a number of group contracts in case of big construction projects in which the same contractor has to carry out number of works for which separate work orders are issued amongst which there may be some individual work orders valuing less than Rs.5,000/- though the total value of contract is much more. What procedure is to be adopted in such cases?

The position was clarified in Ministry of Finance Circular No.93 dated 26-9-1972 (circulated vide Board's letter of even number dated 23-10-1972). Tax is deductible at source only if the consideration for an individual contract exceeds Rs.5,000/- The same will be the position in relation to the payments made to contractor on group contract basis.

\*Please see answer to question No.4 of circular No.93.

7. Where the terms "Gross Payment" includes elements of sales tax, excise duty, custom duty, Insurance Premium under emergency act and freight? If so, whether these elements should be taxed?

The elements of sales tax, excise duty, customs duty, insurance premium and freight included in the gross payment to the contractor but separately ascertainable can be excluded for the purpose of determining the tax deductible at source from the contract receipt.

=====



**'CONFIDENTIAL'**

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.75/W1/CT/2(Earthwork)

New Delhi, 14 May, 1975.

To all concerned as per list.

Sub : Earthwork - payment to contractors on the basis of  
cross Section - Provision of a clause in the special  
conditions of contract.

\* \* \* \*

A case had come to the notice of the Board wherein an over- payment to the extent of about Rs.2.25 lakhs was made to a firm who were awarded a contract for earthwork, in connivance with Railway Officials. During the course of investigations, it was found that the Assistant Engineer in-charge of the work had been making over assessment of workdone by the contractor on a lump sum basis and making running payment to them which resulted in overpayment to them thus leaving scope for the contractor to abandon the contract.

When asked to explain the circumstances under which and over assessment of the work carried out by the firm was made by him, the Assistant Engineer explained that the discrepancy in the quantity was on account of the base settlement wash-out due to rains, facible damage by cultivation of the new bank and extra settlement of the bank itself. He further stated that the soil of the area was also of poor quality being highly compressible and that such types of soil in the formation was bound to have base settlement.

With a view to avoid such recurrences in future the Board after careful consideration have decided that Railways should sufficiently make it clear by providing a clause in the Special conditions of the Contract, that at the time of final handing over of the embankment to the Railway, payment would be made on the basis of final cross-sections only and no extra allowance would be granted to cover any settlement of the earthwork into the natural ground. In other words, the contractors rates should cater for such eventualities also depending on the local conditions.

Receipt of this letter may please be acknowledged.

Sd/-  
(J.K.MUTHUR)  
Additional Director, Civil Engineering  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.75/W1/CT/3

New Delhi, dated 10-7-75.

The General Managers,  
All Indian Railway including CLW,DLW, ICF and  
NTPS (Railways ) at Madras, Calcutta, Bombay and Delhi.

The General Manager,  
Southern Railway (construction)  
Bangalore.

The Director General,  
R.D.S.O. Lucknow.

Sub: Measurement of Earthwork by the AENS

-----

While dealing with a case arising out of CBI's report that the present system of recording lump-sum measurements for running bills supported by a certificate of the AEN leaves room for mistakes both in assessment and computation of quantities - the margin of error being covered only by a 10 deduction from the running bill for 'unfinished work' -the chances of temporary overpayment, deliberate or unintentional cannot be entirely eliminated, the Board have observed as under.

"In large contracts for earthwork it should be made incumbent on the AENS to record at least some rough measurements and in every 4th or 5th bill take actual level of earthwork profile. This would be in the AEN's own interest. In the absence of any measurements and more so in cases where lumpsum quantities are entered in the measurement book, there is no basis in support of the certificate recorded by the AENs, that the quantities paid for are not less than quantities executed by the contractor."

It should, therefore, be ensured that the present practice of the Engineers is not taking actual measurements in the initial stages of work involving earth cutting is not continued any further and hereafter action is taken as per the observation made by the Board.

Receipt of this letter may please be acknowledged.

Sd/-  
(J.E. MUTHUR)  
Addl. Director, Civil Engg.  
Railway Board.

Copy to vig.3 Br. Railway Board (5 copies).

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
RAILWAY BOARD.**

\*\*\*\*\*

No.75 ACII/1/3

New Delhi, dated 12.9.75.

The General Managers,  
All Indian Railways,  
C.L.W., D.L.W. & I.C.F.

Sub:-Test Check by Junior Administrative Grade Officers.

\*\*\*\*\*

Reference Board's letter No. 60ACII/1/11 dated 1.2.1961 on the above subject vide copy enclosed for ready reference. Board have been considering the desirability of extending the scope of test check by Gazetted officers to procedural aspects as well besides covering some items of work already done by the subordinate staff.

2. Board have decided that Junior Administrative Grade Officers of the Accounts Department should carry out a complete test check on the procedural aspects in a selected area of investigation once in three months. The scope of this check should include scrutiny of the detailed working of the procedure, its adequacy in fulfilling the objective and suggestions regarding modifications/improvements required, if any, in order to make the procedure more effective.

3. This item of test check may be included as one of the items to be reported to the Board in the regular Half Yearly Arrears Report by the Railways.

Sd/-  
(T.P.MANI)  
Deputy Director, Finance(A/CS)  
Railway Board.

DA/O above

**SOUTHERN RAILWAY.**

Office of the CE/CN/BNC.

No.W.496/CE/BNC/Policy/Vol.III dated 30-9-76.

XENS/CN/KBPR, SKLR, MAQ, DAY, HUP, ATP, DL/SBC,  
RU GTL and XEN/W&AP/BNC.

Sub: Responsibility of the Assistant Engineer- 20% test check of  
the hidden works -2927(b) of the Indian Railway Way & Works  
Manual.

.....

Copy of Railway Board's letter No.76/W1/CT/54 of 7-9-76 is appended below for strict compliance of the instructions contained therein.  
for CE/CN/BNC.

Copy to: SAO/CN/BNC. with 2 spare copies.

-----  
Copy of Board's Ir.No.76/W1/CT/54 of 7-9-76 to GMs/All Indian Railways.

.....

Sub: Responsibility of the Assistance Engineer 20% test check of  
the hidden works -2927(b) of the Indian Railways Way and  
Works Manual.

.....

It has come to the notice of the Board that Assistant Engineer while test checking measurements are not test-checking 20% of the hidden measurements and are satisfied by having test-checks of 20% of the measurements as a whole on the work. It is clarified that the intention is that atleast 20% of the measurements of hidden work will also be test-checked while complying with the provisions in the said paragraph and a certificate to this effect will be recorded in the Measurement Book as well as in the Contractor's bill.

2. It is also reiterated that the Assistant Engineer while test-checking measurements should also check the quality of the work done so as to ensure compliance with his responsibility as laid down in para 106(a) of the Indian Railways Way and Works Manual.

3. Receipt of this letter may please be acknowledged.

.....

**SOUTHERN RAILWAY.**

Office of the CE/CN/BNC.

No.W.496/CE/BNC/Police/Vol.III dt. 27-5-77.

Copy of letter NO.G.349/GI. dated 17-5-77 received from GM/CN/BNC together with a copy of Board's letter No. 64/W2/CT/63 of 30-4-77 is forwarded to XENS/KBPR, MAQ, SKLR, HUP, ATP, BAY, GTL, RU, XEN/DL/SBC, W&AP/BNC, for information and guidance. This clause should be embodied in all the tenders that are to be invited.

for CE/CN/BNC.

-----  
Copy of GM/CN/BNC letter NO.G.349/GI. dated 17-5-77 addressed to CE/CN/BNC.

Copy of Board's letter No.64/CN/W2/CT/63 dated 30-4-1977 received from Addl. Director, Civil Engg., Railway Board on the above subject is appended below for information and guidance.

Encl: 2.

Sd/-...  
for GM/CN/BNC.

-----  
Copy of Board's letter No.64/W2/CT/63 dated 30-4-1977 received from J.K.Mathur, Addl. Director, Civil Engg., Railway Board, addressed to xxx xxx GM/CN/BNC etc.,

.....

Sub: Recovery of outstanding dues from the contractor's dues in terms of clause No.52 of the General Conditions of contract.

.....

The existing Clause No.52 of the General Conditions of contract was all along being interpreted to mean that it gives full powers to the Railway Administration to effect inter-railway/ interdepartmental recoveries. Legal advice as obtained from the Ministry of Law on the point gave an opinion that the dues from the contractor as provided for in the clause would only mean the accepted dues i.e., dues either accepted by the contractor as correct or dues provided in arbitration or through a Court of Law.

With a view to safeguarding the interests of zonal Railways/Government Departments, the issue empowering the Railways to withhold/recover inter-railway/inter-departmental dues from the dues of the contractor, has been under consideration of the Board and it has now been decided in consultation with the Legal Advisor and Finance that the existing Clause No. 52 should be deleted and revised Clause No.52 and 52-A as per Annexure `A' & `B' (attached herewith) should be substituted in lieu thereof, with immediate effect. Annexure `C' should also be incorporated as Clause 51(2) and the existing sub-clause (2) should be re- numbered as sub-clause(3).

Please acknowledged receipt.

Sd/-....  
(J.K.Mathur)  
Addl.Director, Civil Engg.,  
Railway Board.

**Clause 52: With holding and lien in respect of sums claimed.**

Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the contractor, the Railway shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security, if any, deposited by the contractor and for the purpose aforesaid, the railway shall be entitled to withhold the said cash security deposit or the security, if any, furnished as the case may be and also have a lien over the same pending finalisation or adjudication of any such claim. In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the contractor, the Railway shall be entitled to withhold and have a lien to retain to the extent of the such claimed amount or amounts referred to supra, from any sum or sums found payable or which at any time there after may become payable to the contractor under the same contract or any other contract with this or any other Railway or any other Department of the Central Government pending finalisation or adjudication of any such claim.

It is an agreed term of the contract that the sum of money or monies so withheld or retained under the lien referred to above, by the Railway will be kept withheld or retained as such by the Railway till the claim arising out of or under the contract is determined by the arbitrator (if the contract is governed by the arbitration clause) or by the competent court as the case may be and that the contractor will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as such to the contractor. For the purpose of this clause, where the contractor is a partnership firm or a limited company, the Railway.

shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/limited company, as the case may be, whether in his individual capacity or otherwise.

**CLAUSE 52-A: LIEN IN RESPECT OF CLAIMS IN OTHER CONTRACTS.**

Any sum of money due and payable to the contractor (including the security deposit returnable to him) under the contract may be withheld or retained by way of lien by the Railway against any claim of this or any other Railway or any other department of the Central Government in respect of payment of a sum of money arising out of or under any other contract made by the contractor with this or any other railway or any other Department of the Central Government.

It is an agreed term of the contract that the sum of money so withheld or retained under this clause by the Railway will be kept withheld or retained as such by the Railway till the claim arising out of or under any other contract is either mutually settled or determined by the arbitrator, if the other contract is governed by arbitration clause or by the competent court as the case may be, and that the contractor shall have no claim for interest or damages whatsoever on this account or any other ground in respect of any sum of money with held or retained under this clause and duly notified as to the contractor.

**Clause No.51- (2) Post payment Audit.**

"It is an agreed term of the contract that the Railway reserves to itself the right to carry out a post-payment audit and/or technical examination of the works and the final bill, including all supporting vouchers, abstracts etc., and to make a claim on the contractor for the refund of any excess amount paid to him if as a result of such examination any overpayment to him is discovered to have been made in respect of any work done or alleged to have been done by him under the contract".

.....

No.W.496/P

Headquarters Office,  
works Branch, Madras-3  
Dated 16-8-77

DSs/W/MAS TPJ GTL MYS OJA & MLU

Sub:- Irregularity in ballast supply contract.

.....

A copy of Railway Board's letter No. 77/W1/CT/26 of 4-8-77 is enclosed for information and guidance. It should be ensured that realistic time limit is also fixed in the tender.

Encl. 1  
(Board's letter) papers.

Sd\  
for CHIEF ENGINEER.

Copy to:- CE/CN/MS & BNC for information with a copy of Board's letters.

FA & CAO/MAS for information with a copy of Bd's letter. DAOs/MAS TPJ GTL MYS OJA & MDU for information with a copy of Board's letter.

Copy of Board's letter No. 77/W1/CT/26 dated 4-8-77.

.....

Sub:- Irregularity in ballast supply contract.

.....

As a result of check carried out on one of the Railways a case of ballast supply contract came to the notice of the Board wherein the time was not considered to be the essence of the contract and extension was granted to the contractor without imposing any penalty for delay in supply. Whatever might be the reasons and circumstances justifying this action viz. favourable rates etc., granting extension in a casual way tantamounts to departure from the provisions contained in Clause 17(4) of the General Conditions of Contract.

Also during the check of further ballast supply contract it was found that 2% Income Tax at source was deducted in contravention to Board's circular No. F(X)I-72/TX-13/5 dated [29-8-1973](#). In para-5 of Board's circular, it has been clearly stipulated that payments made for merely supplying the materials, the provisions are not attracted and no tax is deductible at source.



In view of the position brought out, Board desire that the Railway Administrations should ensure that while dealing with such contracts, provisions contained in the General Conditions of Contract and any specific instructions including those contained in Board's circular letter dated 29-8-73 are adhered to strictly.

Receipt of this letter may please be acknowledged.

Sd/- (J.K.Mathur)  
Addl. Director, Civil Engineering  
Railway Board.

## SOUTHERN RAILWAY

Office of the General Manager  
Construction, 18, Miller Road  
BANGALORE - 560 046.

No.G.349/TECH

Dated 12th September, 1979.

CE/CN/MS, CE/CN/BNC, FA&CAO/CN/MS, Dy.FA&CAO/CN/BNC  
Dy.CE/CN/HQ/MS, Dy.CEs/I, II/CN/MS, DGM/CN/BNC,  
Dy.CEs/I, II, III, and IV/CN/BNC, Dy.CE/CN/PCO,  
Secy. to GM/CN/BNC (SPO/I) SPO/II/CN/BNC, SENS/Br.,  
SEN/W, SEN/G/BNC, PA to CE/CN/MS, XENS/P, I, P.II &  
P.III/MS, XENS/CN/PTJ, PCO, MS, NGK, SA, TVC, ERS,  
TCR, XENS/CN/HUP, ATP, SKIR, KBPR, DL/RU, DL/SBC,  
DL/GTL, XEN/CN/BNC, AEN/SBC-MYS/BNC, AEN/CN/MAQ,  
OS/W, G, CC/A, W, BNC, Supdt./Drg. Office/BNC,  
CDA/BNC,

Sub: Earth-work in cuttings in formation- Classification of  
Soils, measurement and checks of earthwork etc.

\*\*\*\*\*

Board's letter No. 78/W4/Genl/o/2. dated 22-8-1979 is appended below for your information, guidance and necessary action.

for General Manager (Construction)  
Bangalore - 560 046.

-----  
Copy of Railway Board's letter No.78/W4/Genl/o/2 dated 22-8-1979 from Addl. Director, Civil Engg., addressed to General Manager, (Engg.) S.E.Rly. and Copied to GM/CN/BNC and other.

\*\*\*\*\*

Sub: Earth-work in cuttings in formation- Classification of  
soils, measurement and checks of earthwork etc.

Ref: Railway's letter No.ER/GEN-CON/64/Pt. 6 dated 26.7.79.

\*\*\*\*\*

The points raised by you in your letter under reference have been considered. There is no ambiguity at all in the instructions issued vide Board's letter of even number dated 14.2.79.

It has been stated in para 1.2 of this letter that as far as possible, the classification of soils should be done by the AEN himself. However, in case the AEN is not present at the site of work, when classification of soils is required to be done, this may be done by the IOW incharge of the work. It has been further stated in para 2.2 of the letter that AEN should conduct test check of the

classification and measurements of soils recorded by the IOW incharge of the work to the extent of atleast 50% reasonably dispersed along the section. The AEN is however free to test check even more than 50% of classification/measurements of soils recorded by the IOW, if he so desires. The AEN, will be fully responsible for the measurements and classifications of soils as recorded by him personally and those test checked by him.

Sd/-  
(Ravinder Singh),  
Addl. Director civil Engg.,  
Railway Board.

No. 78/W4/confidential

Copy of South Eastern Railway's letter No. DR/GEN-CON/Pt.6 dated 26-7-1979.

\*\*\*\*\*

Sub: Earth-work in cuttings in formation- Classification of  
soils measurement and checks of earthwork etc.

Ref: Board's letter No. 78/W4/Genl/O/2 dt. 14.2.79.

\*\*\*\*\*

In para 1.2 of Board's letter referred to above it has been mentioned that the Assistant Engineer should get the reasonable- ness of the classifications of soils done by the IOW-checked by himself at the earliest opportunity. It also says that the classification of soils, as far as possible, should be done by the Assistant Engineer. From this it is clear that the responsibility for cent percent classification of the soils is that of the Assistant Engineer.

2. In para 2.2 of the above Board's letter it has been mentioned that the AEN will conduct a test check of the classification at least to the extent of 50% reasonably dispersed along the section. This provision is contrary to what is indicated in para 1.2 of the letter.

3. Under the above circumstances it may kindly be clarified as to whether the Assistant Engineer is required to do cent percent classification or he should do classification to the extent of only 50% as per para 2.2.

Sd/-  
M.Vishnumoorthy  
Addl.Chief Engineer (Genl.)  
for General Manager (Engg.).

## **SOUTHERN RAILWAY**

Office of the CE/CN/BNC

No.W. 496/CE/BNC/Policy /Vol.IV

Dt: 2-1-80

XENs/CE/SKLR, KBPR, MAQ, BNC,  
HUP, ATP, DL/SBC, GTL and RU .

Sub: Recovery of hire charges for plant and machinery given  
to contractors.

Copy of Railway Boards letter No.64 /W2/CT/5 of 20.11.79 is appended below for your information and necessary action.

Encl: As above.

Sd/-  
for CE/CN/BNC

Copy to : SAO/CN/BNC

- " AEN/ST for taking necessary action in regard to fixation of hire charges as contemplated in the above Board's letter.
  
- " CD/E for necessary action. It should be ensured by him that special clause as envisaged in the Board's letter is incorporated in all the tender schedules for works for which tenders are called for by this office. Encl: 3 spare copies.

Copy of letter No.64/W2/CT/56 dt. 20.11.79 from the Railway Board to the GMs, All Indian Railways and others.

Sub: Recovery of hire charges for plant and Machinery given  
to contractors.

Please refer to Board's circular letter of even number dated 27.3.1967 on the above subject, inter-alia laying down therein the method for calculating the hire charges for the Railway's plant and Machinery given to the contractors for use on works.

The Board desire that it should be ensured that hereafter the hire charges for the Railway's plant and machinery to be realised from the contractor, in case any such plant and machinery may be given to the contractor for use on the work being executed by him, should be decided upon in advance in consultation with the Finance and incorporated in the special conditions of contract for the plant and machinery usually hired out to the contractors. These hire charges should be worked out adopting the principles as given in the aforesaid Board's letter of 27.3.1967 but instead of taking the book value, the present day market

value of the plant and machinery should be taken into account. The present day market value of various types of machinery and plant (irrespective of `make) may be ascertained in the month of April every year and the hire charges fixed on the basis of this market value adopted on the Railway for the whole year (i.e. from 1st April of the particular year to 31st March of the following year). All other conditions as specified in Board's letter of 27.3.1967 will remain in force . The tender conditions should also provide that it will be discretionary on the part of Railway whether or not to hire the plant and machinery such as Vehicles, the hiring of which has been separately banned by the Board should be included in the tender conditions and this ban will continue to apply. This would enable a fair appreciation by the tenderers who will be able to quote their rates with more precise knowledge. This will also enable the Railway administration to ensure prompt recovery of hire charges due from the contractors.

The receipt of this letter may please be acknowledged.

(Hindi version will follow)

## ANNEXURE "A"

Copy of Rly.Boards letter No.64/W2/CT/56 dt.27-3-67 addressed to the General Managers, All Indian Railways etc.

Sub: Recovery of hire charges for plant and Machines given to contractors.

-----

It is observed that there is no uniform practice on the different Railways in respect of hire charges leviable on con- tractors for hire of engineering plant and equipment, in terms of clause 3 of the standard form of Agreement at Annexure - I to chapter XXXV of the way and works manual. The Board have therefore considered this matter and decided that the hire charges should be calculated on the following basis.

a) The cost of the plant for the purpose of calculating the hire charges shall be its book value plus freight and all other incidental charges, to which supervision charges of 12% on total cost will be added.

b) The hire charges per annum will be calculated at the following rates on the cost of the plant as per (a) above.

- i) Interest on the capital cost at the ruling rate of dividend payable by the Railways to the General Revenues.
- ii) Ordinary repairs and maintenance charges @5%
- iii) Special repairs and maintenance charges @ 10%
- iv) Depreciation charges at the rates mentioned in para 3505 of the way and works Manual.
- v) An additional 10% on the total of (i) to (iv) above to meet contingencies.

2. The hire charges per day shall be arrived at by dividing the annual hire charges vide (b) above by 250, which shall be the assumed number of working days in a year for this purpose. These hire charges will be payable from the day the plant is handed over to the hirer, to the day it is returned by him to the Railway Administration. However, during this period, if the plant remains out of order for reasons beyond the control of the hirer or is sent for periodical overhaul, such periods shall not be counted for levy of hire charges provided certificate to that effect is given by the "Engineer".

3. The receipt of this letter may please be acknowledged.

**ANNEXURE "B"**

**AIR COMPRESSOR 210/250/260/265 CFM.**

**DATA OF HIRE CHARGES**

	<b><u>Rs.</u></b>
I (a) Book cost (i.e. original purchase cost of plant.	41852.00
(b) Add 7% freight and Incidental charges	2929.64
	-----
(c) Therefore cost of plant	44781.64
(d) Supervision charges at 12%	5597.70
	-----
Total cost	50379.24
	-----
II Interest charges at 6% p.a. on the capital cost $50379 \times 6$	3022.74
----- 100	
III Ordinary repairs and maintenance at 5% p.a. $50379 \times 5$	2518.95
----- 100	
IV Special repairs and maintenance at 10% p.a. $50379 \times 10$	5037.90
----- 100	
V Depreciation charge at 16% p.a. $50379 \times 16$	8060.64
----- 100	-----
	18640.23
VI Add 10% for contingencies	1864.02
	-----
	20504.25
	-----

VII Cost of operation:

a)	Driver skilled in scale	Rs 260-400	3960.00
b)	Attendant in scale	196-232	
c)	Watchman in scale	196-232	
d)	DA for above for 11 months		360.00
e)	Leave salary for the above at 11% of pay (Rs 3960)		435.60
f)	PF Bonus and gratuity at 12% of pay plus leave salary	(Rs 4395.60)	549.45
g)	TA for 250 days for items		2062.50
h)	Incidental charges at 10% of pay		396.00
i)	Construction Allowance at 20% of pay		792.00

8555.55

VIII Supervision charges at 12% on item VII

1069.44

IX Total of items II to VIII

-----

30129.24

-----

Rate per Year                      Rs 30129/-  
Rate per day    30129  
                              ----- - 121/-  
                              250



**ANNEXURE 'C'**

**AIR COMPRESSOR**

**REVISED DATA FOR HIRE CHARGES**

**I COST OF PLANT AND MAINTENANCE:**

**Rs**

Book cost (i.e. originals purchase cost of plant	41852.00
Add 7% freight and Incidental charges	2929.64
	-----
Therefore cost of plant	44781.64
supervision charges at 12 %	5597.70
	-----
Total Cost	50379.34
	-----
Interest charges at 6% p.a. on the capital cost	
$50379 \times 6$	3022.74
-----	
100	
Ordinary repairs and maintenance at 5% p.a.	
$50379 \times 5$	2518.95
-----	
100	
Special repairs and maintenance at 10% p.a.	
$50379 \times 10$	5037.90
-----	
100	
Depreciation charge at 16% p.a.	
$50379 \times 16$	8060.64
-----	
100	18640.23
	1864.02
Add 10% for contingencies	-----
	20504.25
	-----

**II COST OF OPERATION:**

Driver skilled in scale	Rs 260-400	3960.00	
Attendant in scale	196-232		
Watchman in scale	196-232		
DA for the above for 11 months		360.00	
Leave salary for the above at 11% of pay(Rs 3960)		435.60	
PF Bonus and gratuity at 12% of pay plus leave salary (Rs 4395.60)		549.45	
TA for 250 days for items 2062.50			
Incidental charges at 10% of pay		396.00	
Construction Allowance at 20% of pay		792.00	
			8555.55
supervision charge at 12% on item II			1069.44
			-----
			9624.99
			-----

**III HIRE CHARGES TO BE RECOVERED:**

$$\begin{array}{r} P \times 20504.25 \\ \text{-----} \\ 365 \end{array} \quad + \quad \begin{array}{r} Q \times 9624.99 \\ \text{-----} \\ 250 \end{array}$$

P being the No. of days the plant worked 8 working hours per day.

Q being the No. of days the plant was in contractor's custody excluding the days the plant was out of order or under overhaul.

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)**

NO. 75/W1/CT/3.

New Delhi, dated 2-7-1981.

The General Managers,  
All Indian Railways, including DLW, CLW ICF,  
and MTP (Railways) at Calcutta, Madras, Bombay and Delhi.

The General Managers (Construction)  
S. Railway /Bangalore and N.F. Railways / Gauhati.

The General Manager,  
Wheel and Axle Plant, Bangalore.

The Director General,  
R.D.S.D. Lucknow.

Sub: Earthwork contract-Development to a contractor.

----

A case has come to the notice of Board where a series of lumpsum on account payments in an Earthwork contact were made over a fairly long period to the contractor by the AEN. When final measurements were taken, it was revealed that overpayment had been made to the contractor.

In this connection attention is invited to the office Circular letter No. 75/W1/CT/3 dated 10-7-75, copy enclosed for ready reference, wherein it has been made obligatory on the AEN, that he should record at least some rough measurements in support of the lumpsum payments, in every 4th or 5th bill, he should take actual level of earth work profile to safeguard against making any overpayments. Board wish to reiterate the instructions already existing on the subject in the Engineering code para 1226 and the aforesaid circular.

3. In the same case, the contractor abandoned the contract before completion of the work. When the issue of overpayment was taken up by the Audit, the main defence of the railway saw that it had been caused by subsidence of high bank, washout due to rains, and having of ground near the toes of the bank. In this connection, attention is invited to Board's confidential letter No.75/W1/CT/2 (earthwork) date 14-5-75 copy enclosed for ready reference, wherein it has been pointed out that Railway should provide a clause in the special conditions of contract to the effect that at the time of final handing over of the embankment to the Railway, payment would be made on the basis of final cross sections only and no extra allowance would be granted to cover any settlement of the earthwork. In the face of these instruction, the defence of the Railway in this case was not tenable. Board wish to reiterate the existing instructions in the matter.

4. Finally, even though the overpayment to the contractor in this case had come to the notice of the Railway administration in June, 1971 and the extra expenditure on account of the risk contract had become known in November, 1973 , the Railway initiated active steps for recovery of the amount from the contractor only in May,1975. A suit was filed against the contractor only in 1977. Board have taken serious view of such delays in the case and desire that where a recovery is to be made from the contractor, the case should be perused to its logical conclusion with abundant caution, diligence and expedition.

5. The receipt of this letter may please be acknowledged.

(Hindi version will follow).

Sd/-  
(N.H.Goyal)  
Joint Director (works),  
Railway Board.

No.75/W1/CT/3.

New Delhi, dated 2-7-1981.

Copy to:

1. The A.D.A.I.(Railways). New Delhi (with 40 spare copies).
2. The FA & CAOs/All Indian Railways.
3. The Director Audits/All Indian Railways.

Sd/-  
(N.H.Goyal)  
Joint Director (works),  
Railway Board.

## SOUTHERN RAILWAY

No.W/496/CN/CE/Policy/Vol.IV/ office of the CE/CN/BNC  
Dated: 28-9-1981.

XENs/CN/SKLR, KBPR,MAQ, HUP.

Copy of Railway Board's letter No.81/71/CT/20 (p) dt.5.9.81 is appended below for your information and guidance,

Sd/-  
for CE/CN/BNC

Copy to: Dy.CE/CN/I, II, III & IV, SEN/P1  
and G ACE/Survey /BNC ( 5 copies).

-----  
Copy of RI.Bd's letter NO.81/W1/CT/20(P) of 5.9.81 addressed to  
GM/CN/BNC etc.,

Sub: Recording of reasons for acceptance of work or material not  
confirming to the original design, specification or the  
approved sample.

The CVO have recently investigated and reported a case in which the AEN concerned on one of the Railways rejected the ballast supplied by the contractor as the same did not conform to the approved sample in regard to the colour of the stone. The approved sample was dark gray in colour whereas the stone supplied by the contractor was wheatish. However, subsequently on representation by the contractor, the stone was passed by the DEN as the same was found to confirm to the normal standard of hardness and other requirements. But no formal decision was, however, recorded as to whether acceptance of the ballast supplied which was not fully in accordance with the approved sample would involve any reduction in the rate approved for the material and any reduction was warranted before the material could be accepted.

The Board have decided that under such circumstances where work or material being accepted is not fully in accordance with the original design; specifications of the approved sample, a conscious decision should invariably be recorded by the competent authority; whether or not such a change would call for revision in the approved rate and reductions in rate should be made where warranted.

The receipt of this letter may please be acknowledged.

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)**

NO.75/W1/CT/3

New Delhi, dated 21-11-1981.

The General Managers,  
All Indian Railways, including CLW,DLW,ICF and  
MLP (Railways) at Calcutta, Madras, Bombay and Delhi

The General Managers (construction)  
Southern Railway/Bangalore and N.F.Railway/Guwahati.

The Director General,  
R.D.S.O./Lucknow.

Sub: Earth work contract - overpayment to a  
contractor.

Ref: Board's letter No.75/W1/CT/3 dated 2-7-1981.

Please insert the word "and" between the words "lump-sum payment" and "in" as appearing in 5th line of para 2 of Board's letter referred to above. Para 2 of Board's letter would now read as under:-

"In this connection attention is invited to the office circular letter No.75/W1/CT/3 dated [10-7-75](#), copy enclosed for ready reference wherein it has been made obligatory on the AEN, that he should record atleast some rough measurements in support of the lumpsum payments, and in every 4th or 5th bill, he should take actual level of earthwork profile to safeguard against making any overpayments. Board wish to reiterate the instructions already existing on the subject in the Engineering code para 1226 and the aforesaid circular"

The receipt of this letter may please be acknowledged.

Sd/-  
(Gauri Shankar)  
Director,Works

No.7/W1/CT/3.

New Delhi dated 21-11-1981.

Copy to:

1. The A.D.A.I. (Railways), New Delhi,(with 40 spare copies).
2. The F.A. & C.A.O.s/All Indian Railways.
3. The Director, Audits/All Indian Railways.

Sd/-  
(Gauri Shankar)  
Director,Works

Copy of letter No.71/W1/CT/16 dated 22-1-1982 from the Director, Civil Engineering, Railway Board, Govt. of India Ministry of Railways , New Delhi to the General Managers/All Indian Railways.

Sub: Delegation of Powers to IOWs/PWIs in respect of measurements.

-----

Powers for recording measurements for Capital Revenue and special Revenue works etc, for Inspectors of works of Open Line/Permanent Way Inspectors were prescribed in Board's letter NO.71/W1/CT/16 dated **8th July, 1971**. Delegation of powers for recording measurements of Construction Projects and Special Works by IOWs/PWIs were prescribed in Board's letter No. 71/W1/CT/16 dated 21st April ,1972.

In supersession of the instructions contained in the above letters the delegation of powers for recording measurements by IOWs and PWIs will now be as under:-

(A) Open Line Works where Assistant Engineers have responsibility for track maintenance and administration

**OPEN LINE Mistries:**

- (a) Those holding Sub - Overseers/diploma in Engineering and having more than 3 years service or those not holding diploma but having 6 years service to be nominated by name by the Divisional Engineer with 20% test check by the IOW. Upto Rs.10,000
- (b) IOWs & PWIs in Grade .III (Rs.425-700 Scale).
- Those holding diploma in Engineering and having more than 3 years service and to non diploma holders having more than 6 years service.
- (i) Upto Rs.50,000/- with 20% test check by AEN where total value of work exceeds the estimate value by more than 10%
- (ii) Rs. 50,000/- to One lakh with 50% test check by IOW and 20% check by AEN
- (c) Inspectors of Works/Permanent Way Inspectors:  
(Grade II & Grade I & Shop superintendents- Scale Rs. 500-750 & 700-900 & 840-1040).

(i) Upto Rs.50,000/- with 10% check by AEN where value of work exceeds estimated value by more than 10%

(ii) Above Rs. 50,000/- with no limit, except for pitching stones and earth work sectional measurements; full powers with 20 test check by AEN.

(iii) For ballast and pitching stones , full powers of classification and measurement, subject to 100% check of the quantity and quality by AEN.

(iv) For earthwork sectional measurements, full powers, if nominated by AEN on consideration of competency and reliability with 10% by/ upto Rs.50,000/- and 20% check by AEN beyond Rs.50,000/-

(v) Those in scale Rs. 700-900 and 840-1040 may finalise measurements for works upto Rs.10,000/- even where total value or the work exceeds estimated value by more than 10%

(B) Construction - Projects and special works:

Particulars	Powers delegated to IOWs & PWIs
(a) Earth work in banks and cuttings.	Detailed instructions Contained Board's letter NO.64/W2/CT/5 dated 15-21-65 are to be followed in full (Copy enclosed)
(b) Ballast and pitching stone	No Powers.
(c) All other works.	(i) For works upto the value of Rs. 3 lakhs subjects to 20% check by AENs  (ii) For works from Rs.3 lakhs to Rs.10 lakhs subject to 50% check by AENs.

It is reiterated that as per provision made in para 2927 (c) of the Indian Railways Way and works Manual, the Assistant Engineer shall be responsible for the correctness of the measurements for all the works in his charge . He should ensure that measurements are made in the specified manner, and should either record them himself or have them recorded by the Inspector - In Charge of the works to the extent delegated above.

Receipt of this letter may please be acknowledged.

(Hindi Version will Follow)



**Director (Accounts)**

**Government of India  
Ministry of Railways  
(Railway Board)**

DO No.75/RS(G) /775

New Delhi 110 001.  
May 28,1982

My dear Rajan,

Kindly refer to your D O letter No.FC/CN/Misc/II dated 13th May 1982 addressed to F C regarding provisional withholding of payment of arbitration awards towards the risk damages due to the Railways in a defaulted contract. We would not like to deal with the issue raised in your D O on grounds of morality, which is increasingly becoming a one sided game played at the cost of public exchequer. In fact, we have already exchanged our approach to the proof of recovering railway dues and authorised the Railways to recover freight dues from traction bills of the state Electricity Boards etc. You might recall that an indication to this effect had been given by the F C in the FA & CAOs' conference.

We are also of the view that it would not be correct to make a distinction between the moneys due to a contractor in satisfaction of arbitration award and those due to him against supplies of materials. Both are good moneys from the contractors point of view. If the Rlys. can with hold the latter provisionally, there should be no hesitation in withholding the former and in either case the railways have to be guided by the instructions contained in para 2(ii) of Board's letter of even number dt.25.6.75 issued after Supreme court's judgement in the Air Foam's case. I may , however and a note of caution here. The pros and cons of withholding moneys payable in satisfaction of arbitration awards will have to be weighed very carefully before taking such a step. It appears that in the case before you, arbitration award has neither been converted into a degree nor does the award carry a stipulation of payment of interest in the event of its non satisfaction beyond a period of 60/90 days . Both are common practices on some of the Railways, which render provisional withholding of payment of awards a very costly proposition. It is therefore , generally not taken recourse to except purely on considerations of financial prudence . You will also appreciate that a matter like this cannot be legislated for but, each individual case has to be decided keeping in view the totality of circumstances.

This letter issues with the approval of F.C.

With regards,

Yours sincerely,  
Sd/-

-----  
-----

Southern Railway ,Madras.

**SOUTHERN RAILWAY**

NO. W.496/CE/BNC/Policy /Vol .V.

Office of the CE/CN/BNC  
Dt. 8-7-95.

XENS/CN/BNC/,HUP,ATP,CTA,DL/GTL and (M.H.) /BNC

Dy. CE/CN/MYS.

Sub: Engineering code para 1340-E, charges for supply of contract certificate or extract from contractor's Ledger.

-----

Copy of the following is forwarded herewith for necessary action.

Sd/-  
for CE/CN/BNC

copy to: SAO/CN/BNC  
" CE/CN/MS

-----  
Copy of Railway Boards letter No.85/W1/CT/19(p) of 19.6.1986 addressed to GMs All Indian Railways etc.,

Sub: Engineering code para 1340-E, charges for supply of contract certificate or extract from contractor's Ledger.

-----

According to Para 1340 of the Indian Railways Code for the Engineering Department (Revised Edition -1982) a contractor requiring a copy of his contract certificate or an extract from his account in the contractor's Ledger has to be charged a sum of Rs.10/- for the same. As the rate of Rs.10/- for supplying such information was fixed a decade ago and there has been many fold increase in the price of printing materials and labour since then, the matter has been considered by the Ministry of Railways (Railway Board) in consultation with the Finance Directorate. It has been decided that hence forth such information should be furnished/supplied at a charge of Rs.50/-

2. As this supersedes the existing provision of para 3140 -E (Indian Railways Engineering Code, Revised Edition-1982) of charging Rs .10/- for supply of such information, necessary correction slip to this effect will follow.

3. Receipt of this letter may please be acknowledged.

Sd/-  
(Ashok Kumar)  
Addl.Director, civil Engg.  
Railway Board.

## SOUTHERN RAILWAY

NO. W. 496/CN/BNC/ Policy Vol. V.

Office of the CE/CN/BNC

Dated : 28-4-1986

Dy.CE/CN/MYS

XENs/CN/CTA, BNC, HUP, ATp, HM.Rly/BNC,  
and DL/GTL.

Sub: Recovery of cost of empty cement bags from the  
contractors.

-----

A copy of letter No. 83/W6/MC/5 dated 26.8.85 received from Addl. Director, Civil Engineering Railway Board, New Delhi on the above subject is appended below for information, guidance and necessary action.

As regards to the rate at which the cost of empty cement bags to be recovered from the contractors will be advised to you shortly

Sd/-  
for CE/CN/BNC

---

Copy To:- AEN/ST/BNC. He will please advise all XENs the rate at which the cost of empty cement bags to be recovered from the contractors contemplated in the Board's letter.

Copy of Addl. Director Civil Engineering Railway Board New Delhi letter No. 83/W6/MC/% dt. 26.8.85 addressed to all GMs & CEs.

Sub: Recovery of cost of empty cement bags from  
the contractors.

-----

On the basis of the replies received from the Railways to Board's circular of even number dated 8.5.84 on the above subject, it is decided that - "The empty cement bags for the supply of cement by the Railway shall be the property of the contractor and the cost of the same shall be recovered at the rate to be fixed by the Railways. The Railway may fix the price of empty cement bags on realistic basis in consultation with the Associate Finance and review it after 2-3 years.

Incidentally, it is mentioned for the guidance of the Railways that the resale price of serviceable second hand gunny bags was fixed last by cement controller during June 1982 @ Rs. 134.18 for 100 empty gunny bags.

The Railway should, however, reserve its right to take empty bags which are in good condition for its own use.

Sd/-  
(ASHOK KUMAR)  
Addl. Director Civil Engineer  
Railway Board

**Government of India/ Bharat Sarkar  
Ministry of Railways/Rail Mantralaya  
(Railway Board)**

No. 81-BC- Railways/4

Dt. -- 01.87.

The General Managers,  
All Indian Railways.

Sub: Classification of soil in cuttings for formation.

-----

In paragraph 11 of the Advance Report of C.A.G. on Railways for the year 1980-81, a case has been mentioned where on one Railway, though the existence of laterite rock in the area was known through the engineering and geological survey reports, tenders for earthwork were invited and finalised on the basis of 2-tier classification i.e. providing for two rate first for all soils other than rock requiring blasting and the second for all rocks requiring blasting. The Audit has pointed out that during execution of the contract, the contractor complained of under-classification of earth work in case of first item and in order to accommodate contractors demand for payment at higher rate for laterite, the Railway Administration introduced an intermediate classification all rocks other/rocks requiring blasting at a rate higher than the first item.

The Railway Board have carefully considered the matter and desire that the tender schedules should be prepared after very thorough examination of the conditions, taking into account the types of soil and rocks that are required to be excavated to avoid the necessity of introducing new item/s by negotiation after contracts are finalised.

Please acknowledge receipt.

Sd/-  
(S.V.Salelkar)  
Executive Director (Works)

## SOUTHERN RAILWAY

No.W.496/CE/CN/Policy/Vol.VI

Office of the CE/CN/BNC  
Dated 13-7-1987.

XENS/CN/BNC, HUP,MYS & DL/GTL

Sub: Preventive checks conducted by vigilance Directorate,  
Railway Board On ballast Supply and method for  
measurement of ballast.

-----

Copy of Railway Board's letter No. 87/W1/CT/14 of 21.4.1987 is appended below.

Please advise by return, the procedure for measurement of ballast being followed in your jurisdiction.

Sd/-  
for CE/CN/BNC

Copy of Railway Board's letter No.87/--/CT/14 of 21.4.1987 addressed to All GM's etc..

During preventive check conducted by vigilance Directorate of Railway Board on ballast supply it has been found that no uniform method of measurement of ballast is being followed on the zonal Railways. Most of the railways have not laid down any procedure and AEN/Subordinates are using their own methods which sometimes results in wrong computation of gross volume. In one of the Railway's the method being followed is as under:-

$$\frac{L1=L2}{-----} \times \frac{B1=B2}{-----} \times \frac{B1+B2+B3+B4}{-----} = \text{Gross Volume of the stock.}$$

2                      2                      4

- Where:
- (i) L1 and L2 are the average length of bottom and top on both sides respectively.
  - (ii) B1 and B2 are the average length of bottom and top on both sides respectively.
  - (iii) H1,H2,H3,H4 are the heights on 4 sides.

Board desire to know the procedure for measurement of ballast being followed on your railway.

Your suggestions/recommendations in this regard may also please be furnished early to enable the Board to issue a detailed instructions so that a uniform procedure of measurement of ballast is followed on all the railways.

Sd/-  
Joint Director Civil Engineering  
Railway Board.

**SOUTHERN RAILWAY**

Headquarters office  
Works Branch,  
Madras-3

No.W.496/P

DRMs(W)MAS PGT TVC SBC MYS TPJ & MDU

Sub:- Delegation of powers to IOWs/PWIs in respect of measurements of Open Line works where AENs have responsibilities for track maintenance and Administration.

----

A copy of Railway Board's letter No. 71/WI/CI/16 dt.23.7.87, on the above subject, communicating revised delegation of powers to IOWs/PWIs in respect of recording measurements of open line works where AENs have responsibilities for track maintenance and administration is enclosed for information and guidance.

-----  
Copy of Board's letter No.71/WI/CT/16 dt.23.7.87 to All G.M.s and etc.

---

Sub:-Delegation of powers to IOWs/PWIs in respect of measurements of Open Line works where AENs have responsibilities for track maintenance and Administration.

----

In supersession of the instruction contained in Para(A) of Board's letter of even number dt. [22.1.1982](#), the delegation of Powers for recording measurements of Open Line works where AENs have responsibilities for track maintenance and Administration for capital, Revenues and Special Revenue works etc. by IOW's and PWIs has been revised and may please be substituted as per Annexure enclosed herewith.

It is reiterated that as per provision made in para 2927(c) of the Indian Railways way and Works manually, the Assistance Engineer shall be responsible for the correctness of the measurements are made in the specified manner, and should either record them himself or have them recorded by the Inspector Incharge of the works to the extent delegated as per the Annexure enclosed.

The other instructions contained in the existing instructions of even number dt.22.1.1982 as amended on 8.3.85 and 16.1.1986 remains unchanged.

Receipt of this letter may please be acknowledged.

## ANNEXURE

(A) Open Line works where Assistant Engineers have responsibility for track maintenance and Administration.

### Extant Order

(as per Board's letter No. 71/W1/CT/16 dt.22.1.82)

#### 1.Sub Overseers Mistries:

Those holding Diploma in Engg.and having more than 3 years service or those not holding diploma but having 6 years service to be nominated name by DEI with 20% test check by IOW.

Upto Rs.10,000/-

#### 2. IOW/PWIs in Grade Rs.425-700

Those holding Diploma in Engg. with more than 3 years service and non holding Diploma with more than 6 years service

- (i) Upto Rs.50,000/- with 20% test check by IOW in addition 10% test check by AEN where total value of work exceeds the estimated value by more than 10%
- (ii) Rs.50,000/- to Rs.1 lakhs with 50% test check by IOW and 20% test check by AEN

### Revised Orders

#### 1. Sub Overseers Mistries:

Those holding Diploma in Engg.and having more than 2 years service or those not holding diploma but having 6 years service to be nominated by name by DEN with 20% test check by IOW.

Upto Rs.25,000/-

#### 2. IOW/PWIs in Grade Rs.425-700

Those holding Diploma in Engg. with more than 3 years service and non Diploma holders with more than 4 years service whom DEN or DY.CE has tested and certified fit for the same.

- (i) Upto Rs.1 lakh with 20% test check by Inspector incharge in addition 10% test check by AEN where total value of work exceeds the estimate value by more than 10%
- (ii) Rs.1 lakh and above but less than Rs.2 lakh with 50% test check by IOW and 20% test check by AEN

- |  |  |
|--|--|
| 3. Inspectors (IOW/PWI/Shop Supdts.) in Gr.Rs.550-750 and 700-900 and 840-1040   | 3(a) Inspectors (IOW/PWI/Shop Supdts.) in Gr.Rs.550-750 and 700-900 NOT HOLDING INDEPENDENT CHARGE   |
| 1. Upto Rs.50000/- with 10% test check by AEN where total value of work exceeds estimated value by more than 10%   | i) Upto Rs.1 lakh with 20% check by Inspector In charge in addition 10% test check by AEN where value of work exceeds estimated value more than 10%  |
| ii) Above Rs.50,000/- with no limit except for Ballast pitching stone and earth work sectional measurement, full powers with 20% test check by AEN   | ii) Above Rs.1 lakh with no limit except for the ballast, pitching stone and earth work sectional measurement full powers with 20% test check by Inspector in charge of work test check by AEN |
| (iii) For ballast and pitching stone, full powers of classifications and measurement, subject to 100% check on the quantity and quality by AEN   | (iii) For ballast and pitching stone full powers of classification and measurement subject to 100% check of quality and quantity by AEN.   |
| (iv) For earthwork sectional measurement, full powers, if nominated by AEN on consideration of competency and reliability with 10% check by AEN upto Rs.50,000/- and 20% check by AEN beyond Rs.50,000/- | (iv) For earthwork sectional measurement full powers if nominated by AEN on consideration of competency and reliability with 10% test check by Inspector incharge and 10% test check by AEN.   |



(v) Those in the scale Rs.700-900 and Rs.840-1040 may finalise measurements for work upto Rs.10,000/- even where total value of the work exceeds estimated value by more than 10%

3(b) Inspectors in old grade (Rs.550-750 & 700-900 and 840-1040) HOLDING INDEPENDENT CHARGE

(i) Full powers except for ballast pitching stone and earthwork, sectional measurements with 20% test check by AEN

(ii) For ballast and pitching stone full powers of classification and measurement subject to 100% check on quality and quantity by AEN

(iii) For earthwork sectional measurements, full powers if nominated by AEN on consideration of competency and reliability with 20% test check by AEN

(iv) They may finalise measurements for works costing upto Rs.25,000/- even where total value of work exceeds estimated value by more than 10%

An advance correction Clip No.36-E dated 13-8-87 adding the existing Sub-para (iii) of Sub-para (iv) below the para 1315 of the Indian Railways Code for the Engineering Department (Revised Edition) 1982.

-----

Para 1315(iv)- Recording of measurements of Elec, Open Line and Construction Works.

(a) Shop Supdt./Chief Fraction Foreman, in grade Rs.2375-3500. Sr.Elec.Foreman/Elec.Foreman/Traction Foreman in Grade Rs. 2000/3200/- can record all measurements.

A 10% check by the Asst.Elec.Engineer/Divisional/District Elec.Engg., is necessary for the work costing upto Rs.25,000/- each, if the value of the work exceeds the estimated cost by more than 10% and for works costing above Rs.25,000/- 20% check of Asst. Elec. Engineer/ divisional/District Elec. Engineer is necessary.

(b) Asst. Elec. Foreman/Asst. Traction Foreman/ Sr. Elec. Charge- man in grade Rs.1600-2660/- can also record the measurements subject to 10% test check on the works costing up to Rs. 25,000/- and 20% check on the works costing more than Rs.25,000/- by Asst. Elec. Engg./Divisional/District Elec.Engineer.

(c) Elec. Chargeman/Asst. Elec. Foreman in Gr. Rs. 140-23000 whom they hold independent charge can record measurements for works costing upto Rs. 25,000/- each subject to a test back by 20% by the Asst. Elec. Engg./Divisional/District Elec. Engineer.

(d) Elec. Chargeman having a diploma in Elec.Engg. and having more than three years of service and those not having a diploma in Elec. Engineering but having six year experience nominated by name by the Divisional/District/ Elec. Engineer can record measurements of works upto Rs.10,000/- subject of a test check to 20% by the Asst. Elec. Engineer/Divisional/District Elec. Engineer.

(Authority : Railway Board's letter No. 85/Elec./170/6 dt. 25-8-87).

-----

## Southern Railway

FA & CAO's Office,  
Madras- 600 003,  
Dated : 2-2-1989.

No. W.496/F/O.

CE CEE CME CSTE CSTE(CN)/COPS CCS CMO

Sub: Conversion of Security Deposit recovered in cash into  
Fixed Deposit Receipts.

-----

A copy of Railway Board's Letter No.F(X)i-87/18/1 dated: 30-12-87 is sent herewith for information and guidance.

Encl: One.

-----  
Copy of Railway Board letter No.F(X)I-87/18/1 dated : 30-12-87 to The Central Manager, All Indian Railways and others.

Sub: Conversion of Security Deposit recovered in each into  
fixed deposit receipts.

Ref: Board's Letter No. 84-ACII/48/1 dated : 31.5.85.

--ooOoo--

The issue raised by South Central Railway for fixing up an amount for recovery from the Contractors for Conversion of cash security to paper security at contractor's cost in terms of the Provisions of para 1805 of Indian Railways Accounts Code Vo1.I(1982 Edition) has been examined in the light of remarks furnished by Railways in response to Board's Letter of 31-3-'85 cited above. Since the actual cost for arranging such conversion would vary from Railway to Railway and also from time to time, it has been decided that the charges should be fixed by Zonal Railway Administration themselves in consultation with Associated Finance taking into consideration the Estimated Actual Cost of arranging the conversion as and when such enquiries are received from the contractor. However, if the Depositor replaces the security already held in cash with some other form of acceptable paper security at his cost, no charge may be levied but refund of the cash security must be made only after the fresh security has been duly accepted by that Railway.

This disposes of South Central Railway's Letter No.AFX/85/MISC/82 dated :9-1-1984.

Receipt of this letter may please be acknowledged.

Sd/-  
(KUM. URMILA SHARMA)  
JOINT DIRECTOR, FINANCE (EXP).II  
RAILWAY BOARD.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 86/W-I/CT/71 New Delhi, dated : 28.5.90

1. The General Managers, All Indian Railways.
2. The Director General, RDSO, Lucknow.
3. The General Managers/DLW, CLW, ICF, RCF/Kapurthala, WAP/Bangalore and Railway Electrification, Allahabad.
4. The Chief Admn.Officer, Diesel Components Works, Patiala.
5. The Chief Admn.Officer, Central Organisation for modernization of workshops, New Delhi.
6. The Chief Admn.Officer(Con.), Central Railway, Bombay, V.P.
7. The Chief Admn. Officer(Con.), Northern Railway, Kashmere Gate, Delhi.
8. The Chief Admn.Officer(Con.), Southern Railway, Madras.
9. The Chief Admn.Officer(Con.), South Central Railway, Rail Nilayam, Secunderabad.
10. The Principal, Railway Staff College, Vadodara.
11. The Director, Indian Railways Institute of Civil Engg.,Pune.
12. The Director, Indian Railways Institute of Signal Engg. and Telecommunications, Secunderabad.
13. The Director, Indian Railways Institute of Mechanical and Electrical Engg., Jamalpur.
14. The Director, Indian Railways Institute of Electrical Engineering, Nasik.
15. The General Manager(Con.), Northeast Frontier Railway, Maligaon, Guwahati.
16. The General Manager, MTP(Railways), Calcutta.

Sub: Para 2.12.6 of CAG's Report for 1986-87. Deductions of  
Sales Tax from Contractors Bills in Works Contracts.

...

The point of recovery of Sales tax from the contracts bills has been under consideration of Board for quite a considerable time.

2. It has been concluded that it is the primary duty of the railways to deduct the sales tax from the contractors bills in accordance with the provisions of different enactments promulgated by the State Govts or notifications issued from time to time by the competent authorities and deposit the same with the State Treasury under the intimation to the concerned Sales Tax Commissioner/Officer.

-----

3. In case of stay orders if any issued by competent courts of law or orders passed by such or any other competent authority restricting the scope of such deductions, the same may be complied with both in letter and spirit and state authorities advised to take action in compliance of such orders.

4. It is accordingly desire to ensure strict compliance of the court orders supra keeping in view the case law set up by Hon'ble Supreme Court of India in the case of Builders Association of India V/s. Union of India & Others. (AIR-1939-SC-1371) holding in brief that tax can be collected only on the price of goods and materials used in the contract as if there was a sale of such goods and materials in the works contract.

5. Please acknowledge the receipt.

(S.M. Singla)  
Executive Director, Civil Engg. (G),  
Railway Board.

No. 86/W-1/CT/71

New Delhi, Dt. .4.90

Copy forwarded for information & necessary action to :-

(i) The ADAI(Railways), New Delhi, (With 40 Copies).

(ii) The Director of Audit, All Indian Railways.

(S. M. Singla)  
Executive Director, Civil Engg. (G),  
Railway Board.

Copy to:-

Adv/CE, Adv/W, Adv(B), Adv/Comml., Adv/Plg., Adv/Elec., Adv(F),  
Adv(MS), Adv(Mech.), Adv(MTP), Adv(PU), Adv(S&T), Adv(Stores),  
Adv(TD), Adv(Traffic) of Railway Board.

EDCE(B&S), EDCE(PL), ED/Works, EDF(X).

F(X)I and F(X)II (with 5 spares, Accounts-III (with 15 spares  
and Vig-I (With 10 spares).

EDLM, ED(RE), EDRD(S&T), EDRS,(S), EDRS(P) EDRS(W).

ED Track(M), ED(MC), ED Track(P), and EDV.

----

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 83/W-I/CT/18(P)

New Delhi, dt.20.11.90.

Addressed to:-

(As per list attached)

Sub: Zonal Contractor-Limit of work orders.

-----

Ministry of Railways has had under consideration the question of enhancement of the existing monetary limit of Rs. 50,000/- each for work orders under Zonal contractors in force vide Para 1209-E.

2. After due deliberations, it has been decided to increase the limit of each work order under Zonal Contractors from Rs.50,000/- to Rs.1,00,000/- with immediate effect. Existing para No.1209 of Code for the Engineering Department Revised Edition - (1982) may be amended as given in the enclosed Correction Slip No.50.

3. This issues in consultation with and the concurrence of the Finance Directorate of the Ministry of Railways.

4. Receipt of this letter may be acknowledged.

(S. M. Singla)  
Exe. Director, Civil Engg,(G)  
Railway Board.

No. 83/W-I/CT/18(P) New Delhi,

dated :20.11.90.

Copy forwarded for information and necessary action to:-

1. ADAI(Railways) New Delhi (with 40 spares)
2. The Director of Audit, All Indian Railways  
production Units/Constructions Organisations.

(S. M. Singla)  
Exe. Director, Civil Engg,(G)  
Railway Board.

-----

## SOUTHERN RAILWAY

Office of the CE/CN/MS.  
Dt. 5-2-91.

No. 314/I/CN/Vo1.II

DY.CEs/CN/MS, TPJ, MDU, ERS, TVC & TCR  
XENS/CN/MAS, MS, BR,/MS, MDU, Convn./MDU, PCO, TPJ,  
TCR, PTJ, CLT, TVC, DL/QLN, KYJ, APY, ERS,  
Br./ERS & MAQ.

Sub: Measurements for works

-----

1.0 An extract of Minutes, of the Conference of CEs/Constn. held at Calcutta on 13-10-90 with Member, Engineering is appended below:-

"7.1.3 JA Grade Officers should also be involved in measurements. Every measurement must have at least 20% test check by the next higher level".

2.0 Please ensure compliance of the same.

for CE/CN/MS.

Copy to : CPM/MTP/MS & CE/CN/BNC for infn.

Copy of Rly.Bd's letter No.89/Track-III/TK/98 dt.25.6.91 addressed to CEs(OL & Constn) All Indian Rlys

Amendment No. I of clause (d) of Annexure I.

Sub:- Acceptance of Standard Security Deposit in the shape of Bank Guarantee instead of Security Deposit against individual agreements in case of contracts for Alumino Thermic Welding of rail joints

Ref: Railway Board's letter of even number dated 1.5.91

. . . . .

Please read clause (d) of Annexure I of the letter under reference as follows:

"The firm shall deposit a rebate amount @Rs.375/- (Rupees Three hundred and seventy five only) per 1,000 (one thousand only) joints or part thereof envisaged in any contract in advance with the Railway administration before any contract agreement is entered into."

All other terms and conditions of the above letter will remain unchanged.

Please acknowledge receipt.

DA: NIL.

(Sd.) G.S. Agarawal  
Jt. Director Track(M)  
Railway Board.

N0.89/Track -III/TK/98

New Delhi dt \_\_6.91



Copy of Rly.Board Letter No. 89/Track-III/TK/98 date 1.5.1991 addressed to Chief Engineers (OL & Cons)/All Indian Railways.

Sub: Acceptance of Standard Security Deposit in the shape of Bank Guarantee instead of Security Deposit against individual agreements in case of contracts for Alumino Thermic Welding of rail joints.

-----

M/s. India Thermit Corporation, Kanpur had made a reference to this Ministry that they should be given a special consideration to permit them the facility of standing Security Deposit against individual security deposits normally demanded against individual contracts. The matter was referred to Ministry of Finance (Department of Economic Affairs), Banking Division, who in consultation with the Reserve Bank of India and India Banks Association, have advised that one composite Bank Guarantee from M/s. India Thermit Corporation, Kanpur, can be accepted provided the same is in the Standard format. It has therefore been decided to accept a Standing Security Deposit amounting to rupees three lakhs for each zonal railway subject to the terms and conditions annexed thereto.

This issues with the concurrence of Finance Directorate of this Ministry.

DA: Annexure I & III

Sd\  
(G.S Agarawal)  
Joint Director Track (M)/Rly, Board

No.89/Track-III/TK/98

New Delhi, Dated 1.5.91

Terms and conditions regarding acceptance of Standard Security Deposit in the shape of Bank Guarantee instead of Security Deposit against individual agreement in case of Thermit Welding Joints.

---

(a) The Standard Security Deposit of Rs.3 lakhs on each of the Zonal Railway to be furnished by the firm as a Bank Guarantee on the proforma attached.

(b) Any railway unit will have authority to ask for encashment of due amount against Security Deposits, Railway unit ordering encashment for failure of the firm in any one of the contracts shall have the authority to insist on deposit of separate security for balance contracts till recoupment of encashed amount is not received till that time and in the event-of failure to recoup to withhold payments due to the firm on any account and even on other Railways.

(c) On each railways the Chief Track Engineer will operate this Standard Security Deposit and control encashment thereof. The firm should be made to recoup the shortfalls resulting from any encashment under advice to railway unit seeking encashment. The firm shall make such arrangements within 15 days of issue of demand notice or 7 days of actual encashment wherever is earlier, failing which the firm, will have to pay interest @ 18%, on such amount for the period.

(d) The firm shall deposit a rebate amount @ Rs.3750/- (Rupees three thousand seven hundred and fifty only) for 10(ten) thousand joints or part thereof envisaged in any contract in advance with the railway administration before any contract agreement is entered into,

(e) All field units operating contractors to report to Chief Track Engineer for demands encashment & after his clearance the FA&CAO to make the required encashment also arrange repayment of the Standard Security Deposit.

-----

**GOVERNMENT OF INDIA Rail Bhavan  
MINISTRY OF RAILWAYS Raisina Road  
(RAILWAY BOARD)  
New Delhi:110001**

No.92/CE.J/CT/48

Dated 27th Oct.1992

Addressed to:-

As per the list attached.

Sub:- Test check measurements by next higher authority.

\*\*\*\*

It has come to notice that on one of the Railways measurements of works taken by an officer in Senior scale, where there was no Assistant Officer under him, are not test checked by any higher authority on the plea that no instruction exists in this regard. Taking into consideration the spirit of the provisions contained in Engineering Code and Way and Works Manual, it is reiterated that measurements recorded by an authority should invariably be test-checked by the next higher authority even if such measurements are recorded by a Senior Scale Officer. Such test-checks of the measurements by the next higher authority as per the prescribed scales is necessary to safe-guard against any mistakes and inaccuracies which may be caused unintentionally and inadvertently and to observe the doctrine of financial accountability and conform to a system of checks and balances.

2. Receipt of this letter may be acknowledged.

(S. M. Singla)  
Exe. Director, Civil Engg,(G)  
Railway Board.

No.92/CE.I/CT/48 New Delhi, Dated: 27th Oct.1992

Copy forwarded for information and necessary action to :-

1. A.D.A.I/Railways, New Delhi (with 45 spare copies).
2. The Director of Audits, All Indian Railways, production units and Construction Organisations.

(S. M. Singla)  
Exe. Director, Civil Engg,(G)  
Railway Board.

Copies in Rly. Board Branches as per List of endorsement in Rly. Board' attached.

----

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 93/CE-I/CT/30

New Delhi, Dated: 23.7.1993.

The Chief Engineers,  
The Chief Administrative Officers,  
All Zonal Railways.

Sub: Delegation of powers to IOWs/PWIs for recording  
measurements.

\* \* \* \* \*

Powers for recording measurements for Capital and Special Revenue Works etc. for Inspectors of Works on Open Line/ Permanent Way Inspectors were prescribed in Board's letter No. 71/WI/CT16 dated : [22.1.82](#).

It has been brought to the notice of Ministry of railways that in projects, since most of the Works cost more than Rs.10 lakhs, the limit for IOWs to record measurements being pegged at Rs. 10 lakhs subject to 50% check by the AENs, leads to problems. It is further mentioned that it may be difficult for the AENs to record measurements where cost of the works is more than Rs. 10 lakhs and then again necessitating Dy. CE/DEN conducting test checks in the existing 2-tier system. It is , therefore, suggested that the limit prescribed for permitting the IOWs to record measurements may be suitably raised.

Your comments and suggestions on the proposal may be forwarded so as to review the existing limits of powers for permitting the IOWs to record measurements. Reply may be sent by 16th August/93 positively.

(S. M. Singla)  
Exe. Director, Civil Engg,(G)  
Railway Board.

**SOUTHERN RAILWAY**

No. S. 26/S/PER/RBC.

Office of the FA&CAO/WST,  
Perambur, Madras-6000 023,  
Dated: -12-1993.

**C I R C U L A R**

All DRMs, All DAOs/SAOs

Sub: Payment of Sales Tax on Railway Materials.

Copy of the Railway Board's letter received on the above subject is appended below for strict compliance at your end.

Sd/-  
for FA & CAO/WST/PER.

-----  
Copy of the Railway Board's letter No. 93/F(S) PDL/ST/3 dt. 02-11-1993 is reproduced below:

Sub: Payment of Sales Tax on Railway Material.

---

Railways are aware that Railway material, particularly the track fittings as and when procured through contracts issued by the Ministry of Railways in favours of different suppliers, is subject to payment of Sales Tax as per the sales tax law applicable in the States/Union Territories where the material is procured from the supplier. Sometimes the rate of the material is procured through contracts, is inclusive of the Sales Tax but any statutory increase in sales tax is to the purchaser/s account.

Railways being the Central Govt. Department are entitled to avail of concessional rate of sales tax under the Sales Tax Act of different States and this concession is available only if the consignee Railways issue the necessary form 'D' to the supplier for claiming rebate in sales Tax. These forms are issued by the authorised officers of the Railway concerned. It is the duty of the FA & CAO or the authorised accounts officer while making payment of the bill to see that the sales tax claimed is in accordance with the instructions issued from time to time by the Ministry of Railways in regard to the availing of the concessional rate of Sales Tax by issuing the relevant form 'D' to the supplier.

In a recent case which has found placed in Audit Para 4.8 of 91-92 it has been observed that one of the Railways have not issued the relevant form to the consignor for claiming concessional rate of sales tax with the result that the consignor had paid the normal rate of sales tax to the Sales Tax Authority. The consignee Railway, as the purchaser as suffered heavy loss in the form of excess payment of Sales Tax.

The Ministry of Railways direct that all the concerned authorities to issue the relevant form `D' for claiming concessional rates of sales tax, should ensure that this benefit it is availed of by the supplier and, if not, the bill of the supplier should not be accepted. This should be ensured with a view to avoid excess of sales tax to the supplier. Reimbursement of sales tax to the firm, if any, should be made only on submission of original tax papers and proof of payment.

Kindly acknowledge receipt of the letter.

Hindi version of this will follow.

Sd/-  
(R.N. Mehrotra)  
Dy. Director Finance Stores)  
Railway Board.

## **Southern Railway**

Office of the Chief Engineer  
(Construction), 18, Millers Road  
Bangalore - 560 046.

No:W.496/CE/BNC/Policy.

Dy.CE/GC/BNC, Dy.CE/W/BNC, Dy.CE/CN/UBL, & BNC  
Dy.CE/I/CN/BNC, Dy.CE/GC/ASK, XEN/CN/MYS, XEN/CN/CTA.

Sub:- Deduction of income tax at source in ballast  
supply contracts.

\* \* \* \*

A copy of Railway Board's letter No.F(X)1-91/23-3 dt. 3.4.1995, received under FA&CAO/CN/BNC letter No.W/148/CN/BNC/XC/IT policy/1853 dt.28.11.95 is appended below for your information and necessary action. The Board order may please be implemented with immediate effect and individual cases may please be reviewed and whenever arrears is recoverable, the same may be effected under advice to this office.

The receipt of this letter may please be acknowledged.

for Chief Engineer /Constn.,  
-----

Copy of Railway Board letter No. F(X)I-91/23/3 dt.3.4.95 addressed to The FA&CAO(C)s, All Indian Railways.

\*\*\*\*

Sub:- Deduction of income tax at source in ballast  
supply contracts.

\*\*\*\*\*

Ministry of Railways had, after consultation with the Ministry of Finance, clarified vide their letter No.F(X)I-72/TX- 13/5 dt. 29.8.1973, that contracts relating to mere supply of building materials such as bricks, tiles ballast etc. will not attract the provisions of section 194-C of the Income-Tax Act, 1961 and therefore no tax was deductible at source from payments against such contracts. It had also been made clear in the same letter that in cases of composite contracts involving work contract as well as supply contract, income tax was deductible only in relation to the payment for work contract, if the value of the supply portion is distinct and ascertainable.

2. While on some of the Railways income-tax was being deducted at source from ballast supply contracts, on other Railways no deductions were being made at source for either depot or cases supply contracts. Similarly for ballast supply contracts, rates in some cases in asked separately for the supply position and separately for the labour portion by way of loading, unloading stacking etc. Whereas in some cases a composite rate for both the supply and labour portion is being asked for.

3. Representations have been received from some of the Railways, that the local income tax authorities were insisting on deduction of income-tax at source in ballast supply contracts from the entire contract amount even in cases where separate rates are given for the supply of ballast and separate rates for elements of labour like loading, unloading, stacking, transportation etc.

4. The matter was referred for a clarification to the Ministry of Finance who have advised that if the contract for supply of ballast is a composite contract, involving labour, it has to be treated as a work contract and income tax has to be deducted at source from the labour element in the contract, if separately indicated or from the entire amount if the amount of labour charges is not separately indicated.

5. In view of the clarification now received from the Ministry of Finance, it has become imperative for the Railways to henceforth obtain and stipulate separate rates for supply portion and labour portion in ballast supply contracts and effect recovery of income-tax at source from the contractor's bills in relation to labour portion only at rates in force as per Section 194-D of the Income Tax Act, 1961. The Income tax to be recovered at source should be at the rate of 2% on the value of the labour portion only. i.e., for loading, unloading, stacking, measurement and laying etc. and not on the value for supply of ballast at depot or along case, as the case may be.

6. Please acknowledge receipt of this letter.

Sd/-  
( SHANKAR BANERJEE )  
Director Finance (Exp)  
Railway Board,



## **IV.ARBITRATION**

### **A. A & R ACT 1996**

Sl.No.	Subject in Brief	Letter Dated
1	GCC – Revision to Arbitration Clause 63 & 64	6.08.97
2	Workshop On Arbitration : Issues Leading to and Arising Out of	14.08.2000
3	Handbook On A & R Act – Law Branch of SC Rly Compilation	15.06.01
4	Powers of Judicial Authority to Refer Parties to Arbitration	20.03.02
5	GCC – Amendments Clause 63 Matters Finally Determined by Rly. Correction Slip No: 2	22.02.01
6	GCC – Amendments to Arbitration Clause 63 & 64 Correction Slip No: 3	9.10.03
7	GCC – Amendments to Arbitration Clause 63 & 64 Correction Slip No:4	5.01.05

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

NO. 96/CE-I/CT/29

New Delhi, dated 6.8.1997.

The General Managers,  
All Indian Railway,  
And others.

(As per list attached)

Sub: Arbitration & Conciliation Ordinance 1996.

Clauses No. 63 & 64 of General Conditions of Contract (GCC) have been revised in view of the promulgation of the Arbitration and conciliation Ordinance 1996. Revised Arbitration Clause have been approved as follows:-

63. Matters finally determined by the Railway – All disputes and differences of any kind whatsoever arising out of or in the connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract shall be referred by the contractor to the Railway and the Railway shall within 120 days after receipt of the contractor's representation make and notify decisions on all matters for which provision has been made in clauses 8(a), 18, 22(5), 39, 43(2), 45(a), 55, 55-A(5), 57, 57A, 61(1), 61(2) and 62(1) (b) of General Conditions of Contract or in any clause of the special conditions of the contract shall be deemed as 'excepted matters' and decisions of the Railway authority, thereon shall be final and binding on the contractor provided further that 'excepted matters' shall stand specifically excluded from the purview of the arbitration clause and not be referred to arbitration.

**64(1) (i) – Demand for Arbitration-**

In the event of any dispute or difference between the parties here to as to the construction or operation of this contract, or the respective rights and liabilities of the parties on any matter in question, dispute or difference on any account or as to the withholding by the Railway of any certificate to which the contractor may claim to be entitled to, or if the Railway fails to make a decision within 120 days, then and in any such case, but except in any of the 'excepted matters' referred to in clause 63 of these conditions, the contractor, after 120 days but within 180 days of his presenting his final claim on disputed matters, shall demand in writing that the dispute or difference be referred to arbitration.

**64(1) (ii)-**

The demand of arbitration shall specify the matters which are in question or subject of the dispute or difference as also the amount of claim item-wise. Only such dispute(s) or difference(s) in respect of which the demand has been made, together with counter claims or set off shall be referred to arbitration and other matters shall not be included in the reference.

**64(1) (ii) (a)-**

The Arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by the Railway.

(b) The claimant shall submit his claim stating the facts supporting the claims along with all relevant documents and the relief or remedy sought against each claim within a period of 30 days from the date of appointment of the Arbitral Tribunal.

(c) The Railway shall submit its defence statement and counter claims(s), if any, within a period of 60 days of receipt of copy of claims from Tribunal thereafter, unless otherwise extension has been granted by Tribunal.

**64(i) (iii) -**

No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.

**64(i) (IV) -**

If the contractor(s) does/do not prefer his/their specific and final claims in writing, within a period of 90 days of receiving the intimation from the Railways that the final bill is ready for payment, he/they will be deemed to have waived his/their claim(s) and the Railway shall be discharged and released of all liabilities under the contract in respect of these claims.

**64(2) -**

Obligation during pendency of arbitration – Work under the contract shall, unless otherwise directed by the Engineer, continue during the arbitration proceedings, and no payment due or payable by the Railway shall be withheld on account of such proceedings, provided, however, it shall be open for Arbitral Tribunal to consider and decide whether or not such work should continue during arbitration proceedings.

**64(3)(a)(i) -**

In cases where the total value of all claims in question added together does not exceed Rs.10,00,000/- (Rupees ten lakhs only), the Arbitral Tribunal consist of a sole arbitrator who shall be either the General Manager or a gazetted officer of Railway not below the grade of JA grade nominated by the General Manager in that behalf. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by Railway.

**64(3)(a)(ii) -**

In cases not covered by clause 64(3) (a)(i), the Arbitral Tribunal shall consist of a panel of three Gazetted Rly officers not below JA grade, as the arbitrators. For this purpose, the Railway will send a panel of more than 3 names of Gazetted Rly. Officers of one or more departments, of the Rly to the contractor who will be asked to suggest to General Manager upto 2 names out of the panel

for appointment as contractor's nominee. The General Manager shall appoint at least one out of them as the contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'presiding arbitrator' from amongst the 3 arbitrators so appointed. While nominating the arbitrators it will be necessary to ensure that one of them is from the Accounts department. An officer of Selection Grade of the Accounts department shall be considered of equal status to the officers in SA grade of other departments of the Railways for the purpose of appointment of arbitrators.

**64(3) (a) (iii) –**

If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or vacates his/their office/offices or is/are unable or unwilling to perform his functions as arbitrator for any reason whatsoever or dies or in the opinion of the General Manager fails to act without undue delay, the General Manager shall appoint new arbitrator/arbitrators to act in his/their place in the same manner in which the earlier arbitrator/arbitrators had been appointed. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator(s).

**64(3)(a)(iv) –**

The arbitral Tribunal shall have power to call for such evidence by way of affidavits or otherwise as the Arbitral Tribunal shall think proper, and it shall be the duty of the parties hereto to do or cause to be done all such things as they be necessary to enable the Arbitral Tribunal to make the award without any delay.

**64(3)(a)(v) –**

While appointing arbitrator(s) under sub-clause (i), (ii) and (iii) above, due care shall be taken that he/they is/are not the one/those who had an opportunity to deal with the matters to which the contract relates or who in the course of his/their duties as Railway servant(s) expressed views on all or any of the matters under dispute or differences. The proceedings of the Arbitral Tribunal or the award made by such Tribunal will, however, not be invalid merely for the reason that one or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contract relates or who in the course of his/their duties expressed views on all or any of the matters under dispute.

**64(3)(b)(i) –**

The arbitral award shall state item wise, the sum and reasons upon which it is based.

**64(3)(b)(ii) –**

A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award and interpretation of a specific point of award to tribunal within 30 days of receipt.

**64(3)(b)(iii) –**

A party may apply to tribunal within 30 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

**64.4** In case of the Tribunal, comprising of three Members, any ruling or award shall be made by a majority of Members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.

**64.5** Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.

**64.6** The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s) as per the rates fixed by the Rly Administration from time to time.

**64.7** Subject to the provisions of the aforesaid Arbitration and Conciliation Act 1996 and the rules there under and any statutory modification thereof shall apply to the arbitration proceedings under this clause.

The above directives should be applicable with immediate effect.

This issues with the concurrence of Finance Dte. of Railway Board (Ministry of law & Justice).

(V.K. Bahmani)  
Exec. Director, Civil Engg.(G)  
Railway Board.

## **SOUTHERN RAILWAY**

No.W.496/P/System Improvement

Headquarters Office  
Works Branch  
Chennai-3.  
Dated: 14/08/2000

CAO/CN/BNC, CAO/CN/MTP,CE/CN/MS  
DRM/W/MAS, PGT, TVC, SBC, MYS, TPJ & MUG

Sub: Arbitrations - issues leading to and arising  
out of— Reg.

Ref: Deliberations during the recent 'Workshop on  
Arbitration' held at Chennai on 13 and 14 July  
2000.

-----

Of late, there is a clear tendency of increase in claims of the contractors and in their demands for settlement of disputes through the means of arbitration. Failures in contract management, leading to rising of large claims and huge awards by arbitrators, have also increased resulting in huge losses to the Administration. Cases on demands for arbitration are also being considered by the Hon'ble Courts and arbitrations are granted by them either to be conducted by the Railway arbitrators or even by private arbitrators. There is also a tendency among arbitrators to award on claims which fall under the category of 'Excepted Matters' or those governed by specific clauses of the General Conditions of Contract as well as the Special Conditions such as payment of interest on Security Deposit or interest on the disputed claim amounts. A need has arisen to identify all such areas of failures and apply our mind to eliminate the same. A few points, raised during the recent 'Workshop' held at Chennai and compiled by this office in the above connection, are furnished as under for guidance of the field units which may be reiterated down below the line upto the appropriate level of contract management system in your organisation.

### **2.0 Contract Management:**

2.1 Defective contract administration leads to claims and disputes agitated before arbitrators. The areas of general failure are:

- a) Inadequate and contradictory information on drawings and specifications;
- b) Improper estimation of quantities while preparing schedules;
- c) Premature entering into contracts;
- d) Delay in handing over of site to the contractor, delay or failure in providing promised services, delay in supplying drawings or promised stores etc.;
- e) Defective description of schedules, specifications, special conditions etc. leading to ambiguity in interpretation;

- f) Prolonged delay in settling rates for new items including non-schedule items and also delay in settling rates for variation in quantities;
- g) Delay in preparation of on-account and/or final bills;
- h) Delay in taking over of the works after completion;
- i) Failure to bring out defects in construction at appropriate stages and producing long list of defects on completion of works;
- j) Forced deductions from the bills;
- k) Improper determination of contract;
- l) Wrongful recovery of liquidated damages and/or imposition of penalty and recovery of excess cost after termination of contract;
- m) Delay in closing of agreements and delay in payment of final bill,
- n) Improper fore closure and non-obtaining the contractor's consent;
- o) Withholding of security deposit without adequate reason and without advising the contractor,
- p) Delay in processing of variations or rates and delay in getting financial vetting and sanction;
- q) Improper rate analysis and non-insistence of supply of proper documents for enhancement of rates from the contractor;
- r) Indiscriminate extension of currency and wrong application of clauses; and
- s) Other similar reasons.

## **2.2 The normally agitated claims by the contractors are:**

- a) Claims for extra items of work, variation in quantities and enhancement of rates (failure to settle them in advance of execution);
- b) Delay in payment of bills (delay in measurements, delay in processing and delay in releasing payments);
- c) Delay in giving decision on matters referred;
- d) Compensation for prolonged duration of work and for idling labour and machinery (non-maintenance of and failure to scrutiny records);
- e) Insufficient payment for non-schedule items;
- f) Disputes regarding measurements, specifications, drawings, defective workmanship;

- g) Hire charges on plant and machinery;
- h) Disputes regarding determination of contract at contractor's risk and cost;
- i) Recovery of liquidated damages;
- j) Interest on amounts withheld by the Administration;
- k) Disputes on purview and applicability of 'Excepted Matters';
- i) Losses on account of unforeseen causes including natural calamities; and
- m) Others.

**2.3** Many of these causes and claims made by the contractor are avoidable by proper and careful handling of contract. Continuous vigil and prompt response to situations is a must for successful handling of contracts. Failure to respond to Contractor's queries and demands properly and in time is the main cause for failures in most contract cases which have resulted in awards in arbitration unfavourably to Railway.

**3.0** Based on a few recent cases where failures in defending arbitration cases properly have been noticed, the following matters of concern are highlighted:

### **3.1 Excepted Matters:**

**3.1.1 G.C.C** specifies that clauses of **GCC No.8(a),18, 22(5), 39, 43(2), 45(a), 55, 55-A(5), 57, 57A,61(1), 61(2), and 62(I)(b) (Correction Slip No.2 and 13 to GCC)** and also the 'Special Conditions' in the contract are Excepted Matters and decision of the Administration on the above will be binding on the contractor. Objection shall be raised without going into the merit of the case.

**3.1.2** As the 'Excepted Matters' clause over rides the 'Arbitration' clause, the matters covered by the former clause cannot be referred to arbitration except when fraud or arbitrary attitude or similar motives are attributed to the decisions made on the applicability of this clause.

**3.1.3** Hence, issues such as illegal gratification, meaning and intent of specifications and drawings, rates for extra items of works (finalised after due settlement procedure), measurement of works, payment under Payment of Wages Act and Contract Labour Act, compensation or otherwise on account of loss of profit or advantage on determination of contract and defaults of contractor under various conditions specified in the GCC are clearly Excepted Matters which cannot be arbitrated upon. It is incumbent on the Administration and the presenting officer of the railway to bring out and insist on the applicability of these clauses to the arbitrators if such items are brought under the terms of reference to the arbitration by the claimants or by Court orders.

(In some Court orders, the arbitrators are authorised to decide on the excepted matters and their applicability. It is incumbent on the presenting officer to assert



at the beginning of the proceedings itself on the clear applicability of the clauses covering the excepted matters and special conditions of contract by quoting the relevant clauses of the GCC and explaining the reasoning behind their applicability).

### **3.2 Other excepted clauses:**

**3.2.1** Similar to the Excepted Matters, there are provisions in the GCC and in the Special Conditions, which do not permit reference to arbitrators. They include:

a) No interest on earnest money or security deposit shall be payable to the contractor (as per Clause 16(2)).

b) Where the arbitral award is for payment of money towards the claims, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made (as per clause 64.5).

c) Similar to the finality of Engineer's measurements recorded in the presence of the contractor and decision on classification of ground/soil etc., the inspecting officer's decision on rejection of material shall also be final and not arbitrable.

**3.2.2** However, it is seen that in some of the recent arbitration awards, interest on SD and on the claimed amounts have been awarded. While in some cases, speaking orders explaining reasons for permitting such interest are recorded, it is not available in other cases. This has arisen on account of failure of the presenting officer in highlighting the clauses of the GCC during arbitration proceedings before going into the merit of the claims. Absence of records or non presentation of the same with regard to the efforts taken by the Administration to settle the disputes and to bring out the failures of the contractor during the proceedings will weigh against the Administration in such cases. It is incumbent on the part of the presenting officer to bring to the notice of the arbitrator the above at appropriate stages and record objections appropriately.

(In a recent case, the arbitrator took objection and did not take into evidence the details furnished by the presenting officer on the failure of the contractor to produce construction materials in time to site as the same was brought out belatedly).

**3.13** Arbitration Act provides for settling claims on Excepted Matters which have to be raised when cases on demands for arbitrations are heard by Courts and objections shall be raised in the counters filed by the Administration on the applicability of the said clause for rejection of such excepted claims.

### **3.3 Some Special Precautions:**

**3.3.1** As per GCC clause 43, the contractor has to furnish a statement of his claims once in every month for any additional expense the contractor is entitled to. In the absence of such statements, claims raised afterwards need not be considered.

**3.3.2** 'No Claims Certificate' shall be obtained invariably at the time of signing final bill or at the time of fore closure/termination of contract. No claims raised after the NOC is signed shall be entertained.

**3.3.3** Huge compensation on idle labour and machinery is claimed by the contractors many times. The contractors are required to maintain detailed records of all such labour, machinery, etc and are required to furnish details of their payments under the Minimum Wages Act, Contract Labour Act, Sales Tax Act etc. These records, as applicable to the contracts, shall also be scrutinised periodically during progress of the work by the Engineer or his representative and the correctness verified. Also maintain site details in terms of Para E 1122 even when the work is stopped.

3.3.4 Determination of contract or granting extensions shall be strictly as per laid down procedure which in many cases are found to be wanting.

### **3.4 Determination of contract**

**3.4.1** Railway is entitled to terminate a contract in such cases where the work has to be stopped for technical reasons for want of funds etc. However a notice has to be served on the contractor stating the reasons for such termination (Clause No.61 of GCC). This provision can be used by the Railway successfully when contracts lie dormant for want of funds, site etc.

**3.4.2** Contracts can be terminated on account of the contractor's default. Circumstances under which such action can be taken are detailed in GCC Clause No.62. After termination, the Railway is entitled to get the work (balance) done from another agency at the risk and cost of the defaulting contractor.

**3.4.3** Special precautions in terminating a contract are:

(i) Action to terminate a contract is a serious matter and decision to terminate shall be taken by the authority who signed the original contract only.

(ii) The prescribed procedure of issuing two notices shall be scrupulously followed.

(iii) Form of tender, contract, quantities of scope (balance) in the risk or alternative contract shall remain same as that of the original contract.

(iv) As per present instructions, the defaulting contractor can quote for the risk and cost contract, unless he is removed on account of his incapacity to do the work or he is blacklisted.

### **4.0 Statement of Defence and action by the Respondent:**

**4.1** Presenting officers should take objections regarding the validity of the composition of the arbitral tribunal, scope, jurisdiction, limitation etc., without delay in the first instant and further at the appropriate stages.

**4.2** Filing of correct, appropriate, up-to-date and timely statement of defence (counters) before the arbitral tribunal is a must by the presenting officer. Such counters should effectively cover all the points raised by the claimants and shall

be properly worded. Apart from the procedure of finance vetting of the counters to be filed, a committee of Engineering, Accounts and General officers nominated can go into the counters before they are filed. (A procedure order in this regard is contemplated).

**4.3** Counter claims shall also be submitted by the presenting officer, irrespective of whether counter claims are available in the Terms of Reference or not, in the first instant itself, lest forfeiture of right may come to the fore.

**4.4** During the proceedings, the presenting officer shall demand discussions on the evidences adduced by the contractor including the proof of the same. Speaking orders on disputed evidences and claims shall be insisted upon.

**4.5** The presenting officers shall also insist upon the arbitral tribunal to record and issue minutes of the hearings albeit politely.

**4.6** In view of the procedures involved in getting legal and financial clearances in the government department, presenting officers may also plea for some reasonable time for payment of the awarded sums to the contractors, of course, free of interest.

**5.0 The following are enclosed for guidance and adoption:**

- (i) Tips on good practices for the Engineer-in-charge.
- (ii) Some Dos and Don'ts (from Vigilance Bulletin).

Chief General Engineer.

**Annexure I**

**CONTRACT MANAGEMENT TIPS ON GOOD PRACTICES FOR THE ENGINEER-IN-CHARGE**

Objective: To present a few valuable tips to the field engineers. (Source: Lectures of Shri M.Ravindra, Director and other eminent speakers at IRICEN, Pune.)

- BASIC NEEDS:**
1. Be conscientious, well-informed, alert
  2. Follow prescribed procedures
  3. Apply your mind to the issue; ensure that your action will not cause any favour or unintended benefit to any party.
  4. Consult CE, Finance and law wherever necessary.
  5. Record reasons for your decisions
  6. Take timely action

**WORKS TIPS:**

1. Open a new file for each contract; starting with the letter of acceptance.

- 2.** After obtaining Accepting authority's orders on the TC recommendations, keep the original tenders and the tender file in safe custody.
- 3.** Be very prudent in contractual correspondence.
  - 3.1** Do not allow subordinates to enter into unwarranted correspondence with contractors especially on matters having financial and interpretation (payment, claims) angle.
  - 3.2** Do minimum correspondence; but be careful to make a record of significant developments.
  - 3.3** Acknowledgements from the contractor should be pasted on the office copies themselves.
  - 3.4** Ensure that the file is handled only by authorised and reliable office staff.
  - 3.5** Letters, returned undelivered by post office with remark "addressee not found" should be filed unopened, so as to serve as an evidence later.
- 4.** Repudiate unfounded, mischievous allegations in time.
- 5.** Maintain a register of contract agreements and work orders. This will enable a watch on the completion dates being kept, so that timely action within the currency of the contract can be taken.
  - 5.1** An incomplete work with the currency of contract already expired places the executive in an embarrassing position.
- 6.** when you take over a charge with contracts in progress, do go through the tender files before taking decisions on variations and extension
- 7.** Never grant extension when a higher value tender is accepted on the ground of earlier period of completion. Better, avoid a higher tender on such grounds.
- 8.** When a work is delayed but progressing and is in an advanced stage, an extension without LD under Cause 17(2) can be considered if justified.
- 9.** Before termination of a contract which is in an advanced stage of progress, a committee should be formed to look into and if possible to sort out the problems.

10. One side extension of a contract should not be granted. The contractor should be prevailed upon to apply for extension by bringing facts about the progress and the Likelihood of the work not getting completed by the due date to his notice.
11. Keep a watch over Bank guarantees. Do not allow them to lapse by default.
12. Do execute Subsidiary (Rider) Agreements, on grant of extensions, on approving variations in quantities, on incorporation of new items etc.
13. For termination under Clause 62, do issue prescribed notices. Do issue a notice for measurement of work. Keep accurate accounts of expenditure incurred if the balance works done through alternative agency. A certified copy of such account will be necessary later.
14. As soon as indications of a serious claim and possible arbitration are seen, seize all the records and keep them in safe custody to prevent tampering: Start new files etc. for the progress of the work.
15. Effect all recoveries promptly without letting them mount into arrears.
16. If measurements are accepted 'under protest', seek reasons in writing for the "protest". Examine replies and deal with reasons on merits. Do not let vague 'under protest' go unnoticed, and unacted upon.
17. Zonal contracts - Issue work orders well in time giving sufficient time for completion. Do not issue a large number of work orders just before the expiry of the zonal contract.
18. Control issues of materials according to progress of work. Do not over issue in advance of progress.
19. Follow all rules about recording of measurements, test checks and detailed measurements for on account payments.
20. Anticipate the technical/quality/progress problems in advance and as and when work progresses and take corrective action, in writing, in time and don't wait till last time to blame the contractor for the failures.
21. Maintain site records faithfully,

i) **Site Order Book (Separate book for each site)**

This is covered by Code paras E 1122 and E 1123. The importance of this basic record as a possible evidence when needed later should be

appreciated. This is the basic record showing all developments at the site of the work. This should be a bound, heavy register with machine numbered pages. It should contain daily entries of contractor's resources like labour, material, equipment, problems faced, progress achieved, any inspections, decisions, issue of drawings issue of materials, issue of instructions and other relevant factual matters. It must be jointly signed by the SE/JE and the contractor's authorised representative. It should be closed at the end of the work and should be returned to the Divisional/Head Office as a part of original record. SE/JE concerned should be responsible for its safe custody.

ii) **Cement Consumption Register:**

1. The register should open with the estimated consumption as per drawing. Revised figures of estimated consumption can be entered later in the event of changes in the foundation or design etc. But the figure should be available so that issues can be watched.

2. Any transfers from one work to another should be neatly entered. Such entries in the different registers obviously should tally.

3. Progressive figures of consumption and site balance should be systematically entered upto date.

4. Keep a record of cement quality. Test records on cement should be maintained, particularly if the supply is by the contractor.

5. Mix of the concrete must be written in the cement account in MB. The quantities of concrete as recorded, consumption of cement and site balances should all match.

iii) **Steel (MS Reinforcement) Register.**

1. The register should open with the estimated consumption as per drawing. These figures may be revised later if the drawings change.

2. Keep a record of lengths issued, and lengths used in the work (as per bar bending schedule and overlaps as actually given).

3. Watch for the lengths of cut pieces as returned. The record at 2 above will be helpful to ensure that cut pieces are not substituted for surplus full lengths and returned as scrap (although the overall weights may tally).

4. Keep a record of quality of steel used.

\*\*\*\*\*

## **Annexure II**

### **CONTRACT MANAGEMENT: LIST OF DOs AND DON'Ts (From Vigilance Bulletins)**

The following are the dos and don'ts in respect of contracts and acceptance of tenders and Civil Engineering department works extracted from the Vigilance bulletins for ready reference.

#### **Part - A: CONTRACTS AND ACCEPTANCE OF TENDERS**

##### **DOs**

1. Allow adequate and reasonable minimum time (as prescribed) for opening of all tenders to encourage proper response except in emergencies.
2. Ensure timely supply of copies of approved plans for tenders where special item rates have to be quoted for the particular details of the approved plans.
3. Ensure that tender abstract (comparative statement) and briefing note have been prepared and signed by the concerned officials on each page.
4. Only consider offers accompanied by requisite earnest money.
5. Attempt identification of sister concerns to detect ring formations especially in the case of limited tenders.
6. Ensure consideration of reasonableness of rates in the tender committee minutes. This should not only be with reference to previously accepted rates, but also after taking into account market rates and analysis of rates.
7. Obtain views of the CE to deal with the lowest acceptable offer of contractors with adverse reports.
8. Treat the tender committee recommendations with dissenting notes carefully.
9. Remember - negotiation should be an exception and not the rule in acceptance of tenders.
10. Ensure negotiating with atleast two tenders getting approval of competent authority except where a single offer has been received. (Negotiation is allowed with the lowest tender only as of now).
11. Record relevant reasons for overlooking the lowest offer if it is not acceptable.
12. Order calling for fresh tenders if items are to be revised or their value is to be enhanced.

13. Ensure that special conditions do not give scope for acceptance of high rates (like mentioning steel to be supplied by the tenderer and later including payment for such supply, which has a tendency to boost the percentage rates quoted by the tenderers).
14. Ensure that the tender committee minutes contain the relevant information as the date, venue of the meeting and dated signatures of the members.
15. Record the acceptance or otherwise on the body of the tender committee minutes only.
16. Ensure that the reasonableness of rates is examined critically, logically and specifically, both in respect of total cost and rates of important individual items.
17. Check that low offers are in fact so in reality and price differential for similar but different items of schedule is reasonable.
18. Ensure that the tender committee is only constituted of competent level of officers specified.
19. Ensure prior sanction of competent authority before executing additional quantities (beyond 25%) in each item (and over all for earthwork), so that the contracts are not vitiated. Check for any possible vitiation before executing any variation.
20. Conduct negotiation only in exceptional cases with L1 (where rates are unreasonably high and re-tendering is not possible/desirable) and not as a matter of rule.
21. Ensure that the individual rates accepted are not abnormally high or unworkable in respect of major items of work in a tender.

#### ***DON'Ts***

1. Do not change the tender committee members once constituted without prior approval of competent Authority
2. Do not consider delayed/late tenders except under specified exceptional circumstances.
3. Do not treat the Tender Committee's recommendations with dissenting notes from one or more members of the tender committee as a unanimous recommendation.
4. Do not order negotiation on the repeated advise of the tender committee to invite fresh tenders, particularly where response to the call for negotiations is poor.
5. Do not exercise the powers of the accepting authority in case you have been a member of the tender committee.



6. Do not hold negotiations with those who had either not tendered originally or whose tender was rejected because of unsatisfactory credentials, inadequacy of capacity or where tenders were unaccompanied with adequate E.M.D. or any other invalid tenderer.
7. Do not accept open quotations from the contractors during negotiations.
8. Do not entertain letters/representations of tenderers subsequent to the opening/negotiation/consideration of tenders.
9. Do not accept modified offers, not considered by the Tender Committee.
10. Do not allow subsequent revision of the minutes, unless the reconsidered minutes are put up in addition.
11. Do not record the acceptance/otherwise of the tenders anywhere else other than on the body of the tender committee minutes only. Noting side of the file is to endorse action taken only.
12. Do not advise the tender committee prior to their deliberations on the suitability or otherwise of any particular offer.
13. Do not allow anomalies in evaluation of special conditions to affect the acceptance of the offer recommended.
14. Do not allow change of conditions specifications affect opening of tender without giving sufficient notice to all who have tendered for the job. Any such change before closing should be advised to all who have purchased the tender documents.
15. Do not award works on quotations in a routine manner and follow the procedures and financial limits strictly.
16. Do not accept a only tender received in response to a call for limited tender when it is very urgent and permission from the competent authority is obtained.
17. Do not operate non-schedule items without sanction of the competent authority. In exceptional cases where it has to be done, maintain necessary site records.
18. Do not operate non-schedule items where it is possible to do work as per scheduled items or a combination thereof.

**Part B:                    CIVIL ENGINEERING DEPARTMENT**

**DOs**

**a) Execution of Works**

1.     Ensure good workmanship by proper supervision.
2.     Keep proper account of cement and other Railway materials issued to the contractors at the site of the work.
3.     Ensure inspection and passing of materials supplied by contractors through Rate contracts before these are used in work. Maintain proper records.
4.     Keep proper account and classification of released materials.
5.     Issue materials to the contractors only through authorised agents and control the issues commensurate with the progress of work.
6.     Ensure recovery of cost of materials supplied by Railways, hire charges for tools and plants etc. from the contractor's running bills immediately after its use.

**b) Measurements:**

1.     Records levels on machine numbered level books only.
2.     Carry out prescribed test checks of measurements paying particular attention to the hidden measurements.
3.     Ensure by inspection correct thickness of items payable on area measurements such as slabs, flooring, premixed road carpet, wood work etc. Test check must cover this aspect also.
4.     Ensure test check of 100% longitudinal levels and not less than 20% of cross levels in an earthwork contract.
5.     Ensure deduction of prescribed shrinkage/voids in earthwork and supply items and loading contracts as per conditions both during on account and final payment.
6.     Ensure recovery at penal rates for excess consumption of cement and steel as per terms of contract.

**c) Ballast supply:**

1.     Ensure proper leveling of stacking ground.
2.     Satisfy generally that artificial tunnels (specially hi case of boulders supplied) have not been left inside the stacks.

3. Ensure minimum height of stacks prescribed in specifications or contract conditions.
4. Watch against artificial depressing of ground levels at ballast stack corners.
5. Guard against camouflaging of bad quality/over size ballast in the stacks.
6. Indicate the approximate quantity of ballast below the stack measurements in the measurement book.
7. Ensure preparation of challans before despatch of the wagons.
8. After each loading indicate the approximate balance quantity in each stack.
9. Ensure wagon measurements at the destination before unloading in the track.

### **DON'Ts**

#### **a) Execution of Works:-**

1. Don't allow execution of works without proper sanctioned work order except in special circumstances and obtain sanction of appropriate authority promptly.
2. Don't allow execution of partly left over work by another agency before taking final measurements of earlier contract and getting them accepted both by the old and new contractors.
3. Don't permit use of substandard materials.
4. Don't allow the contractor to first execute only those items considered more profitable by him at his discretion which may result in the difficult portion of work remaining incomplete.
5. Don't authorise issue of materials to subordinates of other departments unless approved by their controlling officers.
6. Do not adjust excess use of materials in a running bill against less use in earlier bills.

#### **b) Measurements:**

1. Don't allow passing 4<sup>th</sup> /5<sup>th</sup> bill of earthwork without detailed measurements.
2. Don't pay long leads without physical verification and prepare a lead diagram for this purpose.
3. Don't endorse test check certificates without putting dated initials against individual identifiable items of works.
4. Don't allow recoveries on account of use of departmental machinery by contractors to be accumulated upto the final bill.

**c) Ballast supply**

1. Don't allow simultaneous collection and training out from the same area.
2. Don't allow concave tops in the ballast stack. Have it rectified before measurements.
3. Don't depend upon visual inspection to assess over size ballast. Use prescribed sieves and do proper sampling.
4. Don't accept muck beyond the specified percentage in the contract.
5. Don't enter ballast stack measurements directly from ballast registers without 100% physical verification at site.
6. Don't allow putting of ballast into the track in case of supplies along the line until clearance from the DEN/XEN has been obtained as prescribed.

\*\*\*\*\*

## **SOUTHERN RAILWAY**

Office of the FA&CAO  
Construction,  
Chennai-600 008.

No.W.496/CN/MS/FX/Arb.Policy Dt. 15.6.2001.

FA&CAO/CN/BNC,  
SAO/CN/ERS, SAO/CN/TPJ, AO/CN/MDU.

Sub: Extracts from the Handbook on Arbitration &  
Conciliation Act, 1996.

-----

The Law Section of South Central Railway have brought out a Handbook on Arbitration & Conciliation Act, 1996. The Handbook contains DOs and DON'Ts, besides answering some questions. Extracts of these three aspects are reproduced below for information, guidance and necessary action please.

(MANJULA RANGARAJAN)  
Dy. FA&CAO/CN/I/MS.

C/to: FA&CAO/MAS, FA&CAO/WST/PER  
FA&CAO/MTP(R)/MS.  
Secretary to CAO N/MS for kind information of  
CAO/CN/MS

---

### ***DOs***

#### **APPOINTMENT**

- As soon as a notice in writing demanding arbitration is received, the same should be processed for appointment of arbitrator within 60 days as per Clause 64 of the General Conditions of Contract.

On failure of Railway to appoint arbitrator, the contractor can approach the Chief Justice of High Court or his nominee to appoint arbitrator under Sec.11 of the Arbitration Act, 1996.

- If it is decided to refer the claims to arbitration, an interim reply to the claimant may be sent indicating the same.

In such a case, even if there is slight delay, contractor will restrain himself from approaching the court in view of assurance.

- If any of the claims preferred are dropped/excluded from reference, the contractor may be advised of the same supported by reasons. (Cl.63 of GCC).

Sometimes contractor may be satisfied with the reference. Even if he is aggrieved and approaches the court, department's advice will be a strong defence especially in respect of 'excepted matters.'

- If due to delay in process, when court appoints outside arbitrator, his appointment may be challenged on the grounds indicated under Sec.12, if attracted.

Sec.12 of Arbitration Act prescribes that appointment of arbitrator can be challenged if his independence or impartiality is doubted or he is not qualified as per qualifications agreed to between the parties. Application under Sec.13(2) can be filed before outside arbitrator within 15 days of becoming aware of the appointment of the arbitrator or after becoming aware of the above circumstances.

- If arbitration application is filed in the court, it shall be contested on the ground that there is a procedure to secure appointment of arbitrator under the contract.

Under Sec.11 (6) of the Act, court can appoint arbitrator only if respondent neglects and there is no means to Secure the appointment of arbitrator.

- Do take objections as to jurisdiction with regard to 'excepted matters' and claims falling beyond the terms of agreement in writing before the arbitrator, prior to filing reply to the claims.

Under Sec.16 of the Act, the jurisdiction of the arbitrator can be challenged. This should be done, not later than filing the counter. If it is rejected, that will be a ground for filing application under Sec.34 to set aside the award.

- Request for arbitration received should be looked into from limitation angle.

Any request beyond 3 years from the date of final bill is barred by limitation and arbitrator need not be appointed.

## **ARBITRAL PROCEEDINGS**

- Ensure filing of counter/written statement within the time determined by the Arbitral Tribunal covering all the points. Further the dept. can amend or supplement their defence if it is found necessary.

Sec.23 of the Act provides for filing statements of claims and defence, and also amendment and supplement to it

- Ensure that Arbitral proceedings are conducted and concluded without undue delay.

Failure on the part of arbitrator to conclude the proceedings within reasonable time will attract provisions of Sec. 14 of the Act. Claimant can

approach the court for termination of the arbitrator. This causes further delay.

- If the arbitrator withdraws, immediate efforts shall be made to replace him in accordance with agreement. (Cl.64 of GCC)

Sec. 15 of the Act contemplates substitute arbitrator in place of the arbitrator who either withdraws or his mandate is terminated by agreement of the parties.

- Whenever required, request the Arbitral Tribunal to appoint an expert. The expert can give his report on specific issues and also participate in the proceedings.

Arbitral Tribunal is empowered to appoint an expert either on its own or at the request of the parties. (Sec.26)

- Bring to the notice of Arbitral Tribunal that disputes shall be decided in accordance with substantive law of India and in terms of the contract. This is mandatory as per the provision under Sec.28 of the Act.
- Ensure that in arbitral proceedings with more than one arbitrators, any decision of the Arbitral Tribunal is made by majority of members.

Where three members constitute the Tribunal, decision of any single member is not valid. It is enough that majority of the arbitrators sign it as long as reason for the omitted signature is stated (Sec.29).

## **ARBITRAL AWARD**

- Arbitral award must be in writing and shall contain reasons upon which it is based.

As per clause 63 of GCC arbitrator shall give reasons for the award. [Sec. 31(2)]

- Insist upon a signed copy of the award from the Arbitral Tribunal. Parties are entitled for a signed copy of the award as per Sec.31 (5) of the Act.
- Arbitral Tribunal may make an interim award on the subject matter. Passing of interim award has to be contested before Arbitral Tribunal itself if it is likely to be against the interest of Railways.

Sec.31 (6) of the Act empowers Arbitral Tribunal make interim award. There is no provision for appeal against interim award.

- As soon as award copy is received, check for any errors/mistakes, clerical, typographical etc. If there are any, request has to be made to the Arbitral Tribunal within thirty days for correction.

This is provided under Sec.33 (1)(a) of the Act. Unless mistakes are corrected, the award being deemed as decree can be enforced through a civil court, even if there are mistakes.

- Award should be examined carefully to see if any specific point in the award or part of the award requires interpretation. If so within thirty days correct interpretation can be sought from the Arbitral Tribunal.

Sec.33 (1) (b) provides for such request by the parties to the Arbitral Tribunal. The Tribunal shall give the interpretation within 30 days and this also will be part of the award.

- Decision whether to contest award partly or fully or otherwise shall be taken within three months from the date of receipt of the award. The award, if steps have been taken by filing objections to protect rights as required u/s 4, can be contested on the following grounds only: (S.34)

i) a party was under some incapacity

ii) arbitration agreement is not valid

iii) proper notice of the appointment of an arbitrator was not given

iv) award deals with disputes not falling within the terms of submission or it contains decisions beyond the scope of the submission to arbitration.

v) composition of the Arbitral Tribunal or arbitral procedure was not in accordance with the agreement of the parties.

vi) subject matter of the dispute is not capable of settlement by arbitration under the law.

vii) arbitral award is in conflict with the public policy of India i.e. the award was induced or affected by fraud or corruption.

viii) Parties were not treated equally.

ix) Insufficient advance notice to enable inspection of document, goods or other property.

x) non-communication of evidentiary document/expert report on which reliance is made

xi) failure to adhere to substantive law of the country

xii) form and contents of award not as per S.31.



In view of 'waiver of right clause under section 4 of the Act, it is essential that objections, if any, are taken at the relevant time itself. When such objection was taken earlier, wherever applicable, an application to set aside can be filed.

An application challenging the award has to be filed within three months from the date of receipt of award as per Sec. 34 (3) of the Act. However on showing sufficient cause court can entertain application up to further 30 days. An application for setting aside award cannot be filed after that for any reason.

- If the award is one for satisfaction, do process it for payment without loss of time.

After expiry of three months, award can be enforced as a decree of court. The claimant can directly file execution petition before civil court as if the award is a decree and obtain orders to attach Railway property in satisfaction of the award.

### **INTEREST AND COSTS**

- Bring to the notice of the Arbitral Tribunal, the agreement on interest i.e., Cl.64 (5) of GCC, which expressly prohibits Arbitral Tribunal from awarding interest for pre-reference and pendentilite periods.

Sec.31 (7)(a) of the Act empowers the Arbitral Tribunal to award interest for any period from the date of dispute to the date of award only in the absence of agreement between parties. As stated above, Cl. 64 (5) of GCC is the agreement between the parties against awarding of interest by Arbitral tribunal. Hence no interest for the above period can be granted.

- Future interest, if awarded, is liable to be satisfied. The award carries 18% interest unless the award otherwise directs or stipulates different rate of interest.

Arbitrator is competent to award future interest and is also competent to decide the rate of interest. This is in accordance with Sec.31 (7) (b) of the Act. GCC also empowers arbitrator to award future interest i.e., from the date of award till payment.

- Do deposit fifty percent of arbitral costs if outside arbitrator is appointed and his appointment is not challenged by filing objection petition before him under Sec 13 (2) of the Act.

Arbitral Tribunal is empowered to fix its own costs, expenses and fees. Parties to the arbitration shall deposit them in equal share (Sec.38).

### **PRECAUTIONS**

- Ensure that site order books and diaries are maintained by the field officers/staff to record progress/slackness of work deployment of labour, vehicles, machinery etc. by the contractor.

This will be proof against false claims, idling of men and machinery and work not done by the claimant.

- Contractor should be advised of slow/no progress, deficiencies in his work etc., in writing as soon as such things are noticed.

This will help in demonstrating the conduct of contractor in executing the work and also defending the claims later.

- Insist the contractor to prefer monthly claims, if any, as per Cl. 43 (1) of GCC.

This will reduce speculative or inflated claims by the contractor.

- Do follow Cl. 61 of GCC scrupulously for determination of contract within the currency of contract.

This will save Railway from committing breach of contract and from liability for damages.

- Do examine the claims put forth after determination of contract under Cl. 61 (1) of GCC and give a categorical reply to the contractor either admitting or rejecting the claims supported by reasons.

This is necessary to bring the rejected claims into the fold of 'excepted matters'.

- Do follow procedure prescribed under Cl.62 of GCC while terminating the contract.

This will enable the Railway Administration in defending the claims later. If termination is in order, other claims are easier to defend.

- Obtain Law Officer's opinion before closing/terminating a contract after expiry of agreement period.

Many a time, department's action in terminating the contract is being termed as illegal by arbitrators/courts.

## **VARIATIONS**

- Advise the contractor in writing and obtain his consent for the additional quantities/items.

This will remove the doubts with respect to additional quantities/items ordered/executed.

- Process the variations for sanction during the course of execution itself.

By this, contract need not be extended only for the purpose of sanctioning of variation, giving room to claims for that period.

- If there is a counter offer, and the same is confirmed, reasons should be recorded and communicated to the contractor.

It will help in defending the claims for extra rates.

- Contractor should be advised to prefer an appeal, if any, to Chief Engineer against the negotiated rates under Cl. 39 of GCC, which CE shall decide and dispose after hearing both sides.

This is mandatory to bring finality to the action take by the department and thus can be grouped into 'excepted matters.'

### **DON'Ts**

- Don't float/finalise tenders without making ready the site, designs/drawings.

Delay on account of handing over site, plans etc., will lead to idling of labour giving scope to raise claims on that account.

- Do not allow subordinates or supervisors to enter into correspondence or reply to contractor.

This will give room to conflicting stands by the department as a whole.

- Do not delay signing the agreement.

Non-signing of agreement will pose problems in interpretation of contract. In the absence of agreement, letter of acceptance will only be the binding contract between the parties, which may not include special conditions and other stipulations regarding the work.

- Do not allow undue delay in preparing and payment of bills, particular the final bill.

Contractor will press for interest on delayed payments, idling of men, machinery overheads etc., for the intervening period.

- Do not maintain silence on the claims raised by the contractor.

This will give scope to the contractor to approach the court for appointment of arbitrator.

- Do not drop any claims other than 'excepted matters' from reference to arbitration, that too duly advising the contractor the reasons to do so in respect of 'excepted matters'. This will make the contractor to rush to the court for balance claims.

- Do not defend the Arbitration Application on the merits or demerits of claims.

The court may take a view that railways are not willing to appoint arbitrator.

- Do not file counter/defence statement directly before sole arbitrator appointed by the court without first taking preliminary objections, if any, regarding his qualification, jurisdiction etc.

By this act, Railway will be losing the opportunity to challenge, the appointment of sole arbitrator as well as jurisdiction of arbitrator with reference to the qualification and arbitrability of the claims (S.13, 16)

- Do not presume that arbitrator cannot be requested to expedite the proceedings, in case of delay or neglect.

This can be a ground to the claimant to move the court under Sec. 14(2) of the Act to terminate the mandate of the arbitrator. This causes further delay. Hence arbitrators can be requested by both parties to expedite proceedings.

- Do not hesitate to produce any kind of evidence both oral and documentary before the arbitrator to prove the department's case.

For all purposes the Arbitral Tribunal can act like a court in taking evidence etc. Further Arbitral Tribunal is bound to give decisions based on evidence lead before it. It cannot rely on other records, official correspondence etc. without being brought on record as exhibits.

- Do not refuse/reject arbitration of claims other than 'excepted matters', even though they appear to be remote, false, exaggerated etc.

This will be a good ground for the contractor to approach court for appointment of arbitrator. Even after referring the claims, they can be contested before the arbitrator.

- Do not terminate the contract, after the contract period has lapsed or without following procedure prescribed.

This will amount to breach of contract and a good reason for the contractor to seek arbitration.

- Do not delay decision to satisfy or contest the award beyond three months. Even in case of justifiable delay, only a further period of 30 days can be permitted by court for filing application for setting aside award.

Under Sec. 34 application to set aside has to be filed within 3 months. Even courts have no power to condone any delay beyond thirty days. Thereafter, the application for setting aside the award will be rejected.

## **(Questions Answered)**

### **GENERAL**

1. Is whole of Arbitration and Conciliation Act 1996 applicable to arbitration on Railways?

Yes, subject to agreement between the parties wherever it is stated in the Act. However, provisions regarding conciliation are not applicable unless railway takes a policy decision to adopt conciliation as a method.

2. What is the difference between arbitration and conciliation?

Arbitration is a process wherein an arbitrator is appointed to go through the rival claims or disputes based on the claims before him, terms of agreement and all documents made available to him and pronounce his award on the reference supported by reasons, unless giving reasons is not required under the terms of agreement. However, conciliation is a proceeding wherein a nominated conciliator mediates between the parties for amicable settlement. His award need not have reasons.

3. Should arbitrator be an expert or a professional connected with the dispute/subject?

No. If the agreement provides any qualification or procedure, the arbitrator shall be one suiting the prescribed qualification.

4. Does Arbitration Act, 1940 still apply to arbitral proceedings?

Yes. If a request for appointment of arbitrator was delivered in the office of Railway prior to 25.1.1996, i.e., on or before 24.1.1996, then Arbitration Act, 1940 is applicable even though appointment of arbitrator is made after that date. (S 1, 86)

5. Which is a Competent Civil Court?

Competent Civil Court, as far as a district is concerned, is the Principal Civil court. However, if High Court exercises its original civil jurisdiction with regard to subject matter, then it will be such court. In Metropolitan Cities, this Chief Judge of City Civil Court [S 2(1) (e)].

6. Acknowledgement of communication is not relevant in relation to arbitral proceedings. Is this true?

Yes. Proof of delivery is sufficient. If the person's address or where about is not known, proof of attempt to deliver at the last known address is sufficient (S.3)

7. When any suit is filed in a court to resolve a dispute that is covered by arbitration agreement, what is the court of action for the department?

Department can file an application under Sec. 8 (1) of the Act immediately, before filing counter, to refer the matter to arbitration, drawing the attention of the court about existing arbitration agreement.

8. Can Arbitral proceedings be commenced/continued during the pendency of application under Sec. 8(1)?

It is not necessary to wait till the court pass orders in the application filed under Sec.8 (1) for commencing the Arbitral proceedings. Even during the pendency of the application, Arbitral proceedings may be commenced continued and an Arbitral award made.

9. What is 'waiver of rights' under the new act?

As per Sec.4 of the act, a party deemed to have waived his right when he knowingly proceeds with arbitration in the following circumstances:

- (a) when he fails to state his objection under the Act, within the prescribed time
- (b) when he knows that any requirement under the arbitration agreement has not been complied with but not objected to it within the prescribed time or without undue delay where no time is prescribed.

10. What happens to Arbitral proceedings when the claimant dies?

The Arbitral proceedings shall not terminate. They can be continued with the substitution of legal representative. However the legal representative has to be brought on record through a formal request (S.40).

11. When does Arbitral proceedings commence?

According to Sec.21 of the Act, Arbitral proceedings in respect of a particular dispute commence on the date on which request for appointment of Arbitrator is delivered by the claimant in the office of the Department.

12. When shall Arbitral proceedings terminate?

Arbitral proceedings shall terminate after passing of final award or Arbitral Tribunal can issue an order of termination where:

- (a) Claimant fails to file claims statement within the stipulated time (S.25(a)).
  - (b) Claimant withdraws his claim (S.32).
  - (C) Parties agree to the termination (S.32).
  - (d) Continuation of proceedings becomes unnecessary or impossible (S.32).
13. I am an arbitrator. After conducting few sittings/proceedings, I am transferred to a different division/zone/unit. Shall I cease to be arbitrator?

No. You shall continue to be the arbitrator and can conduct proceedings at the new place of posting or any other place with the consent of both the parties.

14. As an arbitrator, where am I supposed to conduct Arbitral proceedings?

Arbitrator can choose the venue to conduct proceedings with the consent of the parties. There is no hard and fast rule with regard to place of arbitration as long as parties to the arbitration are agreeable to that (S.20).

## **PROCEEDINGS**

15. What all documents/other things required for an arbitrator in arbitration proceedings?

1. Blank Mind
2. Terms of Reference of Arbitration.
3. Copy of agreement.
4. Claims statement.
5. Defense statement and counter claim if any.
6. Documents in support of claim statement,
7. Documents in support of Defense statement.
8. Oral evidence of witnesses after giving opportunity to other side for cross-examination.

16. Whether Arbitral Tribunal can pass interim award?

Yes. Arbitral Tribunal is competent to give interim Orders/award to protect the rights of parties in dispute (S.17).

17. Whether Arbitral Tribunal can be requested to expedite/conduct proceedings if they do not sit for long time? What to do when Arbitrator does not sit or conduct proceedings for long periods?

Parties to the Arbitration are entitled to ask the Tribunal to conduct arbitral proceedings expeditiously if there is undue delay. Under Sec. 14 of the Arbitration Act, 1996, the mandate of Arbitral Tribunal will terminate in case of undue delay. Then any of the parties can approach the Chief Justice for appointment of another Arbitrator.

18. If the claimant fails to submit his statement of claims what happens to the Arbitral Tribunal?

The Arbitral Tribunal shall terminate the proceedings if the claimant defaults by not submitting his statement of claims, without having sufficient cause (Sec.25).

- 19 I am an Arbitrator. Claimants have submitted his claims statement. But respondents did not file their reply even after repeated notices. Can I proceed with Arbitral proceedings or how long I have to wait?

When reply is not filed within the stipulated time, Arbitral Tribunal can proceed ex-parte and continue the proceedings (Sec.25).

- 20 Will non-filing of statement of defence amounts to admission of tint claims?

No. Non-filing of statements of defence does not amount to admission of allegations made by the claimant. Arbitral Tribunal has to adjudicate the claims on the merits of the case looking to available records (S.25).

21. Is there any Law that governs the Arbitration proceedings other than GCC/IRS conditions?

In addition to the terms and conditions of contract Arbitral Tribunal shall follow the substantive law on the subject for the time being in force to decide the disputes i.e., Contract Act, Limitation Act, Interest Act, Negotiable Instruments Act etc. (S.28).

22. Once claims are referred to Arbitration, is it compulsory that the claims should be contested at any cost or the disputes can be settled?

It is not compulsory to contest the claims. Parties can opt for settlement generally. However, in view of Clause 64.3 of GCC warranting reasons, such settlement is not contemplated in Railway cases.

23. As an arbitrator, can I decide my jurisdiction?

Yes. Arbitral Tribunal is empowered to decide his jurisdiction under Sec. 16 of the 1996 Act if any party raises objection about jurisdiction, Arbitral Tribunal can decide either way, and proceed either, if it finds that the tribunal has jurisdiction.

24. If the claimant puts forth additional claims other than included in the reference, what the Arbitrator has to do?

No new claim shall be added during the proceedings. Arbitrator may accept or reject the amendment of claims put forth by the claims with due regard to delay. (Cl. 64(1) (iii) of G.C.C)

25. When excepted matters are being referred to arbitration under direction of court, what stand shall the department take before Arbitrator?

Department before filing counter/defence statement, should file an objection petition under Sec. 16 (2) of the Act. The arbitrator is obliged to decide the issue of jurisdiction before continuing with Arbitral proceedings. In fact, department can request the Arbitral Tribunal to decide the question of Jurisdiction first, before going to adjudicate the claims. If the Arbitral Tribunal rejects the plea of lack of jurisdiction, it will be a ground to file



application for setting aside the Arbitral award under Sec. 34 though arbitration proceedings are to be continued till award is passed.

### **ARBITRATOR**

26. As an arbitrator, what I have to do, when some of the claims are 'excepted matters and some are not?

Arbitrator can exclude such claims which are in his opinion are 'excepted matters' and hence not arbitrable. He can however, proceed to adjudicate the other claims.

### **AWARD**

27. Is there any difference in the award made under the Act of 1940 and the Act of 1996?

Yes. Award under 1940 Act is enforceable as a decree only when the same is made rule of court by filing award in the competent civil court. Award under 1996 Act is enforceable as decree immediately after expiry of three months, i.e., the time prescribed for filing application for setting aside the award under Sec.34 of the Act, if no such application is made (s.36).

28. Whether an appeal can be filed against an interim award without waiting for final award?

No. An interim award is not one of the appealable orders under the Act (S.37).

29. Whether Arbitral Tribunal is bound to give reasons for their award?

The award shall state the reasons upon which it is based, unless it is a settlement between the parties or parties have agreed that no reasons be given [Sec. 31 (3)]. GCC stipulates that Arbitral award shall state reasons in support of the award. Hence award shall contain reasons.

30. In a three member Arbitral Tribunal if two of the Arbitrators sign the award, and the third refuses, what happens to the award? Will it be enforceable?

Yes. In arbitral proceedings with more than one Arbitrator, any decision of the Arbitral Tribunal shall be made by majority of all its members. Therefore, an award signed by two members out of three is valid and enforceable if findings are in agreement and the reason for omitted signature is stated. (Sec.29)

31. I am an Arbitrator. After conducting Arbitral proceedings, how to draw the final award what shall be the form and contents of Arbitral award?

The award shall state reasons upon which it is based. All the members of the Arbitral Tribunal shall sign the award. Alternatively, signatures of

majority of the members of Arbitral Tribunal are sufficient if the reason for any omitted signature is stated. The award shall state date and place of Arbitration (sec.31).

32. What the Arbitral Tribunal should do with the award and how to communicate to the parties. Is it sufficient, if notice/letter is given to both the parties that award is ready?

No. Mere letter/notice to the parties is not sufficient. Under the Act of 1996, Sec.31 (5) stipulates that a signed copy of Arbitral award shall be delivered to each party. This shall be done as per 8.3 of the act.

33. What are the powers of Arbitrators in awarding interest in respect of contracts on Railways?

Arbitrators cannot grant interest for either pre- reference or pendentlite periods in view of express prohibition under C1. 64 (5) of GCC. However, in respect of future period i.e. from the date of award till payment, arbitrators are empowered to award interest and also decide the rate of interest to be awarded [S.31(7)(a)].

34. If the award is silent about interest on claim amounts, is the claimant entitled for future interest?

Yes. Sec. 31(7) (b) provides that unless the award otherwise directs, the Arbitral award shall carry interest @ 18% per annum from the date of award to the date of payment.

#### **ARBITRAL COSTS AND MISC.**

35. What are the items that constitute costs of arbitration?

The costs of arbitration include legal fees and expenses, any administration fees, and other expenses in connection with the Arbitral proceedings such as secretarial assistance, stamp paper etc.

36. Who has to pay the costs?

Costs are to be borne by parties as directed by the Arbitral Tribunal in the award.

37. Whether both parties deposit costs equally?

Yes. However if one party fails Arbitral Tribunal can advise the other party to deposit the full costs. If other party does not agree, the Arbitral Tribunal may either terminate the proceedings or with hold the award, since the Tribunal is provided with lien over the award for his costs (Sec. 39).

\*\*\*\*\*

**Southern Railway**

No.W.29/I/Vol.V

Headquarters Office,  
Works Branch,  
Chennai, 600 003,  
Dt: 20.3.2002.

CAO/CN/BNC, CAO/MTP/MS

Sub: Power of Judicial authority to refer parties  
to arbitration.

Ref: A & C Act, 1966 — Section 8.

\*\*\*\*\*

Section 8 of the A & C Act, 1996 reads as under:

“(1) A judicial authority before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so applies not later than when submitting his first statement on the substance of the disputes, refer the parties to arbitration.”

1.1 The above section provides powers for a judicial authority to refer a dispute between parties to arbitration when there is an exiting arbitration agreement between the parties. GCC of the Railway provides for such an agreement vide clauses 63 & 64. But, application seeking orders for referring to arbitration cannot be made by a party under the A & C Act if such an agreement (or clause) does not exist and in such a case, the party interested in seeking arbitration has to approach the courts under the Contracts law or any other Civil laws. Applications made under A & C Act do not attract any major court fees whereas under other Acts do require payment of hefty court fees (7-1/2% or so of the claim value) by the party who applies.

2. Many times it is seen that parties are raising large number of unjustifiable claims with huge claim amounts, sometimes exceeding the agreement value, without providing much detail. As Railway's GCC have provided arbitration clauses, in case of Railway's denial to grant arbitration or due to delay in granting of arbitration, the contractor (claimant) seeks orders from the courts under Section 8 of A & R Act, 1996 and the courts invariably refer the parties to arbitration. As such Railway is forced to grant arbitration in all cases, irrespective of the magnitude of the claims or their justification.

3. In this connection, D.O. letter of CE/Western Railway to ME No.W.118/11/7/0/A dt.2.1.2001, copy enclosed, may be seen. Western Railway have been adopting a clause in their special conditions restricting the value of claims for referring disputes to arbitration under the GCC. The special condition adopted by Western Railway is given in Para 2 of the above letter.

3.1 This appears to have prevented contractors from seeking arbitrations in majority of cases and Western Railway have claimed success based on the above conditions. There is a possibility that atleast the claim values would be

restricted if a contractor decides to seek arbitration under clauses 63 & 64 of GCC, if such special conditions are included.

4. Though the subject has been referred to Board by the Western Railway, no orders have been received from the Board so far. Hence it is felt that the following special conditions can be incorporated in the tender documents for works contracts on our Railway:

1. "The provision of clauses 63 and 64 of the G.C.C. will be applicable only for settlement of claims of disputes between the parties for values less than or equal to 20% of the value of the contract and when the claims or disputes are of value more than 20% of the value of contract, provisions of clauses 63 & 64 and other relevant clauses of GCC will not be applicable and arbitration will not be a remedy for settlement of such disputes" and

2. "The contractor shall not be entitled to ask for reference to arbitration before COMPLETION of the work assigned to him under this contract. The contractor shall seek reference to arbitration to settle disputes only ONCE within the ambit of condition at 1 above".

5. You are requested to give your views on the subject early so that an unified clause can be finalised.

Encl: CE/W.RIy.'s letter  
dated 2.1.2001.

(S. Vijayakumaran)  
Chief General Engineer.  
for Chief Engineer.

D.O. No. W. 118/11/7/0/A.

Date: 02.01 .2001.

Dear Shri Malhotra,

Sub: Changes in GCC in view of Arbitration & Conciliation Act, 1996.

Ref : 1. Our letters of even No. dated 15.3.1999, 28.5.1999 and 11.4.2000.  
2. Railway Board's letter No. 96/CE-1/CT/19 dtd. 23.3.1999 and 5.4.2000. &  
3. Discussion during CE's Conference of 20/21.12.2000 on the above subject.

\*\*\*\*\*

With the introduction of Arbitration & Conciliation Act, 1996, the contractors are empowered under section 11 of the act to approach the Chief Justice for appointment of arbitrators if the General Manager fails to appoint the same within 30 days. Chief Justice of High Court has been given powers to appoint Arbitrators in case one of the parties fails to appoint arbitrator. Consequently, the chief justice appoints an arbitrator who does not always possess, requisite qualifications stipulated under the arbitration clause of our G.C.C.

Some contractors are taking undue advantage of the provision, in the new Act and are putting up exorbitantly high claims which are normally not sustainable. To restrain the contractors from putting up exorbitantly high claims, we have incorporated following additional special conditions in contract agreements on Western Railway:

1. " The provision of clauses 63 and 64 of the G.C.C. will be applicable only for settlement of claims of disputes between the parties for values less than or equal to 20% of the value of the contract and when the claims or disputes are of value more than 10% of the value of contract, provisions of clauses 63 & 64 and other relevant clauses of GGC will not be applicable and arbitration will not be a remedy for settlement of such disputes" and
2. "The contractor shall not be entitled to ask for reference to arbitration before COMPLETION of the work assigned to him under this contract. The contractor shall seek reference to arbitration to settle disputes only ONCE within the ambit of condition at 1 above".

We have been successful in many cases of exorbitant claims where courts have denied demands of arbitration, by contractors in view of these conditions. Making these a part of the GCC may please be considered.

Due to increasing number of cases where contractors were seeking arbitration through court, we referred the matter to M/s. Arthur Anderson, one of the leading legal consultants. After examining the issue in detail they have advised as follows:

"Instead of an arbitration clause, a clause may be provided in contracts which stipulates that should a dispute arise, the contractor may approach the General Manager of the Western Railway and request the General Manager to enter into an Arbitration, agreement to resolve such a dispute. Further, the clause may provide that if the General Manager agrees then the contractor and the Western Railway may proceed to arbitration on the terms and conditions of arbitration to be agreed to at that time, else the contractor would have to approach the courts for a resolution of the dispute as there would be no agreement for arbitration".

We had submitted a proposal on these lines vide our letters referred above. A copy of report submitted by the consultants is enclosed herewith. Board may like to consider the matter further.

With kind regards,

Encl: As above

Yours sincerely,

(M.S.Ekbote)

Shri R N. Malhotra,  
Member Engineering,  
Railway' Board,  
New Delhi.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.96/CE.I/CT/29

New Delhi, dated 22.2.2001

Addressed to:

As per list attached.

Sub: General Conditions of Contract —  
Clause 63. Matters finally determined  
by the Railway.

\*\*\*

The Ministry of Railways (Railway Board) have decided that clause 63 of the General Conditions of Contract may be amended as shown in the enclosed Correction Slip No.2 (Two).

This issues with the concurrence of Legal Directorate of Ministry of Railways.

Receipt of this letter may please be acknowledged.

DA AS ABOVE

(PARMOD KUMAR)  
Excc.Director, Civil Engineering (G)  
Railway Board.

No.96/CE/CT/29

New Delhi, dated 22.2.2001

**Correction Slip.NO.2**

Addressed to:

As per list attached.

Sub: General Conditions of Contract —  
Clause 63.

\*\*\*\*

Ministry of Railways (Railway Board) have decided that in clause 63 Clause 8(a) and 62 (1) (b) mentioned as excepted matter may be corrected as under:

	Existing	Modified Clause.
10 <sup>th</sup> line	8(a)	8
11 <sup>th</sup> line	62(1) (b)	62(1)to(xiii)(B)

(PARMOD KUMAR)  
Excc.Director, Civil Engineering (G)  
Railway Board.



**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.2003/CE-1/CT/4.

New Delhi, dated 9.10.2003.

**CORRECTION SLIP NO.3 TO G.C.C.**

Addressed to

As per list attached

Sub: General Conditions of Contract – Amendments to  
Arbitration Clause No. 63 and 64 of GCC.

-----

Ministry of Railways (Railway Board) have decided that Clause 63 and 64 of the General Conditions of Contract may be added/deleted/modified as shown in the enclosed Correction Slip No. 3.

This issues with the concurrence of Finance Directorate of Ministry of Railways.

Receipt of this letter my please be acknowledged.

DA : As above.

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.

**Advance Correction Slip No.3 to General Conditions of Contract**

**Note : (i) Deletion from existing clause are shown in *Italic*.**

**(ii) Additions to existing clause are underlined.**

Existing Clause	Revised Clause
<p>63- Matters finally determined by the Railway - All disputes and differences of kind whatsoever arising unit of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract, shall be referred by the contractor to the <b><i>Railway</i></b> and the <b><i>Railway</i></b> shall within 120 days after receipt of the Contractor's representation make and notify decisions on all matters referred to by the contractor in writing provided that matters for which provision has been made in clauses 8, 18, 22(5), 39, 43(2), 45(a), 55, 55-A(5), 57, 57A, 61(1), 61(2) and 62(1) to (xiii) (B) of General Conditions of Contract or in any clause of the special conditions of the contract shall be deemed as 'excepted matters' and decisions of the Railway authority, thereon shall be final and binding on the contractor; provided further that 'excepted matters' shall stand specifically excluded from the purview of the arbitration clause and <i>not be referred to arbitration</i>.</p> <p>Note : Existing Clause be read with Correction Slip No.2 issued vide Board's letter No.96/CE-1/CT/29 dated 22-2-2001.</p>	<p>63 - Matters finally determined by the Railway - All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract, shall be referred by the contractor to the <b><u>GM</u></b> and the <b><u>GM</u></b> shall within 120 days after receipt of the Contractor's representation make and notify decisions on all matters referred to by the contractor in writing provided that matters for which provision has been made in clause 8, 18, 22(5), 39, 43(2), 45(a), 55, 55-A(5), 57, 57A, 61(1), 61(2) and 62(1) to (xiii) (B) of General Conditions of Contract or in any clause of the special conditions of the contract shall be deemed as 'excepted matters' <b><u>(matters not arbitrable)</u></b> and decisions of the Railway authority, thereon shall be final and binding on the contractor; provided further that 'excepted matters' shall stand specifically excluded from the purview of the arbitration clause.</p>

Existing Clause	Revised Clause
<p>64(1)(ii) - The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim itemwise. Only such dispute(s) or difference(s) in respect of which the demand has been made, together with counter claims or set off, shall be referred to arbitration and other matters shall not be included in the reference.</p>	<p>64(1)(ii) - The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim itemwise. Only such dispute(s) or difference(s) in respect of which the demand has been made, together with counter claims or set off, <b>given by the Railway</b>, shall be referred to arbitration and other matters shall not be included in the reference.</p>
<p>64(3)(a)(i)  In cases where the total value of all claims in question added together does not exceed Rs.10,00,000/- (Rupees ten lakhs only), the Arbitral tribunal consist of a sole arbitrator who shall be <i>either the General Manager or a Gazetted officer of Railway not below the grade of JA grade, nominated by the General Manager in that behalf.</i> The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by <i>Railway</i>.</p>	<p>64(3)(a)(i)  In cases where the total value of all claims in question added together does not exceed Rs.10,00,000/- (Rupees ten lakhs only), the Arbitral tribunal <b>shall</b> consist of a sole arbitrator who shall be a gazetted officer of Railway not below JA grade, nominated by the General Manager. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by <b>GM</b>.</p>

Existing Clause	Revised Clause
-----------------	----------------

64(3)(a)(ii) -

In cases not covered by clause 64(3)(a)(i), the Arbitral Tribunal shall consist of a panel of three Gazetted Rly.Officers not below JA grade, as the arbitrators. For this purpose, the Railway will send a panel of more than 3 names of Gazetted Rly. Officers of one or more departments of the Rly., to the contractor *who* will be asked to suggest to General Manager upto 2 names out of the panel for appointment as contractor's nominee. The General Manager shall appoint at least one out of them as the contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'presiding arbitrator' from amongst the 3 arbitrators so appointed. While nominating the arbitrators it will be necessary to ensure that one of them is from the Accounts department. An officer of Selection Grade of the Accounts Department shall be considered of equal status to the officers in SA grade of other departments of the Railway for the purpose of appointment of arbitrators.

64(3)(a)(ii) -

In cases not covered by clause 64(3)(a)(i), the Arbitral Tribunal shall consist of a panel of three Gazetted Rly Officers not below JA grade **or 2 Railway Gazetted Officers not below JA Grade and a retired Railway Officer, retired not below the rank of SAG Officer,** as the arbitrators. For this purpose, the Railway will send a panel of more than 3 names of Gazetted Rly. Officers of one or more departments of the Rly. **which may also include the name(s) of retired Railway Officer(s) empanelled to work as Railway Arbitrator to the contractor within 60 days from the day when a written and valid demand for arbitration is received by the GM.** Contractor will be asked to suggest to General Manager upto 2 names out of the panel for appointment as contractor's nominee **within 30 days from the date of dispatch of the request by Railway.** The General Manager shall appoint at least one out of them as the contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'presiding arbitrator' from amongst the 3 arbitrators so appointed. **GM shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of contractor's nominees.** While nominating the arbitrators it will be necessary to ensure that one of them is from the Accounts department. An officer of Selection Grade of the Accounts Department shall be considered of equal status to the officers in SA grade of other departments of the Railway for the purpose of appointment of a arbitrators.

**Note : (3) Other sub-clauses of Clause 64 remain unaltered.  
(Authority : Railway Board's letter No. 2003/CE-I/CT/4 dated 9.10.2003)**

**Policy letter No.RB/CE.I/12/2004**

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No.96/CE.I/CT/29(Vol.I)

New Delhi, dated 05-01-2005

**CORRECTION SLIP NO.4 TO GENERAL CONDITIONS OF CONTRACT  
(G.C.C.)**

Addressed to:

As per list attached.

Sub: General Conditions of Contract —  
Amendments to Arbitration Clause No.  
63 and 64 of GCC  
\*\*\*\*

Ministry of Railways (Railway Board) have decided that clause 63 and 64 of the General Conditions of Contract may be modified as shown in the enclosed Correction Slip No.4.

This issues with the concurrence of Finance Directorate of the Ministry of Railways.

Receipt of this letter may please be acknowledged.

(PARMOD KUMAR)  
Exec. Director, Civil Engineering(G)  
Railway Board.

**ADVANCE CORRECTION SLIP NO.4**  
**TO**  
**GENERAL CONDITION OF CONTRACT**

(1) Add 'Indian Railway Arbitration Rules' in the end of the title 'Settlement of Disputes' of clause 63 & 64 and **after addition, the complete title shall be as under:**

'Settlement of Disputes- **Indian Railway Arbitration Rules'**

(ii) Add new clause 64(1)(ii)(d) as under:

**"Place of arbitration:-** The place of arbitration would be within the geographical limits of the Division of the Railway where the cause of action arose or the Headquarters of the concerned Railway or any other place with the written consent of both the parties."

(iii) In para 64(3)(a)(ii) replace the word 'upto' with 'at least' and **after modification the whole sentence would read as below.** There is no other change in this clause.

"-----Contractor will be asked to suggest to General Manager atleast 2 names out of the panel for appointment as contractor's nominee within 30 days from the date of dispatch of the request by Railway.-----."

(iv) 64(3)(a)(iv):- Add at the end of the clause " The Arbitral Tribunal should record the day to day proceedings. The proceedings shall normally be conducted on the basis of documents and written statements. **After modification the complete clause shall read as follows:**

"The Arbitral Tribunal shall have power to call for such evidence by way of affidavits or otherwise, as the Arbitral Tribunal shall think proper, and it shall be the duty of the parties hereto to do or cause to be done all such things as may be necessary to enable the Arbitral Tribunal to make the award without any delay. **The Arbitral Tribunal should record day-to-day proceedings. The proceedings shall normally be conducted on the basis of documents and written statements."**

(v ) 64(3)(b)(i):- Add "The analysis and reasons shall be detailed enough so that the award could be inferred there from." at the end of the clause and **after addition the complete clause would read as under:**

"The arbitral award shall state item wise, the sum and reasons upon which it is based. **The analysis and reasons shall be detailed enough so that the award could be inferred there from."**

(vi) 64(3)b(ii):- Replace numeral 30 with 60. **After modification, the complete clause would read as follows:**

"A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of tribunal within **60** days of the receipt of the award."

(vii) 64(3)b(iii):-Replace numeral **30** with **60**. **After modification the complete clause would read as follows:-**

"A party may apply to tribunal within 60 days of the receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award."

(viii) 64.6:- Replace word 'Railway Administration' with 'Railway Board' mentioned in 2nd line of clause and add at the end of the clause and the fee shall be borne equally by both the parties. Further, the fee payable to the arbitrator(s) would be governed by the instructions issued on the subject by Railway Board from time to time irrespective of the fact whether the arbitrator(s) is/are appointed by the Railway Administration or by the court of law unless specifically directed by Hon'ble court otherwise on the matter and **after modification and addition the complete clause would be read as under:-**

"The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s) as per the rates fixed by the Railway Board from time to time and **the fee shall be born equally by both the parties. Further, the fee payable to the arbitrator(s) would be governed by the instructions issued on the subject by Railway Board from time to time irrespective of the fact whether the arbitrator(s) is/are appointed by the Railway Administration or by the court of law unless specifically directed by Hon'ble court otherwise on the matter"**.

Note: Additions/Alterations have been shown in bold letters in the modified clause(s)

## **IV.ARBITRATION**

### **B: APPOINTMENT OF ARBITRATORS**

Sl.NO.	Subject in Brief	Letter Dated
1	Appointment of Retired Railway officers As Arbitrators	14.11.96
2	Defending Arbitration Cases by CN Organisation/S,Rly	9.02.98
3	Functioning of Presenting officer in Rly. Arbitration Cases	20.12.01
4	Appointment of Retired Railway officers As Arbitrators	12.01.04
5	Failure of CN officers to process for Appointment of Arbitrators as & when Demanded by Contractors in accordance with GCC & A& R Act 1996	22.03.05
6	Non-Rly Arbitral Tribunal – Railway's Participation in the Proceedings	28.09.05



**Government of India (Bharat Sarkar)  
Ministry of Railways (Rail Mantralaya)  
(Railway Board).**

No. 95/CE-I/CT/24

New Delhi, the 14.11.96

The General Managers,  
All Indian Railways including  
CLW, DLW, ICF and  
MIP/Railways, Calcutta.

The General Manager,  
W&AP/Bangalore.

The O.S.D  
R.C.F./Kapurthala.

The Chief Admn. Officers (Admn) ,  
Central Railway/Mumbai  
Northern Rly/Kashmere Gate, Delhi.  
N.E. Railway/Gorakhpur.  
Southern Railway/Bangalore.  
S.C. Railway/Secunderabad.  
Western Railway, Mumbai

The Chief Admn. Officer,  
DCW/Patiala and  
COFMOW, New Delhi.

The General Manager,  
CORE/Allahabad.

The Chief Admn. Officer(P)  
S.E.Rly., Bhubaneshwar

The Principal,  
R.S.C./Vadodara.

Sub: Appointment of retired Railway  
Officers as Arbitrators.

\*\*\*\*\*

In Connection with the above subject, Board have decided that only when the number of Arbitrators is 3 or more, one of the Arbitrators can be a retired Railway Officer. Only Retired Officers with impeccable reputation, who are clear from Vigilance angle and who have retired in SA Grade and above should be appointed as Arbitrators.

Guidelines for appointment of retired Railway Officers as Arbitrator's and other conditions are enclosed as Annexure –I.

Encl: Annexure-I

(V.K. Agarwal)  
Executive Director Civil Engg. (G)  
Railway Board.

## Annexure - I

### Guidelines for appointment of retired Railway Officers as Arbitrators and other conditions.

-----

1. Railways should call for applications from retired SA Grade Officers who are willing to work as Arbitrators for empanelment.
2. Panel of Arbitrators shall be drawn up by the concerned Zonal Railway after obtaining vigilance clearance from Railway Board. Since in all arbitration cases having three or more members, one Member will be from Finance and since most of the arbitration cases are from Civil Engineering Department, larger panels of Finance and Civil Engineering Officers should be formed. Similar panels may be formed for Mechanical, S&T, Electrical and Stores Department Officers who have dealt with contract matters during their service tenure. The panel should be reviewed every year by G.M. in consultation with Railway Board Vigilance and names added/deleted so necessary.
3. For the retired officer, normal TA/DA would be admissible for any visits that the arbitrator/arbitrators may undertake for site inspection etc. The Railway should provide the class of Pass for which the officer was entitled before retirement. They will also be entitled to TA/DA as per their position prior to retirement. The arbitrator should also be entitled to rest house and official vehicle when visiting outstations as on duty.
4. For arbitration proceedings, Railway shall make available necessary accommodation alongwith furniture and telephone on the dates of hearings.
5. Normally an arbitration award must be given within 4 months from the date of first hearing. However, for claims exceedings Rs.50 lakhs, a period upto one year may he permitted.
6. At a time, not more than 3 arbitration cases should be given to one retired officer.
7. The arbitrator shall maintain strict secrecy in relation to the documents and information received by him regarding the case in question and shall return records, reports etc. received during the arbitration proceedings to the competent authority in the Railways at the time of submission of the award.
8. G.M. will keep watch on the performance of the arbitrator and if the G.M. finds that the arbitrator does not appear to be fair, he may consider deleting the arbitrator's name from the panel for the subsequent period.
9. Once an Arbitrator is appointed by the Government Authority, the mandate of the arbitrator can be terminated and arbitrator substituted by another, as per Clause 15 of the Arbitration and conciliation Ordinance, 1996.

-----

## **Southern Railway**

Office of the FA&CAO  
(Construction), Egmore

No.W.496/CN/MS/O/ARB

Dated: 09/02/1998.

Sub: Defending arbitration cases by  
Construction Organisation/S. Rly.

It is seen that for most of the arbitration cases relating to construction organisation only an XEN is nominated to defend the Railways. This trend is particularly noted in Construction/Bangalore office.

Since arbitration cases involve huge financial implication, it is necessary that the defendant should be minimum of a rank of JA Grade officer.

CAO is therefore requested to give instructions to all CEs/CPMs/CN to review the ongoing arbitration cases in this regard and re-nominate a JA Grade officer or a Selection Grade officer in cases where only an XEN is presently nominated.

FA&CAO/CN/MS

Southern Railway

Office of the  
Chief Administrative Officer  
(Construction)  
Bangalore 560046.

No.W 496/CN/BNC/Policy

Dt : 17 -2- 1998

CE/CN/MS CE/CC/MS CPM/GC/I/MS CPM/GC/II/MS  
CE/Plg.& Sur/NS, CE/CN/BNC CE/CN/III/BNC  
CE/GC/BNC CSTE/CN/MAS

Sub : Nomination of Officers for defending Arbitration  
Cases on behalf of Railway Administration for  
Construction organization.

-----

It has been brought to my notice that for most of the Arbitration cases relating to Construction Organization, only Senior Scale officers i.e. XEN/SEN are being nominated to defend the Railway Administration.

Since the Arbitration cases involve huge financial implication, it is necessary that the Defending Officer should not be below the rank of a Jr. Administrative Grade Officer (JAG) and he should be the Officer who is presently in charge of the works coming under the purview of arbitration. He may have prior consultations with the officer(s) who executed the work.

The above instructions may please be noted and ensured while dealing arbitration cases in future.

Further, a review of all such cases which are not in the final stage/claims are huge shall be made wherein a Sr. Scale Officer i.e. XEN/SEN has been nominated and action taken to nominate an Officer not below the rank of JA Grade Officer.

Chief Administrative Officer/CN

## **SOUTHERN RAILWAY**

Office of the  
CAO/CN/BNC,  
Dated: 20.12.2001

No. W.148/P/CN/Vol.XVII

Sub: Functioning of Presenting Officer in Railway  
Arbitration cases.

-----

A number of reports have been received from Arbitration Committee members regarding the total lack of response of Presenting Officers in arbitration proceedings. The Presenting Officers are reported to be not attending the arbitration proceedings and not even informing the arbitrators in advance if they have problems in attending the proceedings, due to personal or official reasons. This is viewed very seriously.

The Presenting Officers are personally responsible for presenting the railway cases effectively after proper study of the records available. They are required to participate in all the proceedings. They are also required to scrutinize all the papers submitted by the claimant for their correctness and bring to the notice of the arbitrators if there are any discrepancies/wrong representations by the claimants.

Recently two cases have come to the notice of this office where the claimants presented their claims of dues from the railways, a copy of which was given to the railway official attending the arbitration, under acknowledgement. The details of claims were not verified by the Presenting officer and the claims were allowed by the arbitrators. Later, it was found that the claims were exaggerated, but the arbitrators did not agree to modify their award as the Presenting Officer did not point out the discrepancy at the appropriate time. In such cases, the Presenting Officer will have to be taken up under DAR and losses to the Railways will also have to be recovered from them. Similar course of action will also have to be taken if the Presenting Officers don't attend the proceedings and the cases are decided without proper presentation from the Railway side. The arbitration cases will, therefore, have to be taken very seriously.

The officials under your charge may suitably be educated/advised in the matter.

CAO/CN/BNC

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

RB/CE.I/I/2004

No.95/CE.I/CT/24

New Delhi, dated 12.01.2004

(As per list attached)

Sub: Appointment of Retired Railway Officers as  
Arbitrators

Ref: Board's letter No.95/CE.I/CT/24 dated  
[14.11.96](#)

-----

In continuation of Board's letter of even number dated 14.11.96 Board have further decided on the fee payable for retired railway officers for working as arbitrator.

Guidelines for appointment of retired railway officers as arbitrators and fees payable to them are enclosed as Annex A. The earlier instructions issued on the subject vide Board's letter referred to above, are also enclosed as Annexure-B.

This issues with the concurrence of Finance Directorate of the Ministry of Railways.

Encl: As above

(PARMOD KUMAR)  
Exec Director. Civil Engineering(G)  
Railway Board

## **Annexure-'A'**

### **Guidelines for appointing the Retired Railway Officer(s) as Arbitrator(s) and fee payable to.**

1. A panel of arbitrators shall be drawn up by the concerned Zonal Railway after obtaining vigilance clearance from Railway Board. Since in all arbitration cases having three or more members, one member will be from Finance and most of the arbitration cases are from Civil Engineering Department larger panels of Finance and Civil Engineering officers should be formed. The panel should be reviewed every year by G.M. in consultation with Railway Board Vigilance and names added/deleted, as necessary.
2. Out of 3 or more arbitrators, not more than one arbitrator should be a retired railway officer (retired not below the rank of SAG), age not exceeding 70 years and in reasonably good mental and physical fitness. The presiding arbitrator should be a serving railway officer.
3. Retired railway officer while working as an arbitrator will be entitled for a fee not exceeding 1% of the total claims, including the counter-claims subject to maximum of Rs.50.000/- per case. This would include the conveyance charges from the residence of the arbitrator to the place of hearing if it happens to be in the same city where the retired railway officer (appointed arbitrator) resides.
4. Clerical and stenographic assistance, including stationery shall be provided by the Railway. However, if the arbitrator brings his own Steno and does not ask for any assistance, he/she can be paid an honorarium up to 10 per cent of the fee of one arbitrator subject to a minimum of Rs.500/- per case and cost of stationery as per actuals.
5. The fees proposed for arbitration and the honorarium for clerical/stenographic assistance may be reviewed every 3 years. The review will be done by Railway Board.
6. The claimant and the respondent would share all the cost of arbitration equally.
7. All other clauses/conditions would be the same, as already agreed by the Board and circulated to Railways vide Board's letter No.95/CE.I/CT/24, dated 14.11.1996 (copy enclosed).

Ramesh Chandra  
General Manager

General Manager's Office  
Southern Railway  
Chennai-600 003.

D.O. No. GM/M/2005/03/19

Dated: 22/03/2005.

My dear Narasimhan,

Sub: Failure of Construction Officers to process for appointment of Arbitrators as and when demanded by Contractors in accordance with G.C.C. and Arbitration Act 1996.

\*\*\*\*\*

1. I am pained to observe that case after case, Construction Officers have failed to get the arbitrators appointed within the stipulated period of 60 days as per G.C.C. and the Arbitration Act 1996. This opens flood gates for the aggrieved Contractors to approach Hon'ble Courts for justice. It is needless to say that this course of action is detrimental to Railway's interest.

2. I would request you to press upon all Construction Officers to immediately act as and when an arbitration is requested by contractor and to get the arbitrators appointed immediately since it is a condition of the contract, is the right of contractor and cannot be denied.

3. In case any officer is found responsible for delaying the case for appointment of arbitrators within the stipulated period of 60 days, I will be compelled to take action against the concerned officers.

4. This may please be brought to the notice of Officers working under you. I also request you to closely monitor this subject once every month.

With best wishes,

Yours Sincerely,

(Ramesh Chandra)

Shri C.K. Narasimhan,  
CAO/CN/MS



## Southern Railway

Headquarters office,  
Works Branch,  
Chennai - 600 003.

No W.29/I/Vol-VI

Dt. 28/09/2005

DRM/W/MAS PGT TVC TPJ MDU  
Dy CE/EWS/AJJ

Sub: Arbitral Tribunal of Non-Railway Arbitral  
Tribunal- Railway's participation in the  
proceedings - Reg.

\*\*\*\*\*

The question of participation/non participation of railway in the proceeding of arbitration conducted by a Non-Railway Arbitrator (Court's appointee) has been under consideration for some time now.

Recently Division Bench of High Court of Madras has disposed of Railway's Writ Petition (W.P) before the High Court challenging the appointment of Rtd. Judges, by dismissal, thus upholding the Chief Justice order of appointment of Non-Railway arbitrators under section 11 of A&C Act.1996.

An appointment by the Chief Justice of an outside arbitrator under section 11 of A&C Act.1996 has been held to be, though an administrative order in nature, is not appealable under article 226 of the Constitution of India, as once the party files a petition before the Chief Justice under the said section, it is a duty cast on the Court to appoint the arbitrator irrespective of any agreement in existence between the parties.

Following the above noted W.Ps dismissal, it is open to every contractor raising dispute to seek appointment of arbitrators in the Court after expiry of 30 days of issue of notice to railway. A number of Original Petitions filed by contractors under various contracts before the High Court pertaining to PCE/OL and Construction wing have been disposed of appointing Rtd. Judges of High Courts and District Courts.

While railway is already taking up the case for filing SLP challenging the High Court's order appointing outside arbitrators, it is expected that the arbitrator's so appointed are expected to proceed and call for sitting in which the Railway's participation cannot be avoided, lest ex-parte awards may come into existence. In order to avoid such a situation the following course of action is advised.

1. Railways shall participate in the proceedings called by non-railway arbitrator duly taking preliminary objections questioning the Arbitral Tribunal (A.T) jurisdiction under section 16 Sub-section-2 that the A.T. does not have jurisdiction to arbitrate the dispute matters before it and take a plea that the A.T. constitution is against the terms of the contract and arbitration clause governing the contract, signed between the parties before it. Such an objection enable the

administration to take recourse to Appellate Court against the arbitral award under Sec-34 (2) (a) (v), wherein it could be proved that the composition of the A.T was not in accordance with the agreement of the parties.

2. All divisions should engage Railway Advocates to present the railway's side of the cases before the A.T. besides the Presenting Officer who shall assist the advocate on technical matters. For this purpose, Law branch may be addressed to do the needful.

3. Every endeavor should be made to take the proper evidence before such ATs and file effective counter in order to strengthen the arguments in the interest of the administration.

This issues with the approval of CGE

Please acknowledge the receipt of this letter

(V. Srinivasan)  
Dy. Chief Engineer/General  
For Principal Chief Engineer

## **IV.ARBITRATION**

### **C: ARBITRATION FEES**

SI.NO.	SUBJECT IN BRIEF	LETTER DATED
1	Cost of Arbitration	18.03.02
2	Remuneration to Rly. officers acting as Arbitrators	24.02.04
3	Remuneration to Rly. officers acting as Arbitrators	15.03.05
4	Scale of Fee for Arbitration Proceedings Fixed for the Outside Arbitrators ( Retd. Judges & Judicial officials ) by Hon'ble Chief Justice of High Court of Madras – Circular No. Roc / 1337/2006/05 Dated 17.03.06	31.03.06

## Southern Railway

Headquarters Office,  
General Branch,  
Chennai- 600 003.  
Dt. 18.03.2002

No. G 16/DGM/ARB/Corres/Vol.III

### MEMORANDUM

Sub: Cost of Arbitration  
Ref: Railway Board letter No. 96/CE-I/CT/29 dated  
06.08.1997.

-----

In reference to Railway Board's letter mentioned above, the arbitration cost which shall include, interalia, fees of the arbitrator(s), is fixed as given below:-

- |   |        |                        |
|---|--------|------------------------|
| 1) <u>Sole Arbitrator</u>                             |        |                        |
| a) Arbitrator's fees                                  | -      | Rs.2,000.00 per case   |
| b) Clerical charges                                   | -      | Rs. 500.00 per case    |
|   | Total* | - Rs.2,500.00 per case |
| 2) <u>Joint Arbitrators (having 2 Arbitrators)</u>    |        |                        |
| a) Arbitrator's fees (Rs.2,000/- each)                | -      | Rs.4,000.00 per case   |
| b) Clerical charges                                   | -      | Rs. 500.00 per case    |
|   | Total* | - Rs.4,500.00 per case |
| 3) <u>Arbitration Tribunal (having 3 Arbitrators)</u> |        |                        |
| a) Arbitrators fees (Rs.2,000/- each)                 | -      | Rs.6,000.00 per case   |
| b) Clerical charges                                   | -      | Rs. 500.00 per case    |
|   | Total* | - Rs.6,500.00 per case |

The above cost does not include stationery, stamp paper, postal charges and other miscellaneous expenditure which can be charged as per actuals.

The cost of arbitration shall be borne by the respective parties, i.e., Claimant (Contractor) and the Respondent (Railway).

The arbitrator's fees given above will cover final disposal of the case by the arbitrator(s) which may be referred back to the Tribunal by the court under section 34 of Arbitration & Conciliation Act 1996.

The arbitration cost fixed above will be applicable to all the cases where an arbitration-award is given on or after 1<sup>st</sup> April 2002.

This has the approval of FA & CAO and GM.

(A.M. Chowdhary)  
For General Manager.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAY  
(RAILWAY BOARD)**

No.E(G)2004 HO1-2.

Rail Bhavan Delhi-110 001,  
dated 24.2.2004

The General Managers,  
All Indian Railways and  
Production Units, etc.

Sub: Remuneration to Railway officers acting  
as Arbitrators.

-----

Ministry of Railways have reviewed the rate of honorarium payable to Railway servants appointed to act as Arbitrators in disputes between the Govt of India and private parties as laid down in letter No. E(G)90 HO1-18 dated 17/10/91. The matter was discussed in full Board Meeting held on 27/11/2003 wherein a decision has been taken to enhance the honorarium payable to Railway servants acting as Arbitrators in supercession of Board's letter dated 17/10/91. It has been decided that honorarium shall be paid to Railway servants appointed to act as an Arbitrator to settle the disputes @ Rs 300/- per day or Rs.150/- per half day subject to a maximum of Rs.10,000/- per case. For this purpose a day means more than two hours continuous work on any date and half day means work for 2 hours or less. The officer working as Arbitrator shall record a certificate in writing indicating whether he has worked for a half day or for full day on a particular day. The above honorarium to a serving Railway officer acting as an Arbitrator shall be payable irrespective of the Deptt. to which the case pertains. However, while nominating Arbitrator, it should be ensured that the officer should not have dealt with that particular case previously.

This has the sanction of the President and issues with the concurrence of Finance Directorate of the Ministry of Railways.

(M.D. PILLAI)  
JT. DIRECTOR ESTT.(G)

## Southern Railway

General Manager Office.  
Chennai-600 003.

No.G.16/DGM/ARB/Fee

Dated: 15.03.2005

### Memorandum

Sub: Remuneration to Railway Officers acting as Arbitrators.

Ref: Railway Board's letter No.E(G)2004 HO1-2 dated [24.02.2004](#)

\*\*\*\*\*

The above referred Railway Board's letter is enclosed. The arbitration fee as per the above mentioned Railway Board's letter would be applicable to all cases which are entered in to reference by arbitrators on or after 10.3.2005.

Clerical charges at the rate of Rs.500/- per case can be claimed by the Tribunal.

Stationery, stamp paper, postal charges and other miscellaneous expenditure can be charged as per actuals.

Cost of the arbitration shall be borne equally by both the parties i.e. Claimant (Contractor) and the Respondent (Railway).

The fee structure and other instructions mentioned in the memorandum No.G 16/DGM/ARB/Corres/Vol.III dated [18.3.2002](#) would continue to be applicable for all cases which are entered into reference prior to 10.03.2005.

Encl: As above

(M Amarendra)  
DGM/G  
for General Manager

CAO/C & MTP/MS CPO CME CEE PCE CE/CN/TVC  
COM CCM CSC CMD FA&CAO FA&CAO/CN/MS  
FA&CAO/MTP/MS FA&CAO/WST/PER COS CSTE CSTE/Proj/MAS  
CWM/CW/PER CWM/LW/PER CWM/GOC & CWM/S&T/PTJ  
DRMs/MAS TPJ MDU PGT & TVC  
Sr.DAO/MAS Sr.DAO/PGT Sr.DAO/TVC Sr.DAO/TPJ Sr.DAO/MDU  
Dy CLO/MAS ALO/CN/MS

## Southern Railway

Headquarters Office,  
General Branch,  
Chennai-3.

No. G. 16/DGM/ARB/Corres/Vol.III

Date: 31/03/06

All PHODs, All DRMs

Sub: - Scale of fee for arbitration proceedings fixed for the outside arbitrators (retired Judges and Judicial Officials) by the Hon'ble Chief Justice of High Court of Madras — Circular No.ROC.1337/2006/05 dated 17/3/2006 — Communicated in High Court Cause List dt. 21/3/06 Page Nos.5 to 12—reg.

Ref: - Dy.CE/QC/HQ letter No.W.29/1/Vol.III dt. 23/03/2006.  
-----

Please find enclosed copies of letter No.W.29/1/Vol.VI dated 23/03/2006 along with the circular issued by the Hon'ble High Court of Judicature at Madras regarding the scale of fee fixed for arbitration proceedings conducted by the panel of outside arbitrators (Retired Judges and Judicial Officials) constituted by the Hon'ble Chief Justice of High Court of Madras.

The circular may please be notified to the officers and staff concerned working under your control.

End: As above.

(M. AMARENDRA)  
DGM/G  
for General Manager

**Southern Railway**

Headquarters Office,  
Works Branch,  
Chennai — 600 003

No.W.29/1/Vol-VI

Dt.23/03/2006

DGM/G

Sub: Scale of fee for Arbitration proceedings as fixed by Hon'ble Chief Justice of H.C of Madras — Circular No. ROC 1337/2006/OS dated 17.03.2006 — Communicated In High Court Cause List Dt. 21.03.06 Page Nos.5 to 12 — Reg.

Ref: Letter No. P.363/1/CN/MS/Law/Misc Dt. 23.03.2006 Received from ALO/CN/MS.

\* \* \* \* \*

A copy of the letter cited above, along with enclosure, circular issued under the authority of the Hon'ble Chief Justice of Madras High Court fixing the scale of fees for Arbitration proceedings and the panel of Arbitrators as constituted is enclosed herewith.

For information and to please advise all concerned suitably.

Encl: A.A

(P. Thavamani Pandi)  
Dy. Chief Engineer/QC



**SOUTHERN RAILWAY**

No. P.363/I/CN/MS/Law/Misc

Office of the  
Chief Administrative Officer,  
Construction, Egmore,  
Chennai-600 008.  
Date : 23-03-2006.

Dy. CLO/MMC/MAS

Sub: Scale of fee for Arbitration proceedings as  
fixed by Hon'ble Chief Justice of High Court  
of Madras — Circular No.ROC1337/2006/OS  
dated 17-03-2006 — Communicated In High  
Court Cause List dated 21-03-2008 Page Nos.5  
to 12— Regarding.  
\*\*\*\*\*

The copy of the above referred Circular issued under the authority of the Hon'ble Chief Justice of Madras High Court fixing the scale of fees for Arbitration proceedings and the panel of Arbitrators as constituted is sent herewith for appropriate necessary action, please.

The above Circular No.ROC1337/2006/OS dated 17-03-2006 has been communicated in High Court Cause List dated 21-03-2006 Page Nos.5 to 12.

Encl: As above.

ALO/CN/MS

**ROC.1337/2006/OS dated 17-3-06**

The following circular is issued under the authority of the Hon'ble The Chief Justice, High Court, Madras.

**CIRCULAR**

i. The Hon'ble Chief Justice has set the following terms and conditions for Arbitration, Mediation and Conciliation u/s 89 of Civil procedure code 1908.

1) The Hon'ble Chief Justice has approved the following scale of fees for arbitration proceedings.

Sr.No	When the Claim is Rs	Arbitration fees per day up to Rs	Subject to maximum Rs.
1.	Up to 10 lakhs	5000	50,000
2.	10 to 50 lakhs	5000	75,000
3.	50 lakhs and above	5000	1,00,000

2) Fast Track Arbitration:

1) To speed up the arbitration proceedings, the Court making reference to the Arbitration u/s 89 of code of Civil Procedure, 1908 will monitor arbitration proceedings till the award is passed by taking into consideration:-

- (a) Extent of work done;
- (b) Reasons for delay;
- (c) work that remains;
- (d) Amount of money spent toward fee and expenses.

2) As far as possible Arbitration proceedings shall be disposed of within 6 months.

3) Scale of fees for Mediation and conciliation.

Mediators and conciliators may not charge any fees for the first four hours spent in Mediation / conciliation. Thereafter fees not exceeding Rs.500/- per sitting of not less than two hours par day may be charged.

4) Accommodation for Arbitration, Mediation and conciliation.

Accommodation for Arbitration, Mediation and Conciliation shall be made available free of cost in the premises of High Court by the Registrar General. Initially the accommodation will be made available on weekdays after 5.30 p.m. and from 9.00 a.m. to 5.00 p.m. on weekend days. It shall also be made available by the Registrar of the Court, which appoints, them.

II. The, Hon'ble the Chief Justice has constituted, Panel of Arbitrators for arbitration proceedings under section C9 of Code of Civil Procedure, 1908..

The Panel comprises of the following retired Hon'ble Judges

(Alphabetical by first alphabet)

1. The Hon'ble Mr. Justice A. Abdul Hadi,,
2. The Hon'ble Mr. Justice N. Arumugam,
3. The Hon'ble Mr. Justice S.M. Abdul Wahab,
4. The Hon'ble Mr. Justice E.J. Bellie,
5. The Hon'ble Mr. Justice K.S. Bakthavatsalam,
6. The Hon'ble Mr. Justice,N.V. Balasubramanian,
7. The Hon'ble Mr. Justice V. Bakthavatsalu
8. The Hon'ble Mr. Justice I. David Christian,
9. The Hon'ble Mr. Justice K. Govindarajan,
10. The Hon'ble Mr. Justice S. Jaqadeesan,
11. The Hon'ble Mr. Justice J.Kanagaraj.

12. The Hon'ble Mr. Justice Malai Subramanian,
13. The Hon'ble Mr. Justice M. Maruthamuthu
14. The Hon'ble Mr. Justice S. Marimuthu,
15. The Hon'ble Mr. Justice K.M. Natarajan,
16. The Hon'ble Mr. Justice E. Padmanabhan,
17. The Hon'ble Mr. Justice S. Padmanabhan,
18. The Hon'ble Mr. Justice A. Ramamurthi,
19. The Hon'ble Mr. Justice A. Raman,
20. The Hon'ble Mr. Justice G. Ramanujam,
21. The Hon'ble Mr. Justice K. Sampathkumaran,
22. The Hon'ble Mr. Justice K. Swamidurai,
23. The Hon'ble Mr. Justice S. Sivasubramaniam,
24. The Hon'ble Mr. Justice S. S. Subramani,
25. The Hon'ble Mr. Justice T. Somasundaram,
26. The Hon'ble Mr. Justice A .Thangamani,
27. The Hon'ble Mr. Justice P. Thangavel,
28. The Hon'ble Mr. Justice T.W. Vallinayagam,

#### Retired Judicial Officers

1. Thiru M. Abdul Wahab.
2. Thiru P. Anbazhagan,
3. Thiru SAM. G Andrews,
4. Thiru A. Ganesan,
5. Thiru A.K. Kandasamy Pandian,
6. Thiru N. Mohandoss.
7. Thiru K. Mohanachandran,
8. Thiru K. Natarajan,
9. Thiru.V. Navaneetham,

10. Thiru P. Pechimuthu,
11. Thiru R.G. Ramaiah,
12. Thiru K.M. Sreeramulu
13. Thiru M. Soundarapandian,
14. Thiru S. Somasundaram,
15. Thiru S. Soundararajan
16. Thiru V.A. Sundaram,
17. Thiru A. Thanikachalam,

#### The Learned Members of Bar

1. Mr. K. Alagiriswami,
2. Mr. V. Nicholas,
3. Mr. M.S. Rajasekar,
4. Mr. P. Rajagopal,
5. Mr. V. Rengapashyam
6. Mr. D.I.J. Rajakumar
7. Mr. B. Shanthakumar
8. Mr. M.S. Subramanian,
9. Mr. K.R. Tamizhmani
10. Mr. S. Vijayakumar,

III. The Hon'ble The Chief Justice has also constituted the following panel of Mediators and Conciliators for Mediation and Conciliation u/s 89 of Civil Procedure Code, 1908.

#### Retired Hon'ble High Court Judges

1. The Hon'ble Mr. Justice N. Arumugam,
2. The Hon'ble Mr. Justice S.M. Abdul Wahab,
3. The Hon'ble Mr. Justice K.S. Bakthavatsalam
4. The Hon'ble Mr. Justice N.V. Balasubramanian
5. The Hon'ble Mr. Justice V. Baktavatsalu
6. The Hon'ble Mr. Justice I. David Christian
  
7. The Hon'ble Mr. Justice K. Govindarajan,
8. The Hon'ble Mr. Justice S. Jaqadeesan,

9. The Hon'ble Mr. Justice J. Kanagaraj,
10. The Hon'ble Mr. Justice M. Maruthamuthu,.
11. The Hon'ble Mr. Justice S. Marimuthu,.
12. The Hon'ble Mr. Justice K.M. Natarajan,
13. The Hon'ble Mr. Justice E. Padmanabhan,
14. The Hon'ble Mr. Justice S. Padmanabhan,
15. The Hon'ble Mr. Justice K. Sampathkumaran,
16. The Hon'ble Mr. Justice K. Swamidurai,
17. The Hon'ble Mr. Justice P. Thangavel
18. The Hon'ble Mr. Justice T.N. Vallinayagam;

#### Retired Judicial Officers

1. Thiru M. Abdul Wahab,
2. Thiru P. Anbazhagan,
3. Thiru SAM. G. Andrews,
4. Thiru A. Ganesan,
5. Thiru A.K. Kandasamy Pandian,
6. Thiru N. Mohandoss,
7. Thiru V. Navaneetham,
8. Thiru P. Pechimuthu,
- 9., Thiru R.G. Ramaiah,
10. Thiru S. Somasundaram,
11. Thiru S. Soundararajan,
12. Thiru V.A. Sundaram,
13. Thiru M.M. Sreeramulu,
14. M. Soundarapandian,
15. Thiru A. Thanikachalam.

## The Learned Members of Bar

1. Ms. Aga Arvind
2. Ms. Aparna Vasu
3. Mr. Arvind Datar
4. Mr. K. Alagiriswami
5. Mr. P.H. Arvinth Pandian
6. Ms. V. Ahalya
7. Ms. Balasundari
8. Mrs. K. Bhawatharani
9. Mr. P.V. Balasubramaniam
10. Ms. Chitra Sampath
11. Ms. Chitra Narayanan
12. Ms. K. Damayanthi
13. Mr. C.H. Gopinantha Rao
14. Ms. Geeta Ramaseshan
15. Mr. Govindarajan
16. Mr. P.V.S. Giridhar
17. Mr. V.S. Jayakumar
18. Mr. C. Kanakaraj
19. Ms. D.B. Kalaichelve
20. Mr. Kannan
21. Mr. M. Karunanidhy
22. Mr. R. Krishnamurthy
23. Mr. G. Macilamani
24. Mr. H.S. Mohamed Rafi
25. Ms. Manimoona Badsha Marikar

26. Mr. Murari
27. Mr. S.S. Mariappan
28. Mr. T.R. Mani
29. Mr. P.N. Prakash
30. Ms. S.K. Priya
31. Mr. D.I.J. Rajkumar
32. Mr. P. Rajagopal
33. Mr. P.K. Rajagopal
34. Mr. A.M. Swaminathan
35. Mr. J. Sivanandaraj
36. Ms. K. Santha Kumari
37. Mr. K.V. Shanmuganathan
38. Ms. Sasee Dhevi
39. Ms. Sathya Rao
40. Mr. Satish Parasaran
41. Ms. Sheila Jayaprakash
42. Mr. Silambanan
43. Mr. Sivanandam
44. Ms. Sridevi Chandran
45. Mr. Sriram Panchu
46. Mrs. S. Subbulakshmi
47. Ms. Sudharshana Sundar
48. Ms. Sunanda Suren
49. Mr. T. Sivananthan
50. Mr. T. Sai Krishnan
51. Mr. C. Thangaraju
52. Mrs. Uma Vijayakumar



53. Mr. K. Veeraraghavan
54. Mr. N. Vijayaraghavan
55. Mr. S. Vijayaraghavan
56. Mr. Venkatavardan
57. Mr. Vijayakrishnan
58. Mr. Yasodvardhan

/ By Order /

HIGH COURT, MADRAS  
DATED : 20.03.2006

S. PALANIVELU  
REGISTRAR GENERAL

\* \* \* \* \*

## **HIGH COURT OF JUDICATURE AT MADRAS**

<b><u>DAILY LIST - 21-03-2006 - TUESDAY</u></b>					
<b><u>INDEX</u></b>					
SL.NO	COURT HALL	Sitting Arrangements/Corum	PAGES		
1		NOTIFICATION NO.51/2006	1		
2		NOTIFICATION NO.52/2006	3		
3		CIRCULAR	6	to	12
4	1	CJ & PSDJ	13	to	58
5	2	MKVJ & ARRJ	59	to	63
6	3	PSJ & JAKSJ	64	to	89
7	4	PKMJ & RSJ	70	to	82
8	5	RBJ & PPSJJ	83	to	87
9	6	EDRJ	88	to	105
10	7	VDPJ	106	to	117
11	9	FMIKJ (MOTION)	118	to	126
12	9	FMIKJ (REGULAR)	127	to	144
13	10	AKJ	145	to	151
14	11	DMJ (MOTION)	152	to	158
15	11	DMJ (REGULAR)	159	to	166
16	12	KMJ (MOTION)	167	to	169
17	12	KMJ (REGULAR)	170	to	184
18	13	NPVJ	185	to	201
19	14	KSAJ	202	to	213
20	15	PSDJ	214		
21	16	CNJ	215	to	218
22	21	TVMJ	219	to	222
23	28	SRJ	223	to	225
24	29	KNBJ	226	to	236
25	30	MJPJ	237	to	249

SL.NO.	COURT HALL	Sitting Arrangements/Coram	PAGES		
26	32	ZHJ (CIVIL)	250		
27	32	ZHJ	251	to	253
28	33	SAJ	254	to	256
29	34	SKKJ	257	to	265
30	35	MJJ	266	to	278
21	CHAMBER	RBJ	279		
32	CHAMBER	RBJ & PSDJ	280	to	283
33		PROVISIONAL LIST	284	to	290
ORIGINAL SIDE					
34	9	FMIKJ (ELECTION)	291		
35	25	MCJ	292	to	311
36	26	MTJ	312	to	317
37	27	CVJ	318	to	337
38	28	SRJ	338	to	343
39	MASTER COURT	MASTER	344	to	354
40	CHAMBER	DEPUTY REGISTRAR (AS)	355	to	360
41	CHAMBER	ASST REGISTRAR -I	361	and	362

## **IV.ARBITRATION**

### **D. AWARD & TIMELY SETTLEMENT OF AWARDS**

Sl.NO.	Subject in Brief	Letter Dated
1	Arbitration Cases - Dealing with individual Cases	<a href="#">15.11.94</a>
2	Delays in Filing SLP in the Court	<a href="#">25.11.99</a>
3	Drive On Finalisation of Old Agreements	<a href="#">6.11.00</a>
4	Timely Processing of Arbitration Cases	<a href="#">10.12.01</a>
5	Dispense with 'No Claim Certificate' for Payment of Arbitral Award	<a href="#">30.09.03</a>
6	Timely Processing of Arbitration Cases to Avoid Payment of interest: Fixing Responsibility	<a href="#">24.09.04</a>

## **SOUTHERN RAILWAY**

Office of the FA&CAO/CN/MS,  
Madras - 600 008.  
Dated: 15-11-94.

No.W.496/CNI/MS/FX/Arbitration/Policy.  
CE/CN/MS  
CPM/GC/MS  
CE/CN/BNC  
CPM/GC/BNC

Sub: Arbitration Cases.

----

In arbitration matters, certain general points are required to be kept in view while dealing with individual cases as detailed below:-

**1) Excepted Matters:**

Unless the arbitration is at the instance of court, 'Excepted Matters' as enlisted vide Cl.63 of GCC(list enclosed) are not to be included under 'Terms of Reference' for adjudication since solutions for such issues are available within certain specific clauses of the contract. However even in court referred case of arbitration though all disputes irrespective of whether they fall under 'Excepted Matters' or not are referred to for arbitration as per directives of the Judgment, it is necessary to defend such cases bringing out the position as per Cl.63 of GCC both in the Railways counter remarks and also while presenting the case during arbitration hearing.

**2) Pedente—lite Interest:**

It is often seen that one of the claims of the contractors in arbitration cases is payment of interest for the period from the time dispute arose till the date of payment for the amount awarded in their favour by the arbitrators. As per the Clause 16.2 of the General Conditions of contract for Civil Engineering works, there can be no claim for interest. Supreme Court have held that award of interest pedentelite i.e. interest for period before the date of the award is applicable only in cases where agreement between the contracting parties does not prohibit grant of interest.

Since all the Railway Contracts prohibit payment of interest, claim of pedentelite interest cannot be entertained in Railway arbitration cases. CAO and GM to whose notice this issue was brought also have approved this stand taken. Hence it is necessary to delete such claim if made from the terms of reference for the Railway arbitration cases.

The above aspects may be kept in mind while arbitration cases are processed.

3) This issues with the approval of FA&CAO/CN/MS.

(P.V. VAIDIALINGAM),  
Dy.FA&CAO/ CN / I /MS.

## **RAILWAY BOARD**

No.99/CE.I/CT/55

25.11.99

The General Managers  
All Indian Railways

Sub: Delays in filing SLPs in the appropriate courts.

A case recently come to the notice of the Board where there was inordinate delay in filing objections to the arbitration award and further in filing the review petition in the appropriate court which has resulted in the dismissal of the review petition as well as adverse strictures for the delays from the Solicitor General as well as from the Court, besides the financial damage resulting from such dismissal of the SLP.

As you are aware all proceedings in courts are governed by the law of limitation in which periods for taking action are prescribed and have to be scrupulously followed.

Board desire that you may draw the attention of all concerned officers on your Railway to handle all court cases promptly and without any delay, keeping the limitation period in view. Any lapses in this regard should be strictly viewed and action taken against those responsible.

Please acknowledge the receipt of this letter.

(V.K. Bahmini)  
Executive Director/CE(G)

## **SOUTHERN RAILWAY**

No.VE/Sys.Imp/Vol.II/2000.

Headquarters Office.  
Vigilance Branch,  
Chennai-600003.

Dt: 06—11—2000.

CE/MAS

Sub: Drive on finalisation of old agreements.

-----

A massive fraud by an Engineering Contractor was detected by Vigilance in a Railway (Case History enclosed) wherein a number of very old agreements were referred to arbitration and the contractor in his claims had referred to few letters said to have been issued by the administration. The said letters were not found in the office documents, as they were fake and prepared in connivance with a few retired and serving officials. The administration collected copy of the letters from the contractor and reacted to them in its counter claims, and arbitrators awarded huge amount in the arbitrations.

Consequent to the above incident the Executive Director/Engineering of Vigilance Directorate/Railway Board visited to Bangalore and Trivandrum recently and reviewed old agreements of the Divisions and Construction Units. Executive Director observed that large number of agreements executed prior to 1990 were yet to be finalised in both the divisions and advised the Technical Officers and Accounts Officers to launch a drive to finalise all old agreements on top most priority, in a pragmatic way so as to avoid recurrence of the above said incident.

It is requested to kindly advise the details of agreements executed prior to 1990 which are yet to be finalised alongwith the Action Plan for finalisation of these agreements.

Encl: As above.

For Chief Vigilance Officer.

**CASE HISTORIES & SYSTEM  
IMPROVEMENT OF WORKS CONTRACT**

1.0 A massive fraud in Civil Engineering Department by a contractor was detected by Vigilance Department, wherein, against 26 nos. contract agreements he was given arbitration award amounting to approximately Rs.32 crores including interest amount. During arbitration proceedings contractor pleaded that he had executed the work of ballast supply/packing of tracks in Howrah Division during the year 1986-87 and the same was accepted by concerned officials of Howrah Division without verifying the records. Further, these were also not vetted by Finance and Law Department. The total quantity of work involved against these agreements vis-à-vis executed quantities as claimed by the contractor as appearing were as under:

SL. NO.	ITEM NO.	LENGT H OF TRACK	QTY. OF WORK		TOTAL VALUE OF WORK	
			QTY As per AGT.	QTY As Executed	As per AGT.	As Executed
1.	Ballast	124 km supply.	20,410 m <sup>3</sup>	2,58,520 009m <sup>3</sup>	Rs.94,18,200/-	Rs.11,87,05,516/-
2.	Lifting of track & Packing of sleepers		1,41,600 nos. packing 35,400 nos. sleepers	7,78,000 nos. packing 1,94,459 nos. sleepers	Rs.34,85,440/-	Rs.1,88,92,480/-
				TOTAL	Rs.1,29,03,640/-	Rs.13,75,97,996/-

Since it would not have been possible to execute such huge quantity of work during such a short span of 4 months. Vigilance investigation was conducted which revealed that the claims of the contractor were fake/fabricated in connivance with some of the Retd./Serving Rly. Officers. Those serving officers who have accepted the claims have been taken up under Major Penalty DAR action and the case has been handed over to ACB Branch of CBI/Calcutta for further probe in the matter. Engineering Department have also preferred an appeal in appropriate court for setting aside of the above arbitration award.

In addition, there are about 145 cases of above contractor wherein he had asked for appointment of Arbitrators. Investigations into these cases have also revealed certain irregularities including fake/forged documents in files.

In order to safe-guard Railway's Interest in arbitration cases, CE has issued detailed instructions wherein vetting of counter statement of facts by the Local finance as well as the Law Department have been made mandatory. For approval of counter statements of facts by officers of Engineering Departments, financial limits have been specified for officers of various grades.

-----



**CONFIDENTIAL**

**SOUTHERN RAILWAY**

L.R. GANESH  
FA & CAO/General.

Office of the FA & CAO,  
Chennai-600 003.

D.O.No.W.29/FX/0

Dated: 28.11.2000.

My dear Srinivas, Mohan, Krishnamoorthy, Venkataraman & Balachandran, Dear Smt. Sujatha & Padmini.

Sub: Drive on finalisation of old agreements.

Ref : CVO/MAS letter No.VE/Sys.Imp/Vol.II/2000  
dated 6.11.2000 Addressed to CE/MAS and  
copied to this office.

\* \* \* \* \*

A case of massive fraud by an engineering contractor was reported by Vigilance Department in a Railway wherein a number of very old agreements were referred to arbitration and the contractor in his claims had referred to few letters said to have been issued by the administration. The case history is enclosed for information.

In the wake of the above incident a need arises to launch a drive to finalise all old agreements on top most priority, in a pragmatic way so as to avoid recurrences of the similar incident in our Railway. It may also be ensured that all the counter claims of Railway Administration against the contract shall invariably be vetted by associate Finance while accepting the request of the contractor for arbitration.

I would like to have your personal attention on the matter, and co-ordinate with your engineering counterpart in the division to formulate an Action plan to finalise the agreements executed prior to 1990 and send the feed back early.

Yours sincerely,

Encl: Two.

(L.R. GANESH)

## **SOUTHERN RAILWAY**

Office of the  
CAO/CN/BNC,

No. W 148/P/CN/Vol.XVII

Dated: 10.12.2001.

All CEs/CN,  
Dy.CE/W/BNC & MS,

Sub: Timely processing of Arbitration cases

-----

It is seen that the request for arbitration from the contractors takes unduly long time for processing, even when there is a Court directive giving time frame for appointment of arbitrators. This has come for serious criticism from the GM. In a recent case the nomination of arbitrators got unduly delayed due to delay in processing at the various stages resulting in the nomination given by the GM being turned down by the Hon'ble Court. GM has taken a serious view of the delay and has advised that any such delay in future will have to be taken up very seriously.

It is seen that there is considerable delay at the level of field executives in giving their remarks and counter claims. Even when the information are given, it is very sketchy and do not address all the points. The field executives will be taken up seriously for any lapse on their part.

I am enclosing the time frame for processing of arbitration cases. It must be ensured that this time frame is maintained.

The Dy.CE/W at headquarters will open a register and monitor the progress of arbitration cases.

Encl: one.

CAO/CN/BNC

TIME TABLE FOR PROCESSING ARBITRATION CASES

Activity	No. of working days
Reference to field	2
Reply from the field about the tenability of the claims and counter claims if any together with Terms of Reference (Field Dy CE is responsible to furnish data)	15
Passing orders for processing	4
Processing for legal opinion & ALO to reply	4
Processing for Finance vetting	4
Return by finance after vetting	10
Putting up to DGM(G) through CAO after communication about proceeding for arbitration	7
Correspondence with Claimant for choosing his nominee	15
Proposal to DGM(G) for constituting committee	5
Draft Memorandum to DGM(G)	3
Nomination of Presenting Officer by DGM(G)	2
Presenting Officer to submit counter claims (after presenting of claims by the Claimant)	10
Legal and finance vetting of the same	10
Presenting Officer to present the claims as well as the case before the Arbitral Tribunal	2

**Note**

30.9.03

Sub: Dispense with No claim Certificate for payment of  
Arbitral Award- regarding.

It is observed that in a number of cases, the payment of Arbitral award is getting delayed due to non-submission of No claim Certificate by the claimant.

In this connection Clause 31.7 (b) of Arbitration and Reconciliation Act, 1996, states that

**“a sum directed to be paid by an Arbitral Award shall, unless the award otherwise directs, carry interest at the rate of eighteen per cent per annum from the date of the award to the date of payment”.**

It is in the Railway's interest to pay the Award as fast as possible to avoid payment of interest at a very high rate of eighteen percent per annum. In most of the cases, Claimant is not interested in giving No Claim Certificate, as he is getting very good return in the form of higher interest rate than the market. There is no machinery/authority available with the Railways to stop payment of interest in case claimant does not give the No Claim Certificate in time. Even in case of Claimant's fault, Railway has to pay the interest on Award till the date of payment.

There is no need to insist on No Claim Certificate from the Claimant as it is redundant and does not have any significance. The claimant cannot have second or any other claim against that particular agreement once the dispute is settled through arbitration and Award is pronounced except setting aside of the Award itself.

It is proposed that obtaining of No Claim Certificate before the release of Award as per instructions issued vide this office letter No. W.148/A/27/CN/ARB dated 29.5.89 may be dispensed with, in the light of new Arbitration and Reconciliation Act, 1996. Necessary Instructions regarding immediate release of payment of Arbitral Award after the sanction/acceptance of Competent authority without waiting for a No claim Certificate from the Claimant, may be issued superceding the earlier instructions issued in this regard.

Put up for perusal and orders please.

Dy. CE/W/CN/MS

CE/CN/N/MS  
FA & CAO/CN/MS  
CAO/C

## **SOUTHERN RAILWAY**

Office of the FA&CAO/CN/MS  
Chennai-600008.  
November 14, 2003.

No. W496/CN/MS/FX/Arbitration/Policy

CE/CN/N/MS

Sub: Dispensation with "no claim" certificate for  
payment of arbitral award-Reg.

Ref: Dy.CE/W/CN/MS Note on the above subject dt.  
30.9.2003/ 13.10.2003.

----

Your proposal to dispense with the practice of obtaining " no claim " certificate for the arbitration award from the claimant contractor, in view of the practical difficulties experienced and accrual of interest on the award, consequent to the Arbitration Act, 1996, has been examined.

The instructions issued vide CE/CN/MS vide letter dt. 29.5.98 regarding obtaining the " no claim " certificate which have been referred to, have been based on Railway Board's instructions vide letter no.68/WI/CT/47 dt. 12.6.70 and the above letter has been issued by Railway Board with a view to streamline the procedure followed in various railways for satisfaction of awards. As such, the practice specified in Board's instruction cannot be unilaterally dispensed with, by a zonal railway. Hence, it is felt that Railway Board's guidelines can be sought for, duly explaining the practical difficulties and the interest factor, subsequent to Arbitration Act, 1996.

(S. Krishnamoorthy)  
Dy. FA&CAO/CN/I/MS  
For FA&CAO/CN/MS

## Southern Railway

No.W.148/Arbn/CN/Genl

Dated: 24.09.04

CE/S&RB CE/South CE/North CE/West CE/Central CE/CN/TVC  
CE/MTP, CSTE/CN/North, CSTE/CN/South, CEE/CN  
FA&CAO/CN/MS, FA&CAO/CN/I/MS, FA&CAO/MTP/MS

Sub: Timely settlement of arbitration awards to avoid  
payment of Interest: Fixing of responsibility –  
reg.

----

It is observed that avoidable delays are taking place in processing the arbitration awards received for effecting payment resulting in some cases, payment of interest for the period beyond the stipulated time allowed in the award itself. The delay and resultant interest payment are not acceptable. Henceforth, responsibility for such delays resulting in payment of interest would be fixed and the interest amount recovered from the Officers and staff, dealing the arbitration cases.

2. To expedite the processing the file in which arbitration is dealt with should bear the URGENT sticker in red colour, duly indicating ARBITRATION CASE, Name of the Dealer, Section In-charge and the Officer, date from which interest would become payable, on top of the file. As soon as the arbitration award is received in the Works Branch, a copy of the same shall be sent immediately to FA&CAO/CN who may arrange to examine the award independently so that disposal by finance is quicker, when the file is received.

3. CE/CN/Central, who is in-charge of the subject, should monitor the processing or arbitration award cases and conduct a quarterly review to fix responsibility, if payment of interest is involved due to delayed finalisation of award, for payment. The Accounts Officers effecting payment should sent an advice on cases – involving avoidable payment of interest both to the CE(Central)/CSTE/CN/CEE/CN and FA&CAO/CN for record, review and follow-up action.

4. Dy.CE/Dy.CSTE/Dy.CEE are usually consulted for acceptance or otherwise of the arbitral award(s). In the event of their recommendation being for challenging the award, it is suggested that the issue should be discussed in a meeting at Headquarters level – associating all the officers (including the Law Officer) involved in the processing of the case – for speedy and unanimous recommendation for acceptance by the competent authority and payment within the stipulated date CE/C:Central – the nodal officer for all departments – will consolidate the position and put up the results of the review to the undersigned.

5. These instructions come into effect immediately. All JAG officers in the field and Dy.CLO may be advised of the above by DY CE/Works. CN/MS for strict compliance.

(N. Aravindan)  
CAO/C:MS

## **IV.ARBITRATION**

### **E : EXCEPTED MATTERS**

<b>Sl.NO.</b>	<b>Subject in Brief</b>	<b>Letter Dated</b>
<b>1</b>	<b>Deletion of Claims Relating to Excepted Matters From T O R</b>	<b>9.01.01</b>
<b>2</b>	<b>inclusion of Excepted Matters in T O R</b>	<b>30.04.04</b>
<b>3</b>	<b>Gm's Sanction for Delegation of Powers Authorising PHOD's / Co-Ordinating HOD to Decide Upon Excepted Matters in Arbitration Demands of Contractors</b>	<b>25.01.05</b>

## **Southern Railway**

Office of the  
FA&CAO/CN/MS  
Chennai-600008.

January 9, 2001.

No.W496/CN/MS/FX/Arbitration Policy

FA&CAO/MAS

Sub: Deletion of claims relating to excepted matters from the  
Terms of reference-Reg.

----

Clause 63 of General Conditions of Contract specifies that matters for which provision has been made in Clauses 8(a), 18, 22(5), 39, 43(2), 45(a), 55, 55-A(5), 57, 57A, 61(1), 61(2) of GCC or by any clause of the special conditions of contract are "excepted matters" and decisions of the Railway authority thereon shall be final and binding on the contractor provided further that "excepted matters" shall stand specifically excluded from the purview of the arbitration clause and not be referred to arbitration. Hence whenever such claims are being preferred by the contractor, the same are to be deleted from the Terms of reference to the Arbitration Panel.

However, when arbitration is being ordered by a Court verdict where specific directives are issued to adjudicate upon all the disputes, such claims are also being permitted in the Terms of Reference and the claims are pointed out to Arbitrators as pertaining to "excepted matters", in the defence Counter statement of Railway administration.

In case where there is no specific directive by the Court to adjudicate upon all disputes but where only the arbitration has been ordered in accordance with Cl.No.63 & 64 of GCC, contractor's claims falling under the purview of "expected matters" are deleted from the Terms of reference in Court arbitration cases also.

Recently, in a certain case, when some of the contractor's claims relating to "expected matters" were deleted from the Terms of reference in Court cases where arbitration was ordered in accordance with Cl.No.63 & 64 of GCC and also where there was no specific directive to include all the claims, the contractor moved the High court to include all his claims or appoint independent arbitrators. Railway Advocate had viewed that whether the fact that the claims relate to "excepted matters" or not itself is to be decided by the Arbitration Tribunal and hence, all the claims should be included in the Terms of reference to avoid contempt of Court and appointment of independent arbitrations.

If all the claims including "excepted matters" are to form part of Terms of reference in all court cases but to be deleted in Railway arbitration cases, it is felt that more and more contractors will prefer to move Court than approaching railway administration. Further, vetting of Terms of reference by Finance will be but a mere ritual, if all the claims are to be accepted in toto.



Since such instances are on the increase, clear directives are sought for, in consultation with Law Branch, for enabling vetting of Terms of reference in both Railway arbitration and Court arbitration cases. As a number of arbitration cases of high magnitude are being dealt with in this organisation, an early reply in this regard is solicited.

FA&CAO/CN/MS

## SOUTHERN RAILWAY

Office of the FA&CAO,  
Chennai-600 003.

No.W.29/FX/O

Dated: 20.04.2001.

CE/MAS

Sub: Deletion of claims to 'Excepted Matters' from the terms of reference to arbitration

Ref: 1. CGE's Note dated 26.2.2001 at PP 4.8 of file No.W.29/I/Vol.V  
2. FA & CAO/CN/MS' letter No.W.496/CN/MS/FX Arb. Policy dated 9.1.2001.

\*\*\*\*\*

The issue regarding deletion/inclusion of claims of the contractor on 'Excepted Matters' from /in the terms of reference in respect of court cases as well as in Railway arbitration cases has been examined by Finance. Finance are of the views that no general guidelines needs to be issued and each arbitration case has to be dealt with on merits based on the following:

1. Follow the normal procedure stipulated by Railway Board of excluding 'Excepted Matters' when the contractor apply for arbitration.
2. When arbitration is ordered by court we can go by the dictates of the court and
  - (i) exclude 'Excepted Matters' if there is no specific direction that every claims has to be referred.
  - (ii) include 'Excepted Matters' also where the directives are specific that all claims are to be referred and then counter these claims strongly before the arbitrator(s).

This issues with the approval of FA&CAO/MAS.

Encl: One file

(B. SRINIVASAN)  
SAO/SW  
for FA&CAO.

## SOUTHERN RAILWAY

Headquarters Office,  
General Branch,  
Chennai-3.

No G.16/DGM/ARB/Corres/Vol.III

Date 30.04.2004

CAO/CN/MS  
FA & CAO/CN/MS

Sub:- Finalising "Excepted Matters" — reg.

Ref:- Noting and orders of DGM & GM respectively in  
the case of M/s. Surya Constructions, Cochin, in  
File No. W.148/I/886

\*\*\*\*

It may please be recalled the notings and orders mentioned above in the case of M/s. Surya Constructions. Cochin, wherein GM has directed to evolve a procedure for referring claims to arbitration. This arised when non-inclusion of some of the claims put forth by the contractor in the "Terms of Reference" forced the contractor to promptly approach the court to refer all his claims to arbitrator and Court ordered to refer leftover claims to arbitrators and leaving it to the arbitrators to decide the arbitrability of the claims.

Recently, we received **NOTICES** from the Hon'ble High Court of Madras in many cases where contractors approached Court to direct Railways to refer left over claims to arbitration.

A suggestion was made in the above reference that General Branch shall only issue the memorandum of appointment of arbitrators. The claimant should be asked to refer his claims to the Tribunal and it should be left to the arbitrators to decide the arbitrability of a claim.

Hence, there is an urgent need to settle the issue of "Excepted Matters" while issuing the Terms of Reference".

It is requested that a common procedure to adopt for issuing "Terms of Reference" may please be formulated and suggested to settle the issue at the earliest.

In this regard, CE/Co-ord/MAS and FA&CAO/MAS may also be consulted for making a common procedure please.

(M. AMARENDRA)  
DGM/G  
for General Manager.

## SOUTHERN RAILWAY

Headquarters Office,  
Works Branch,  
Chennai —3.

No.W.496/P/O/Vol.VI

Dt. 11.05.2004

DGM/G

Sub: Finalising "Excepted Matters" — reg.

Ref: Your letter No.G.16/DGM/ARB/Corres/Vol.III  
dated 30.04.2004

-----

With reference to DGM/G's letter cited above and the issue raised therein on finalisation of Excepted Matters, the following comments are offered.

1. As per the clause 63 of GCC, governing the agreements executed by railways in works contracts, it is a condition precedent and absolute prerogative of railway to keep the issues covered by Excepted Matters out of the Terms of Reference. Such matters shall never be arbitrable and therefore cannot be referred to arbitration. The same clause also directs that any special condition incorporated in the agreement prohibiting reference of a particular dispute to arbitration will also not be referred to arbitration. This is also supported by the verdict of SLP 20727/2000 and Civil Appeal No.1791 Hon'ble Supreme Court in the case between U.O.I versus Sarvesh Chopra, in which the Hon'ble Court made the following observations.
  - (i) To be an Excepted Matter it is not necessary that a departmental or in house remedy for settlement of claim must be provided by the contract. Merely for the absence of provision for inhouse settlement of the claim, the claim does not cease to be an Excepted Matter.
  - (ii) It would be an exercise in futility to refer for adjudication by the arbitrator a claim, though not arbitrable and thereafter, set aside the award if the arbitrator chooses to allow such claim. The High Court was, in our opinion, not right in directing the said 4 claims to be referred to arbitration.
  - (iii) We cannot subscribe to the view that interpretation of arbitration clause itself can be or should be left to be determined by arbitrator and such determination cannot be done by a Court at any stage.
2. In case where Court notices are received for inclusion of "EMs" deleted by the department, immediate action should be taken to file affidavit by the

appropriate officer representing the railway stating that the EMs are not arbitrable issue and therefore cannot be left to be decided by an arbitrator. The GCC provision available under the agreement together with the above judgment shall be cited and seek Courts order sought to confirm the action of the railways in deleting the EMs as per the provisions of the arbitration clause governing the contract agreement.

3. CE/OL is strictly following the above procedure in dealing with the EMs are per the provisions of clause 63 of GCC and EMs are kept out of T.O.R. in all cases.

(S. VIJAYAKUMARAN)  
Chief General Engineer

## NOTE

W.496/CN/MS/FX/ARBITRATION-POLICY

dt. 15.6.2004.

SUB: Finalising " Excepted Matters ".

REF: Letter from General Branch No.

G.16/DGM/ARB/Corres/VOL III Dt 30.4.2004 and  
13.5.2004.

----

DGM/G vide his letters under reference had mentioned the need for finalising the issue of "Excepted Matters" while issuing "Terms of Reference" and thereby sought the views of Finance also so that a common procedure is formulated to address the issue in the openline and Construction Organisation in the same manner.

The following views are offered from Construction Organisation.

As per the present practice the claims relating to **EXCEPTED MATTERS** are being excluded from the **TOR**, when there is no specific directive from the court that every claim has to be referred and included. Normally, the directives of the court are to appoint arbitrators as per clause 63 and 64 of GCC and the claims relating to **EXCEPTED MATTERS** are being deleted from TOR in such cases.

Contractors in some cases approach the High Court again to include his claims. In such cases, all claims including excepted matters are being included to avoid appointment of independent arbitrators.

The decision to include the excepted matters is being forced on the Administration in most of the cases.

Presently in court cases, we are taking "all claims" to mean, the entire list of claims put forth by the contractor including those which relate to excepted matters also. A view can be taken that "all claims" means all those falling within the purview of Arbitration clause as defined in the GCC. This would exclude claims relating to Excepted Matters.

If Excepted Matters are being referred to Arbitration on the directions of the Court, under such circumstances the department should file an objection petition under section 16(2) of the A&C Act 1996. In other words jurisdiction of the arbitrator can be challenged.

These may be put up to CAO/C and incorporated as the views of Finance while sending reply to DGM/G.

FA&CAO/CN/MS

## SOUTHERN RAILWAY

Headquarters Office,  
Works Branch.  
Chennai 600 003.  
25.1.2005

No.W.29/I/Vol.VI

CAO/CN/MS. CE/MTP  
FA&CAO/MAS, FA&CAO/CN/MS

Sub: GM's sanction for delegation of powers  
Authorizing PHODs/Co-ordinating HODs to  
decide upon Excepted Matters in Arbitration  
demands of contractors — reg.

Ref: Rly. Bd's Lr.No.2003/CE- 1/CT/4 Dt.9.10.03.

----

Railway Board's above letter enclosing the Correction slip No. 3 to GCC has already been issued to all concerned vide this office letter No. W.496/P/O/Vol.VI dated 18.12.2003. In the above Correction Slip, the word 'Railway' in clause 63 has been replaced by the word 'GM' implying that all decisions on disputes raised by the contractor have to be dealt with by GM personally and GM has the onus of responsibility to make and notify decisions on all matters referred to by the contractor in writing. Prior to this correction slip, the decisions were made and notified by the departmental officers directly and the case was put up to GM only for granting of arbitration.

Since in almost all cases, 'Excepted matters' are invariably raised by the contractors and decisions are required to be taken appropriately to keep the same in purview of T.O.R or otherwise, the issue was put up to GM by this office for a decision. After considering the issues involved, GM has ordered as under:

1. PHODs/Co-ordinating HODs shall make and notify the decisions on all disputes and differences represented by the contractors arising out of the contracts which were signed with out the incorporation of the Correction Slip No.3 to G.C.C.
2. Railway should refer the matter to Railway Board for the substitution of the word "**GM**" in the Correction Slip No.3 to G.C.C with "**PHODs/Co-ordinating HODs**".

Action on item 2 is being taken by this office. Action on item 1 as required may be taken by all concerned.

(S. Vijayakumaran)  
Chief General Engineer  
For Principal Chief Engineer

## **IV.ARBITRATION**

### **F : INTEREST**

<b>Sl.NO.</b>	<b>Subject in Brief</b>	<b>Letter Dated</b>
<b>1</b>	<b>Award of interest by Arbitrators – interest On Disputed Claims Payment to the Claimant Contractor</b>	<b>30.04.93</b>
<b>2</b>	<b>Award of Pendentilite interest in Rly. Arbitration Cases</b>	<b>28.02.00</b>



**Southern Railway.**

Headquarters office  
Works Branch  
Madras-600-003

No.V.29/I/Vol.III

Dt: 25.5.1993.

DRMs/V/MAS PGT TVC SBC MYS MDU & TPJ  
Sr. DAOs/Mas PGT TVC SBC MYS MDU AND TPJ

Sub: Arbitration cases-award of interest by  
arbitrators and joint arbitrators-Interest on  
disputed claims-payment to the claimant  
contractor.

-----

A copy of railway boards letter No.78/W1/CT/36 dated 30.4.93 received on  
the above is subjoined below for information and guidance.

Please acknowledge.

For Chief Engg.

---

Copy of Railway boards Letter No.78/W1/CT/36 dt 30.4.93 addressed to GM  
(works) S.Rly/Madras.

Sub: Arbitration cases-award of interest by  
Arbitrators and joint arbitrators-Interest on  
disputed claims-payment to the claimant  
contractors.

Ref: Your Railways letter no No.W.29/I/Vol.III dated  
15.12.92.

-----

The issue has been discussed with the Legal Advise and his opinion is reproduced  
below:-

"The Hon. Supreme court in the case of secretary Irrigation Department,  
Government of Orissa and others Versus Shri G.C Roy and another have held that  
where the agreement between the parties does not prohibit grant of interest and  
where a party claims interest and that dispute (along with the claim for principal  
amount of independently is referred to the arbitration he shall have the power to  
award interest pendentlite. In this connection they have observed as under:-

"This is for the reason that in such a case it must be presumed that  
interest was an implied term of the agreement between the parties and `therefore  
when the parties refer all the disputes - or refer the dispute as to interest as such  
- to the arbitrator, he shall have the power to award interest. This does not mean  
that in every case the arbitrator should necessarily award interest pedentelite, It  
is a matter within his discretion to be exercised in the light of all the facts and  
circumstances of the case, keeping the ends of Justice in view."

From the position explained above, it will be seen that the arbitrator has to exercise the discretion in the light of all the facts and circumstance of the case, keeping the ends of justice in view. The facts of each case may differ from each other. The Zonal Railway, it is presumed, consider the question as to whether the award of the arbitrator should be accepted or not in consultation with their FA&CAOs and the Law Officers available on each Zonal railway. The Law Officers are supposed to know the law laid down by the supreme Court in the Judgement in question and reported in the journal known as All India Reporter and they will, no doubt, keep the ruling of the Supreme Court in this case in view while deciding any particular case. The railways can, however, be advised impressing upon them that the cases of acceptance or otherwise of the awards of the arbitrators must be examined in consultation with their FA&CAO and Law Officers invariably. If anyone of the zonal railways feel any difficulty in deciding the issue, the matter can certainly be referred to the Railway Board in any individual case for consideration of the Finance Directorate and our consideration,”

Action may therefore be taken accordingly,

(Sd.) S.M.Singla  
Executive Director, Civil Engg. (G)  
Rly Board.

No. W 496/ON/MS/FX/ARB/Policy

**NOTE**

Sub: Award of pendantelite interest in railway arbitration cases.

---

It is often observed that one of the claims of the contractors in railway arbitration cases is payment of interest for the period from the time dispute arose till the date of payment of award. As per cl.no.16(2) of GCC for civil Engineering works there can be no claim for interest and as per cl.no.64.5 of GCC vide C.S.no.13, where the award is for the payment of money no interest shall be payable on whole on any part of the money for any period till the date on which the award is made.

Supreme Court have held that award of interest pendante-lite is applicable only in cases where the agreement between the contracting parties does not prohibit grant of interest. Since all railway contracts are governed by GCC which prohibits payment of Pendante-lite interest, claim of the same cannot be entertained in railway arbitration cases. GM and CAO/C to whose notice this issue was brought also approved this stand taken with respect to a specific arbitration case.( copy enclosed ) Based on this a circular letter to all units with copies to Headquarters was issued vide this office letter of even no. dt 15/24.11.94 advising that it is necessary to delete such claims for pendante-lite interest from the terms of reference in railway arbitration cases. (copy enclosed)

However in arbitration cases ordered by court the deletion of claim for interest is not possible especially when there is specific instruction from the court to arbitrate upon all the claims and disputes. The claim for interest hence forms part of the terms of reference in such court cases and the same cannot be disputed even when it is awarded.

Cases where the GM/MAS has issued memorandum referring cases to Arbitration tribunal where the interest aspect has been taken into consideration have come to light recently. As the earlier orders of GM and CAO regarding the payment of pendante-lite interest are with respect to a specific arbitration case it is felt that specific instructions regarding the non-inclusion of interest in the terms of reference in railway arbitration cases are necessary to ensure uniformity in framing the terms of reference. Hence it is requested that suitable instructions may be issued in this regard.

FA&CAO/CN/I/MS

FA&CAO/CN/MS

## **Southern Railway**

No.C.3 56/17/18/99/Law.

Headquarters Office.  
General /Law/ Branch.  
MM complex/Chennai-3.

Date: 24-12-99

FA & CAQ/CN-I/MS

Sub:- Award of pendantilite interest in railway  
arbitration cases.

Ref:- Your Note No.W.496/CN/MS/FX/ARB/Policy dt:-

\*\*\*\*\*

The Hon'ble Supreme Court in G C Roy's case have discussed at length the issue of pendantilite interest. The principle laid down in that landmark judgment is that where the agreement between the parties does not prohibit grant of interest and where a party claims interest and that dispute (along with the claim for principal amount or independently) is referred to the arbitrator, he shall have the power to award interest pendantilite.

In the Case of reference to arbitration at the instance of the party, if the contractor raises a dispute with regard to interest, the administration cannot validly refuse to refer that to arbitration as it does not come within excepted Matter. After the coming into the force of the present Circular (viz) Clause 64.5 in particular in grant of interest by the arbitrator is sought to be totally restricted. After the promulgation of Interest Act 1978 the arbitrator is vested with certain powers to grant interest other than pendantilite. However if the Contractor raises a dispute regarding interest as aforesaid and it is- referred- the arbitration has powers to adjudicate on it.

Clause 64.5 of the present circular cannot eclipse the Interest Act and the powers conferred by the said Act cannot be abridged. If it sought then in my view may not stand judicial scrutiny.

Since Railway Board has formulated this arbitration clause it would be appropriate to seek their directives.

LAW OFFICER.

**Southern Railway**

Office of the  
FA&CAO/CN/MS  
Chennai-600008  
February 28, 2000

No. W496/CN/MS/FX/Arbitration policy

Executive Director/Finance  
Room no.422 Rail Bhavan  
Railway Board.  
New Delhi -110001

For the kind attention of Sri Sudhir Mathur

Sub: Award of pendantlite interest in railway  
arbitration cases.

Ref: Executive Director Civil Engineering (G) Railway  
Board letter no.96/CE-I/29 dt 6.8.97

\*\*\*\*\*

Clause no 63&64 of general conditions of contract were revised in view of the promulgation of the arbitration and conciliation ordinance 1996. As per the above revised arbitration clause no. 64.5. 'where the award is for the payment of money. No interest shall be payable on whole on any part of the money for any period till the date on which the award is made'. Further as per clause no.16(2) of GCC also no interest is payable on the amounts due to the contractor.

Supreme court have held that award of interest pendantelite is applicable only in cases where the agreement between the contracting parties does not prohibit grant of interest. All railway contracts are governed by GCC which prohibits payment of Pendant-lite interest. GM's orders were obtained in a specific case maintaining that while pendant-lite interest if awarded cannot be disputed, arbitrators are to be informed that they cannot award interest during the period of dispute thereafter a circular was issued to all units advising that it was necessary to delete claims for pendantelite interest from the terms of reference for railway arbitration cases.

However in arbitration cases ordered by court the deletion of claim for interest from the terms of reference is not possible especially when there is a specific instruction from the court to arbitrate upon all the claims and disputes. The claim for interest hence forms part of the terms of references. The claim for court cases and the same cannot be disputed even when it is awarded. Thus there is a situation where in claim for pendant-lite interest is not admitted in railway arbitration cases where as the same is included in arbitration cases ordered by court.

In order to ensure uniformity in framing the terms of reference with relation to the claim for pendantelite interest, the law officer's opinion was obtained which is as follows:

"In the case of reference to arbitration at the instance of the party, if the contractor raises a dispute with regard to interest the administration cannot validity refuse to refer that to the arbitration as it does not come within excepted matter. After the coming into force of the present circular, viz., Cl.no.64.5 of GCC in particular, grant of interest by the arbitration sought to be totally restricted. After the promulgation of interest Act 1978 the arbitration is vested with certain powers to grant interest other than pendantelite. However, if the contractor raises a dispute regarding interest as aforesaid, and it is refereed, then the arbitration has powers to adjudicate on it.

Clause no.64.5 of the present circular cannot eclipse the Interest Act and powers conferred by the said Act cannot be abridged. If it is so sought, then in my view, it may not stand judicial scrutiny.

Since Railway board has formulated this arbitration clause, it would be appropriate to seek their directives."

Under the circumstances, it is requested that suitable instructions may be issued in this regard, to deal with the contractor's claim of pendantelite interest in arbitration cases.

(Sowmya Raghavan)  
FA&CAO/CN/MS

## **IV.ARBITRATION**

### **G: JUDGEMENT / OPINION**

<b>Sl.NO.</b>	<b>Subject in Brief</b>	<b>LETTER DATED</b>
<b>1</b>	<b>Hon'ble Supreme Court's Orders Dated 1.3.2002 On the Issue of "Excepted Matters" in SLP Filed by Union of India V/S Sarvesh Chopra, Contractor.</b>	<b>6.8.02</b>
<b>2</b>	<b>Appointment of Arbitrators Under Sec. 11(6) Outside the Terms of Contract – Opinion by ASGI</b>	<b>23.09.05</b>

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)**

No. 2000/CE-I/CT/39

New Delhi, the 6.8.2002.

Sub: Hon'ble Supreme Court's orders dated 01-3-2002 in SLP filed by Union of India V/s Sarvesh Chopra, Contractor.

----

A copy of the above judgement is enclosed herewith for your information and ready reference. In the judgement, the Hon'ble Judges have deliberated upon at length the issues to excepted matters and its arbitrability. Hon'ble Court, in fact, has upheld the contention of the Railway about the excepted matters that these matters should not be allowed to be arbitrated upon. The important observations made by the learned Judges are given below:

- (i) To be an excepted matter, it is not necessary that a departmental or inhouse remedy for settlement of claim must be provided by the contract. Merely for the absence of provision for inhouse settlement of the claim, the claim does not cease to be an excepted matter.
- (ii) It would be an exercise in futility to refer for adjudication by the arbitrator a claim, though not arbitrable, and thereafter, set aside the award if the Arbitrator chooses to allow such claim. The High Court was, in our opinion, not right in directing the said 4 claims to be referred to arbitration.
- (iii) We cannot subscribe to the view that interpretation of arbitration clause itself can be or should be left to be determined by arbitrator and such determination cannot be done by Court at any stage."

In a nutshell, it can be said that the above judgement may prove to be a landmark judgement in contesting other similar cases where excepted matters have been arbitrated and a award given by the arbitrator.

Encl: Copy of the Judgement.

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 1791 OF 2002  
(Arising out of SLP© No.20727/2000)**

General Manager Northern Railways & Anr.,-- Appellants

Versus

Sarvesh Chopra ---- Respondent

**JUDGEMENT**

R.C. Lahoti, J.

The respondent was granted by the appellants work of construction on bored piles 500 mm dia by cast in Situ method for widening and raising of Pul Mithai (S). A contract was entered into between the parties on 27.4.1985. The contract is subject to the General conditions of the contract of Railways read with Special Conditions. Disputes arose between the parties and the respondent moved a petition under Section 20 of the Arbitration Act, 1940 praying for the arbitration agreement being filed in the court and six claims set out in the petition being referred to the Arbitrator for settlement. The learned Single Judge of the High Court of Delhi (Original side) directed two claims to be referred but as for claims numbers 3 to 6 formed an opinion that the claims being 'excepted matters' within the meaning of Clause 63 of General Conditions of Contract were not liable to be referred to arbitration. An intra-Court Appeal preferred by respondent has been allowed and the four claims have also been directed to be referred by the Division Bench to arbitrator on forming an opinion that they were not covered by 'excepted matters'. The appellants have filed this petition seeking special leave to appeal against the decision of Division Bench.

Leave granted.

Clause 63 of the General Conditions of the Contract provides as under:-

"Matters finally determined by the Railway – All disputes and differences of any kind whatsoever arising out of or in connection with the contract. Whether during the progress of the work or after

its completion and whether before or after the determination of the contract shall be referred by the contractor to the Railway and the Railway shall within a reasonable time after receipt of the Contractor's representation make and notify decisions on all matters referred to by the contractor in writing provided that matters for which provision has been made in clauses 18, 22(5), 39, 45(a), 55, 55-A(5), 61(2) and 62(1) (XII)(B)(c)(b) of the General conditions of Contract or in any clauses of the special conditions of the contract shall be deemed as excepted matters and decisions thereon shall be final and binding on the contractor provided further that excepted matters shall stand specifically excluded from the purview of the arbitration clause and not be referred to arbitration."

Clauses 9.2., 11.3 and 21.5 of Special Conditions of contract are as under:-

"9.2. No material price variation or wages escalation on any account whatsoever and compensation for "Force Majeure" etc. shall be payable under this contract.

11.3. No claim whatsoever will be entertained by the Railway on a/c of any delay or hold up of the works arising out of delay in supply of drawings, changes, modifications, alterations, additions, omissions, omissions in the site layout plans or detailed drawings or designs and or late supply of such materials as are required to be arranged by the Railway or due to any other factor on Railway Accounts.

21.5. No claim for idle labour and or idle machinery etc. on any account will be entertained. Similarly no claim shall be entertained for business loss or any such loss."

Claims numbers 3 to 6 whereon reference is sought for by the respondent to the Arbitrator are as under:-

3. There occurred tremendous increase in cost of building materials. 52 Nos. of piles were bored after the expiry of stipulated completion period and particularly when the prices were too high. Additional cost incurred @ Rs.250/- for these 42 Nos. of piles may please be paid. This has also been verified by your staff at site, Rs.250 x 12 Rs. 10500/-.
4. Piling tie with diesel driven wench, mixture machine, driving pipe, wheel barrows, hoppers and other tools and plants remained idle at site for 24 months, i.e. for 75 days. The entire machinery was procured from the market on hire charges. Rent was paid @ Rs. 1070/- per day for this machinery. Hire charges amounting to Rs.80,250/- (1070x75) may please be reimbursed.

5. The site was not made available for one month. Changes took place and decisions were delayed. The Work which was required to be completed within 3 ½ months but dragged on for additional period of 6 months. Establishment period of 6 months at a cost of Rs. 10,000/- per month. These losses may please be paid. (Rs. 10,000/- X 6 Rs. 60,000).
6. The work of Rs.5,95,000/- was required to be completed within 3 ½ months meaning thereby, monthly progress would not be less than Rs.1,75,000/-. As against the entire work could be completed within a period of 9 ½ months i.e. Rs. 75,000/- per month. The losses sustained for less output may be compensated and this comes to Rs.40,000/-."

According to the appellants claims numbers 3, 4 and 5 are covered respectively by Clauses 9.2, 21.5 and 11.3. claim No.6 is covered by Clause 11.3. of Special Conditions. On this, there does not appear to be any serious controversy. The core issue is the interpretation of Clause 63 of the General Conditions and Section 20 of the Arbitration Act, 1940.

A bare reading of Clause 63 shows that it consists of three parts. Firstly, it is an Arbitration Agreement requiring all disputes and differences of any kind whatsoever arising out of or in connection with the contract to be referred for adjudication by arbitration, by the Railways, on a demand being made by the contractor through a representation in that regard. Secondly, this agreement is qualified by a proviso which deals with "excepted matters". "Excepted matters" are divided into two categories : (i) matters for which provision has been made in specified clauses of the General Conditions, and (ii) matters covered by an clauses of the Special Conditions of the Contract. Thirdly, the third part of the clause is a further proviso, having an overriding effect on the earlier parts of the clause, that all "excepted matters" shall stand specifically excluded from the purview of the Arbitration Clause and hence shall not be referred to arbitration. The source of controversy is the expression - "matters for which provision has been made.....in any clauses of the Special Conditions of the contract

shall be deemed as "excepted matters" and decisions thereon shall be final and binding on the contractor." It is submitted by the learned counsel for the respondent that to qualify as "excepted matters" not only the relevant clause must find mention in that part of the contract which deals with special conditions but should also provide for a decision by an authority of the Railways by way of an in-house remedy which decision shall be final and binding on the Contractor. In other words, if a matter is covered by any of the clauses in the Special Conditions of the contract but no remedy is provided by way of decision by an authority of the Railways then that matter shall not be an 'excepted matter'. The learned counsel supported his submission by pointing out a few clauses of General Conditions and Special Conditions. For example vide Clause 18 of General Conditions any question or dispute as to the commission of any offence or compensation payable to the Railway shall be settled by the General Manager of the Railway in such manner as he shall consider fit and sufficient and his decision shall be final and conclusive. Vide Clause 2.4.2.(b) of Special Conditions a claim for compensation arising on account of dissolution of contractor's firm is to be decided by Chief Engineer (Construction) of the Railway and his decision in the matter shall be final and binding on the contractor. Vide clause 12.1.2. of Special Conditions a dispute whether the cement stored in the godown of the contractor is at for the work is to be decided by the Engineer of Railways and his decision shall be final and binding on the contractor. The learned counsel submitted that so long as the remedy of decision by some one though he may be an authority of the Railways is not provided for the contractor's claim cannot be left in lurch by including the same in "excepted matters". We find it difficult to agree.

In our opinion these claims which are covered by several clauses of the Special Conditions of the Contract can be categorized into two. One category is

of such claims which are just not leviable or entertainable. Clauses 9.2., 11.3. and 21.5. of Special Conditions are illustrative of such claims. Each of these clauses provides for such claims being not capable of being raised or adjudged by employing such phraseology as "shall not be payable", "no claim whatsoever will be entertained by the Railway". or " no claim will shall be entertained". These are "no claim", "no damage", or "no liability" clauses. The other category of claims is where the dispute or difference has to determined by an authority of Railways as provided in the relevant clause. In such other category fall such claims as were read out by the learned counsel for the respondent by way of illustration from several clauses of the contract such as General Conditions Clause 18 and Special Conditions Clause 2.4.2.(b) and 12.1.2. The first category is an "excepted matter" because the claim as per terms and conditions of the contract is simply not entertainable the second category of claims falls within "excepted matters" because the claim is liable to be adjudicated upon by an authority of the Railways whose decision the parties have under the contract, agreed to treat as final and binding and hence not arbitrable. The expression "and decision thereon shall be final and binding on the contractor" as occurring in Clause 63 refers to the second category of 'excepted matters'.

The learned counsel for the respondent placed reliance on Vishwanath Sood Vs. Union of India & Aur., (1989) 1 SCC 657, and Food Corporation of India Vs. Sreekanth Transport. (1999) 4 SCC 491 to strengthen his submission that an 'excepted matter' should be one covered by a clause which provides for a departmental remedy and is not arbitrable for that reason. We have carefully perused both the decisions. Vishwanath Sood's case is one wherein Clause 2 of the contract envisaged determination of the amount of compensation for the delay in the execution of work only by the Superintending Engineer whose

decision in writing shall be final. In Food Corporation of India's case also the relevant clause provided for the decision of Senior Officer being final and binding between the parties. Both were considered to be 'excepted matters'. A decision of this Court is an authority for the proposition which it decides and not for what it has not decided or had no occasion to express an opinion on.

The two decisions relied on by the learned counsel for the respondent hold a Clause providing a departmental or in-house remedy and attaching finality to decision therein to be an 'excepted matter' because such were the Clauses in the contracts which came up for the consideration of this Court. Those decisions cannot be read as holding nor can be relied on as an authority for the proposition by reading them in a negative way that if a departmental remedy for settlement of claim was not provided then the claim would cease to be an 'excepted matter' and such should be read as the decision of this Court.

It was next submitted by the learned counsel for the respondent that if this Court was not inclined to agree with the submission of the learned counsel for the respondent and the interpretation sought to be placed by him on the meaning 'excepted matter' then whether or not the claim raised by the contractor is an 'excepted matter' should be left to be determined by the arbitrator. It was submitted by him that while dealing with a petition under Section 20 of the Arbitration Act, 1940 the Court should order the agreement to be filed and make an order of reference to the arbitrator appointed by the parties leaving it open for the arbitrator to adjudicate whether a claim should be held to be not entertainable or awardable being an 'excepted matter'. With this submission too we find it difficult to agree. While dealing with petition under Section 20, the Court has to examine: (i) Whether there is an arbitration agreement between the parties,

(ii) whether the difference which has arisen is one to which the arbitration agreement applies, and (iii) whether there is a cause, shown to be sufficient, to decline an order of reference to the arbitrator. The word 'agreement' finding place in the expression where a difference has arisen to which an agreement applies', in sub-section(1) of Section 20 means arbitration agreement'. The reference to arbitrator on a petition filed under Section 20 is not a function to be discharged mechanically or ministerially by the Court; it is a consequence of judicial determination, the Court having applied its mind to the requirements of Section 20 and formed an opinion, that the difference sought to be referred to arbitral adjudication is one to which the arbitration agreement applies. In the case of Food Corporation of India (supra), relied on by the learned counsel for the respondent, it has been held as the consistent view of this Court that in the event of the claims arising within the ambit of 'excepted matters', the question of assumption of jurisdiction by any arbitrator either with or without the intervention of the Court would not arise. In Union of India Vs. Popular Builders, Calcutta (2000) 8 SCC 1 and Steel Authority of India Ltd. Vs. J.C. Budharaja Government and Mining Contractor - (1999) 8 SCC 122, Ch. Ramalinga Reddy Vs. Superintending Engineer & Anr. (1994) 5 Scale 12 (pr.18), M/s Mopi Parshad Vs. Union of India (1960) 2 SCR 793 at page 804 this Court has unequivocally expressed that an award by an arbitrator over a claim which was not arbitrable as per the terms of contract entered into between the parties would be liable to be set aside. In M/s. Prabartak Commercial Corporation Ltd. Vs. The Chief Administrator Dandakaranya Project & Anr., (1991) 1 SCC 498, a claim covered by 'excepted matter' was referred to arbitrator in spite of such reference having been objected to and the arbitrator gave an award. This court held that the arbitrator had no jurisdiction in the matter and that the reference of the dispute

to the arbitrator was invalid and the entire proceedings before the arbitrator including the awards made by him were null and void.

In Continental Construction Co. Ltd. Vs. State of Madhya Pradesh, (1988) 3 SCC 82, the contract provided for the work being completed by the contractor in spite of rise in prices of material and labour charges at the rates stipulated in the contract. It was held that on the contractor having completed the work, it was not open to him to claim extra cost towards rise in prices of material and labour. An award given by the arbitrator for extra claim given by the contractor was held to be vitiated on the ground of misconduct of arbitrator. There were specific clauses in the agreement which barred consideration of extra claims in the event of price escalation.

In Ch. Ramalinga Reddy Vs. Superintending Engineer & Anr., 1994 (5) Scale 67, claim was allowed by arbitrator for "payment of extra rates for work done beyond agreement time at schedule of rate prevailing at the time of execution". Clause 59 of A.P. Standard Specifications, which applied to the contract between the parties, stated that no claim for compensation on account of delays or hindrances to the work from any cause would lie except as therein defined. The claim was found to be outside the defined exceptions. When extensions of time were granted to the appellant to complete the work the respondents made it clear that no claim for compensation would lie. For both these reasons, this Court held that it was impermissible to award such claim because the arbitrator was required to decide the claims referred to him having regard to the contract between the parties and, therefore, his jurisdiction was limited by the terms of the contract.

A Division Bench decision of High Court of Andhra Pradesh in State of A.P. Vs. M/S. Associated Engineering Enterprises, Hyderabad. AIR 1990 A.P. 294 is of



relevance, Jeevan Reddy, J. (as His Lordship then was), speaking for the Division Bench, held that where clause 59 of the standard terms and condition of the contract provided that neither party to the contract shall claim compensation "on account of delays or hindrances of work from any cause whatever", an award given by an arbitrator ignoring such express terms of the contract was bad. We find ourselves in agreement with the view so taken.

In Hudson's Building and Engineering Contracts (11<sup>th</sup> Edition, pp.1098-9) there is reference to 'no damage' clauses, an American expression, used for describing a type of clause which classically grants extensions of time for completion, for variously defined 'delays' including some for which, as breaches of contract on his part, the owner would prima facie be contractually responsible, but then proceeds to provide that the extension of time so granted is to be the only right or remedy of the contractor and, whether expressly or by implication, that damages or compensation are not to be recoverable therefore. These 'no damage' clauses appear to have been primarily designed to protect the owner from late start or co-ordination claims due to other contractor delays which would otherwise arise. Such clauses originated in Federal Government contracts but are now adopted by private owners and expanded to cover wider categories of reaches of contract by the owners in situations which it would be difficult to regard as other than oppressive and unreasonable. American jurisprudence developed so as to avoid the effect of such clauses and permitted the contractor to claim in four situations, namely, (i) where the delay is of a different kind from that contemplated by the clause, including extreme delay, (ii) where the delay amounts to abandonment, (iii) where the delay is a result of positive acts of interference by the owner and (iv) bad faith. The first of the said four exceptions has received considerable support from judicial pronouncements in England and

Commonwealth. Not dissimilar principles have enabled some commonwealth courts to avoid the effect of 'no damage' clauses. (See Hudson, *ibid*).

In our country question of delay in performance of contract is governed by Sections 55 and 56 of the Indian Contract Act, 1872. If there is an abnormal rise in prices of material and labour, it may frustrate the contract and then the innocent party need not perform the contract. So also, if time is of the essence of the contract, failure of the employer to perform a mutual obligation would enable the contractor to avoid the contract as the contract becomes voidable at his option. Where time is "of the essence" of an obligation, Chitty on Contracts (Twenty-Eighth Edition, 1999. at p.1106, para 22-015) States "a failure to perform by the stipulated time will entitle the innocent party to (a) terminate performance of the contract and thereby put an end to all the primary obligations of both parties remaining unperformed, and (b) claim damages from the contract-breaker on the basis that he has committed a fundamental breach of the contract ("a breach going to the root of the contract") depriving the innocent party of the benefit of the contract ("damages for loss of the whole transaction"). If, instead of avoiding the contract, the contractor accepts the belated performance of reciprocal obligation on the part of the employer, the innocent party, i.e. the contractor, cannot claim compensation for any loss occasioned by the non-performance of the reciprocal promise by the employer at the time agreed, "unless, at the time of such acceptance, he gives notice to the promisor of his intension to do so". Thus, it appears that under the Indian law, in spite of there being a contract between the parties where under the contractor has undertaken not to make any claim for delay in performance of the contract occasioned by an act of the employer, still a claim would be entertainable in one of the following situations: (i) if the contractor repudiate the contract exercising his right to do so

under Section 55 of the Contract Act, (ii) employer gives an extension of time either by entering into supplemental agreement or by making it clear that escalation of rates or compensation for delay would be permissible, (iii) if the contractor makes it clear that escalation of rates or compensation for delay shall have to be made by the employer and the employer accepts performance by the contractor in spite of delay and such notice by the contractor putting the employer on terms.

Thus, it may be open to prefer a claim touching an apparently excepted matter subject to a clear case having been made out for excepting or excluding the claim from within the four corners of "excepted matters". While dealing with a petition under Section 20 of the Arbitration Act, the Court will look at the nature of the claim as preferred and decide whether it falls within the category of "excepted matters". If so, the claim preferred would be a difference to which the arbitration agreement does not apply, and therefore, the Court shall not refer the same to the arbitrator. On the pleading, the applicant may succeed in making out a case for reference, still the arbitrator may on the material produced before him, arrive at a finding that the claim was covered by "excepted matters". The claim shall have to be disallowed. If the arbitrator allows a claim covered by an excepted matter, the award would not be legal merely because the claim was referred by the Court to arbitration. The award would be liable to be set aside on the ground of error apparent on the face of the award or vitiated by legal misconduct of the arbitrator. Russell on Arbitration (Twenty-First Edition, 1997) states vide para 1-027 (at p.15) "Arbitrability. The issue of arbitrability can arise at three stages in an arbitration; first, on an application to stay the arbitration, when the opposing party claims that the tribunal lacks the authority to determine a dispute because it is not arbitrable, second, in the course of the arbitral

proceedings on the hearing of an objection that the tribunal lacks substantive jurisdiction and third, on an application to challenge the award or to oppose its enforcement. The New York Convention, for example, refers to non-arbitrability as a ground for a court refusing to recognize and enforce an award.”

To Sum up, our conclusion are: (i) while deciding a petition under Section 20 of the Arbitration Act, 1940, the Court is obliged to examine whether a difference which is sought to be referred to arbitration is one to which the arbitration agreement applies. If it is a matter excepted from the arbitration agreement, the Court shall be justified in withholding the reference (ii) to be an excepted matter it is not necessary that a departmental or ‘in-house’ remedy for settlement of claim must be provided by the contract. Merely for the absence of provision for in-house settlement of the claim, the claim does not cease to be an excepted matter, (iii) an issue as to arbitrability of claim is available for determination at all the three stages – while making reference to arbitration, in the course of arbitral proceedings and while making the award a rule of the Court.

In the case before us, the claims in question as preferred are clearly covered by “excepted matters”. The statement of claims, as set out in the petition under Section 20 of the Arbitration Act, does not even prima facie suggest why such claims are to be taken out of the category of “excepted matters” and referred to arbitration. It would be an exercise in futility to refer for adjudication by the arbitrator a claim though not arbitrable, and thereafter, set aside the award if the arbitrator chooses to allow such claim. The High Court was, in our opinion, not right in directing the said four claims to be referred to arbitration.

After the hearing was concluded the learned counsel for the respondent cited a few decisions by making a mention, wherein the view taken is that

'interpretation of contract' is a matter for arbitrator to decide and the Court cannot substitute its own decision in place of the decision of the arbitrator. We do not think that the cited cases have any relevance for deciding the question arising for consideration in this appeal. None of the cases is an authority for the proposition that the question whether a claim is an 'excepted matter' or not must be left to be decided by the arbitrator only and not adjudicated upon by the Court while disposing of a petition under Section 20 of the Arbitration Act, 1940. We cannot subscribe to the view that interpretation of arbitration clause itself can be or should be left to be determined by arbitrator and such determination cannot be done by Court at any stage.

For the foregoing reasons we are of the opinion that the view of the "excepted matters" taken by the Division Bench of the High Court cannot be sustained. The appeal is allowed, the impugned decision of the Division Bench of the High Court is set aside and that of the learned Single Judge is restored. No order as to the costs.

.....J.

(R.C. LAHOTI)

.....J.  
(BRIJESH KUMAR)

New Delhi,  
March 1, 2002.

**MOST URGENT**

**Southern Railway**

General Manager's Office  
Chennai-600 003.

No.G.16/DGM/ARB/Corres/Vol.IV

Dated: 23.09.2005

PCE, CAO/CN/MS

Sub: Judgment in Writ Petition No.7584/2005  
Batch – opinion reg.  
\*\*\*\*\*

The opinion given by Shri V.T. Gopalan, Additional Solicitor – General of India on the above subject is enclosed.

You may please peruse the G.M.'s endorsement made thereon and put up the papers with legal opinion and views of Associates Finance.

Encl: As above.

(M. Amarendra)  
DGM/G

V.T. GOPALAN  
TEL:25340923

ADDITIONAL SOLICITOR – GENERAL  
INDIA

ASGI Chamber, High Court,  
Chennai 600 104.

**OPINION**

To

The General Manager  
Southern Railway  
Park Town  
Chennai-3

Through: Shri V.G. Suresh Kumar, Counsel for Railways.

Sir,

Sub: Judgment in Writ Petition Nos. 7584/2005  
batch-opinion reg.-

I have appeared in the batch of cases filed by Bharat Sanchar Nigam Ltd., as well as the Railways in the various writ petitions challenging the order of the learned Chief Justice or his nominees appointing an Arbitrator under Sec.11(6) outside the terms of the contract. I am of the following opinion:-

Before the learned Judge, the difference in the phraseology between the provisions of Sec.11(3),(4) & (5) on the one hand and Sec.11(2) & (6) on the other hand was highlighted. The phraseology in sub-sections 3,4,5 of Sec.11 is that "the appointment shall be made .... by the Chief Justice ....." whereas the phraseology employed in Sub-sections 6 of Sec.11 is "a party may request the Chief Justice or any person or institution designated by him to take necessary measure, unless the agreement on the appointing procedure provides other means for securing the appointment". The terms "to take necessary measure" can only be interpreted to mean necessary measure as per the agreement. This aspect has been totally omitted to be considered by the learned Judge.

The various decisions cited on behalf of the petitioners relating to the appointment of arbitrator either under the old Act or new Act have been distinguished as not binding precedents in view of the fact that such orders are administrative in nature. But on the other hand the same yardstick was failed to be applied when it came to the question of the respondents citing several decisions under the old and new Act appointing arbitrators which are equally administrative in nature and the decisions cited by the Respondents have been accepted by the learned Judge. Therefore there is clear inconsistent approach in the very order itself by the learned Judge in this behalf.

The various decisions of the Supreme Court which were rendered in the appellate jurisdiction of the Supreme Court, the same are binding precedents and such decisions of the Supreme Court cannot be considered to be administrative. The decision of the Supreme Court reported in (1995) 5 SCC 329 (Bhupinder Singh Bindra vs. UOI) has been distinguished on the ground that it was rendered

under old 1940 Act. The learned Judge has failed to apply the decision of the Supreme Court reported in (2000) 8 SCC 151 rendered under the new Act and the same having been noted in para 11, the same principle laid down in the said judgment with regard to the appointment of arbitrators by the learned Chief Judge or his nominee has not been followed. In the said decision (2000) 8 SCC 151, the earlier decision under the old Act (1995) 5 SCC 329 (Bhupinder Singh Bindra vs. UOI) has been followed and the ratio of the decision though under the old Act to the effect that while appointing an arbitrator even under Sec.11(6) of the new Act, the Court cannot travel outside the terms of the contract. This finding of the Supreme Court in paras 22 & 23 has been failed to be applied while disposing of the writ petitions. If only the said findings in para 22 & 23 had been applied, then the writ petitions should have been allowed.

As regards the decision of the Supreme Court reported in (2003) 6 SCC 465, it was pointed out before the learned Judge that following the decision rendered by the larger Bench in Konkan Railways case (2002) 2 SCC 388, the Supreme Court held that the order of the Chief Justice appointing an Arbitrator though administrative in nature will be amenable to a writ petition under Sec.226 of the Constitution. The Supreme Court did not make any distinction between an order appointing an Arbitrator under Sec.11(6) and the order declining to appoint an arbitrator under Sec.11(6). It was pointed before the learned Judge that the decision of the Supreme Court in para 10 of the judgment could only relate to the exercise of the discretion by the Court and the same cannot be said to have laid down any principle of law to be followed by all concerned. Therefore when a writ petition is maintainable, the question whether the discretion in should be exercised in favour of the petitioner in disposing of the writ petition will certainly turn on the facts and circumstances of the case. There cannot be any invariable rule or inflexible or uniform Rule in the matter of exercise of discretion. This aspect was not considered by the learned Judge.

It was pointed out before the learned Judge in the matter of exercise of discretion certain factors must be taken judicial notice of namely (I) it is not necessary that an arbitrator should always be a retired Judge or an Advocate or a person having judicial experience, (ii) when the Chief Justice has appointed an arbitrator under Sec.11(6) though administrative, judicial notice can be taken of the fact that arbitrator will not entertain an objection to the appointment of an arbitrator by the Chief Justice, (iii) in normal course of human conduct every arbitrator will try to take upon himself the appointment made and continue the arbitration in which event the only remedy is to challenge the award under Sec.34 (iv) Instances are not wanting where the Supreme Court even after the award was made, had set aside the award holding the initial appointment of arbitrator as bad in law (v) when the Supreme Court has held in Datar Switchgear case reported in (2000) 8 SCC 151 that while appointing an arbitrator the Chief Justice or his nominee cannot travel outside the terms of the contract and followed a decision under the old Act to the appointment of an arbitrator under new Act, then that decision should have been allowed. When such decision has record and in such circumstances, it would not be necessary or in the interest of administration of justice by alternative disputes redressal forums that a person should be driven to go through the arbitration proceedings only to find that the award is liable to be set aside on the question of appointment of arbitrators. Such a procedure frustrates the very idea and object of appointing an arbitrator which is to ensure quick settlement of disputes and remedy and relief.



The resultant finding of the learned Judge clearly makes the order vulnerable in law and in particular the distinctions sought to be made that a writ will not lie in the case of appointment of an arbitrator whereas a writ will lie in case where the Chief Justice or his nominees declined to appoint an arbitrator. This will tantamount to going behind the finding of the Supreme Court that a writ will lie against the order of the Chief Justice appointing an arbitrator and all the cases decided by the Supreme Court relate to the appointment of an arbitrator and not a single case was with reference to the order declining to the appointment of an arbitrator. Therefore the distinctions sought to be made is unsustainable and goes against the decisions of the Supreme Court.

The issue involved has far reaching consequences in the matter of sanctity of the contract entered into between the parties and the duty of the Court to protect and give effect to such contracts. It shall be the duty of the Court to see that the parties confirm to the terms of the contract unless the contract is null and void. By the impugned order, even the Court has allowed the parties to ignore the terms of the contract and the Court virtually has usurped jurisdiction by which specific clause relating to arbitration is sought to be substituted, the consequences of which is that the particular term of the contract gets abrogated. I am of the view that the above said order affects the working of the Govt. contracts. Naturally the Govt. will take more time than the private party in deciding the choice of the arbitrator to be appointed under the terms of the contract. So any party issuing the notice will wait for 30 days and file a writ on the 31st day to go behind the contract if this order of the Court is to be sustained. The function of the Govt. as regards the award of tenders entering into the contracts and making a special arbitration clause by which the sole arbitrator shall be an official appointed by the designated authority will be in serious jeopardy.

It is advisable that SLPs are to be filed and urgent orders are to be obtained failing which the arbitration clause will lose its meaning, the High Court invariably appoints retired High Court Judges, the cost of arbitration being pushed up and the right of the Govt. to appoint an arbitrator of its choice will be totally lost. I also understand that the issues arising out of the above said judgment are already in issue before the Supreme Court by way of reference to a larger Bench.

(V.T. GOPALAN)

## **V. VIGILANCE**

<b>Sl. NO.</b>	<b>Subject in Brief</b>	<b>Letter Dated</b>
<b>1</b>	<b>Improving Vigilance Administration – Transparency in Tenders</b>	<b>15.9.2000</b>
<b>2</b>	<b>Assessment of Reasonability of Rates by T.C. – (Circulated Vide Lr. Dated 20.12.01)</b>	<b>17.09.97</b>
<b>3</b>	<b>Vigilance Bulletin – Analytical Study</b>	<b>July'2002</b>
<b>4</b>	<b>Improving Vigilance Administration – Works Tenders</b>	<b>2003</b>

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAY  
(RAILWAY BOARD)**

No.98/V-1/CVC/1/9

New Delhi: Dated: 15.9.2000

The General Manager (Vig),  
All Indian Railways,  
Production Units.

Sub: Improving vigilance Administration – Tenders

\*\*\*\*

Please refer to this office letter of even no. dated 29.12.98, forwarding CVC's letter No 8(1)(b)/98(1) dated [18.11.98](#). CVC has brought out that a lot of queries have been raised regarding the above orders and have furnished certain clarification vide letter No.98/ORD/I dated [24.8.2000](#) which enclosed for information and necessary action please.

(R.R. Jaruhar)  
Executive Director Vigilance (E),  
Railway Board

**IMMEDIATE**

No. 8(1)(h)/98(I)

**CENTRAL VIGILANCE COMMISSION**

-----

Jaisalmer House Man Singh Road,  
New Delhi- 110011

Dated the 18<sup>th</sup> November, 1998

**SUB: Improving vigilance administration**

-----

The Central Vigilance Commission Ordinance 1998 under Section 8(1)(h) directs that the power and function of the CVC will be the following:

“exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government”.

2. Improving vigilance administration is possible only if system improvements are made to prevent the possibilities of corruption and also encourage a culture of honesty. In exercise of the powers conferred on the CVC by Section 8(1)(h), the following instructions are issued for compliance:

**2.1 Creating a culture of honesty**

Many organisations have a reputation for corruption. The junior employees and officers who join the organisations hopefully may not be so corruption minded as those who have already been part of the corrupt system. In order to ensure that a culture of honesty is encouraged and the junior officers do not have the excuse that because their seniors are corrupt, that they have to also adopt the corrupt practices, it is decided with immediate effect that junior employees who initiate any proposal relating to vigilance matters which is likely to result in a reference to the CVC can send a copy directly to the CVC by name. This copy will be kept in the office of the CVC and data fed into the computer. If within a reasonable time of say three to six months, the reference does not come to the CVC, the CVC then can verify with the concerned authorities in the department as to what happened to the vigilance case initiated by the junior employee. If there is an attempt to protect the corrupt or dilute the charges, this will also become visible. Above all the junior officers will not have the excuse that they have to fall in line with the corrupt seniors. Incidentally, the seniors also cannot treat the references made directly to the CVC as an act of indiscipline because the junior officers will be complying with the instructions issued under Section 8(1)(h) of the CVC Ordinance 1998. However, if a junior officer makes a false or frivolous complaint it will be viewed adversely.

**2.2 Greater transparency in administration**

2.2.1 One major source of corruption arises because of lack of transparency. There is a scope for patronage and corruption especially in matters relating to tenders, cases where exercise of discretion relating to out of turn conferment of facilities/ privileges and so on. Each Organisation may identify such items which provide scope for corruption and where greater transparency would be useful.

There is a necessity to maintain secrecy even in matters where discretion has to be exercised. But once the discretion has been exercised or as in matters of tenders, once the tender has been finalised, there is no need for the secrecy. A practice, therefore, must be adopted with immediate effect by all organisations within the purview of the CVC that they will publish on the notice board and in the organisation's regular publication the details of all such cases regarding tenders or out of turn allotments or discretion exercised in favour of an employee/party. The very process of publication of this information will provide an automatic check for corruption induced decisions or undue favours which go against the principles of healthy vigilance administration.

2.2.2 The CVC will in course of time take up each organisation and review to see whether any additions and alterations have to be made to the list of items which the organisation identified in the first instance for the monthly communications for publicity in the interests of greater transparency. This may be implemented with immediate effect.

### **2.3 Speedy departmental inquiries**

2.3.1 One major source of corruption is that the guilty are not punished adequately and more important they are not punished promptly. This is because of the prolonged delays in the departmental inquiry procedures. One of the reasons for the departmental inquiry being delayed is that the inquiry officers have already got their regular burden of work and this inquiry is to be done in addition to their normal work. The same is true for the Presenting Officers also.

2.3.2 Each organisation, therefore, may immediately review all the pending cases and the Disciplinary Authority may appoint Inquiry Officers from among retired honest employees for conducting the inquiries. The names of these officers may be got cleared by the CVC. The CVC will also separately issue an advertisement and start building a panel of names all over India who can supplement the inquiry officers work in the department. In fact, it will be a healthy practice to have all the inquiries to be done only through such retired employees because it can then be ensured that the departmental inquiries can be completed in time. If any service/departmental rules are in conflict with the above instructions they must be modified with immediate effect.

2.3.3 In order to ensure that the departmental inquiries are completed in time, the following time limits are prescribed:

(i) In all cases which are presently pending for appointment of Inquiry Officer and Presenting Officer, such appointment should be made within one month. In all other cases, the Inquiry Officer and the Presenting Officer should be appointed, wherever necessary, immediately after the receipt of the public servant's written statement of defence denying the charges.

(ii) The Oral inquiry, including the submission of the Inquiry Officer's report, should be completed within a period of 6 months from the date of appointment of the Inquiry Officer. In the preliminary inquiry in the beginning requiring the first appearance of the charged officers and the Presenting Officer, the Inquiry Officer should lay down a definite time-bound programme for inspection of the listed documents, submission of the lists of defence documents and defence witnesses

and inspection of defence documents before the regular hearing is taken up. The regular hearing, once started, should be conducted on day-to-day basis until completed and adjournment should not be granted on frivolous grounds.

2.3.4 One of the causes for delay is repeated adjournments. Not more than two adjournments should be given in any case so that the time limit of six months for departmental inquiry can be observed.

2.3.5 The IO/PO, DA and the CVO will be accountable for the strict compliance of the above instructions in every case.

#### 2.4 Tenders

Tenders are generally a major source of corruption. In order to avoid corruption, a more transparent and effective system must be introduced. As post tender negotiations are the main source of corruption, post tender negotiations are banned with immediate effect except in the case of negotiations with L1 (i.e., Lowest tenderer)

3. Hindi version will follow.

(N. VITTAL)  
CENTRAL VIGILANCE COMMISSIONER

**No.98.ORD/1**  
**Government of India**  
**Central Vigilance Commission**

Satarkta Bhawann Block 'A',  
GPO Complex, INA,  
New Delhi-110 023.  
Dated 24<sup>th</sup> August, 2000

- (i) The Secretaries of All Ministers / Departments of Government of India.
- (ii) The Chief Secretaries to All Union Territories.
- (iii) The Comptroller & Auditor General of India
- (iv) The Chairman Union Public Service Commission

Sub: Improving Vigilance Administration Tenders.

\*\*\*\*\*

Please refer to the instructions issued by Commission vide its communication No.8(1) (h)/98(1) dated 18.11.98, banning post tender negotiations except with L-1.

2. The Commission has been getting a number of queries on how to handle the matter if the quantity to be ordered is more than L-1 can supply or about placement of orders on Public Sector Undertakings. It is requested that such matters maybe dealt with in accordance with the clarifications issued by the commission vide its letter of even number dated 15.3.99 (Copy enclosed)

3. Some of the organisations have sought clarification as to whether they can consider the L-2 offer or negotiate with that firm if L-1 withdraws his offer before the work order is placed or before the supply or execution of work order takes place. In this regard, it is clarified that such a situation may be avoided if a two-bid system is followed (Techno-commercial) so that proper assessment of the offer is made before the award of work order. Therefore, if L-1 party backs out there should be retendering in a transparent and fair manner. The authority may in such a situation call for limited or short notice tender if so justified in the interest of work and take a decision on the basis of lowest tender.

4. The Commission has also been getting references for its advice on the procedures being followed in individual cases of tenders. The Commission would not involve itself in the decision making process of individual organisations.

It however would expect the organisation to implement its instructions dated 18.11.98, in its spirit and to ensure that the decision of administrative authorities are transparent.

Yours faithfully,  
(K.L. Ahuja)  
Officer on Special Duty,

**No.98/ORD/1**  
**Government of India**  
**Central Vigilance Commission**

Satarkta Bhawan Block 'A',  
GPO Complex, INA,  
New Delhi-110 023.  
Dated 15<sup>th</sup> March, 1999

Sub: Improving Vigilance Administration Tenders.

-----

Sir,

Please refer to CVC's instructions issued by Commission vide its communication No.8(1) (h)/98(1) dated 18.11.98, banning post tender negotiations except with L-1 i.e., the lowest tenderer. Some of the organisations have sought clarifications from the Commission as they are facing problems in implementing these instructions. The following clarifications are therefore, issued with the approval of Central Vigilance Commissioner.

- (i) The Government of India has a purchase preference policy so far as the public enterprises are concerned. It is clarified that the ban on the post tender negotiations does not mean that the policy of the Government of India to purchase preference for public sector should not be implemented.
- (ii) Incidentally, some organisations have been using the public sector as a sheer or a conduit for getting costly inputs or improper purchases. This attitude should be avoided.
- (iii) Another issue that has been raised is that many a time the quantity to be ordered is much more than L-1 alone can supply. In such cases the quantity order may be distributed in such a manner that the purchase is done in a transparent and equitable manner

Yours Faithfully,

(V.S.Falebullah)  
Director



## SOUTHERN RAILWAY

Officer of the FA&CAO,  
Chennai-600 003.

Dated: 18.01.2002

No.W.496/F/O/Vol.V

FA&CAO/CN/MS, FA&CAO/CN/BNC,  
FA&CAO/MTP/MS, FA&CAO/WST/PER,  
Sr.EDPMs/MAS,GOC,MDU & EDPM/PGT  
Sr.DAOs/MAS/TPJ,PGT,SBC,MYS  
DAOs/MDU & TV,SAO/RI/MS  
Dy.COM/MIS,SAOs/W&S/GOC,PTJ,MYS and AFA/X

Sub: Assessment of reasonability of rates by  
Tender Committee.

Ref: SDGM & CVO/MAS's D.O. letter  
No.VO/E/Misc/SI dated 20.12.2001.

-----

Copy of SDGM & CVO/MAS's D.O. letter cited above is appended below for  
information and guidance.

(B. SRINIVASAN)  
SAO/SW  
For FA&CAO/MAS

-----  
Copy of SDGM & CVO/MAS's D.O. letter No.VO/F/Misc/SI dated 20.12.2001  
addressed FA&CAO

---

Sub: Assessment of reasonability of rates by  
Tender Committee.

It has come to notice of vigilance that in most of the cases TC is justifying  
the reasonableness of rates by comparing with last accepted rates only, without  
even studying the circumstances under which such rates were accepted.

It is requested that instructions contained in para 7 of Railway Board's  
letter No.94/CE-I/CT/4 dated 17-9-97 may be reiterated to all concerned for  
adherences.

---

**Extract of Railway Board's Letter No.94/CE-I/CT/4 dated 17-9-97**

**Para 7- Assessing the Reasonability of Rate:-**

Assessing the reasonability of rate should be gone into detail by the Tender Committee. Then making a comparison instead of last accepted rate, the average of accepted rates for similar type of works under similar conditions and geographical proximity should be worked out. Where only one case of accepted rate is available, analysed rates bases on market survey should be derived for ascertaining the reasonability of rates.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAY  
(RAILWAY BOARD)**

**VIGILANCE BULLETIN**

**July,2002**

**Issue No.20**

## **ANALYTICAL STUDY**

[TRENDS/FEATURES NOTED IN CASES RELATING TO RAILWAYS]

1. In terms of the sheer size of the Organization, the total work force on its pay-rolls etc, the Indian Railway is unquestionably the largest Public Sector Enterprise in the Country. Naturally, therefore, Railways also account for quite a large number complaints, allegations and vigilance cases. In fact, as a single unit, the Railways continue to be the Organization/Sector' which gives rise to the maximum no. of vig. cases and, in that sense, the Railways, as a single entity, is the biggest "client" of the Commission. This, in fact, has been the fact always. [Although the Banking Sector a whole may account for the largest number in terms of intake of vig. cases — fact is that each Bank is a separate/independent - entity with its own individual vig. set up, its own CVO etc].

2. This study is based on a critical and intensive scrutiny of all the first stage advice cases (totaling about 340) handled by the Commission during the year 2000, including cases investigated by the CBI. Out of the said 341 cases, no individual names (of the accused/defaulting officials) figured in about 40 cases where the allegations were of general/sweeping nature. In the remaining cases (i.e. about 300), the number of officials (accused) involved was around 800. The action advised by the Commission against these officials is as under:

Prosecution	- 19
Major pp	- 142
Minor pp	- 192
Administrative Action	- 243
Closure	- 207

[Note: 'Administrative action' included counseling/warning, issue of recorded warnings, issue of Govt. displeasure (in the case of retired officials) — and the like].

3. Of the total cases in question, 227 emanated from complaints and 78 from 'preventive checks' undertaken by vig. units or from suo-moto investigations carried out by the deptt. on receipt of information / intelligence of commitment of irregularities. The remaining cases (36) were those booked and investigated by the CBI.

4. The common allegations/irregularities which have figured in the cases under study are as below:

- (i) Manipulations in award of tenders/contractors.
- (ii) Irregularities in recruitments/appointments, promotions — etc.
- (iii) Irregularities in Purchases.

In the remaining cases, the allegations included, inter alia,

- (a) Malpractices in Stores, Commercial & Traffic Branches.
- (b) Misuse of office and official facilities

- (like vehicles, telephones etc.) for private/personal purposes.
- (c) Misappropriation of money, materials etc.
- (d) Demand/acceptance of bribes.
- (e) Misuse of Railway pass — facilities.
- (f) Preferring false/inflated claims (like TA, Medical bills and the like).
- (g) Carrying out medical tests (by doctors) perfunctorily, resulting in unfit candidates being declared as fit. Sometimes, money also changes hand in the process.

5. Percentage-wise, the cases taken up for analytical study fall under the following categories in terms of 'misconduct' alleged:

- |   |   |     |
|---|---|-----|
| (i) irregularities in award of tenders/contracts  | : | 34% |
| (ii) -do- selections/appointments, promotions etc | : | 17% |
| (iii) -do- purchases                              | : | 17% |
| (iv) others (miscellaneous)                       | : | 32% |

6. The number of cases relating to the Engg. discipline — and involving Engg. officials at various levels — accounted for, roughly, 34% of the total cases subjected to analytical scrutiny. This, it has been observed, is in 'tune' with the general pattern/trend which has emerged over the years. One might also say that there is nothing unusual about this because construction and engg. activities are, understandably, a permanent feature of Railways.

7. The common allegations/irregularities observed in the cases relating to award of contracts for execution of works, for procurement of materials etc. were as follows:

- (i) Award of contracts at exorbitant rates.
- (ii) Execution of substandard works.
- (iii) Acceptance of substandard supplies.
- (iv) Over payments — i.e. payments made for works not executed.
- (v) Failure to carry out quality — checks.
- (vi) Misappropriation of materials by contractors and / or officials, in conspiracy with each other.
- (vii) Manipulations at the tender processing stage with a view to favour a particular contractor and/or to eliminate a more deserving/eligible one.

8. Irregularities & manipulations / maneuverings in the award of contracts are the most commonplace allegation involving Engg. officials. Such allegations are targeted, naturally, against the Tender Committee Members and, at times, against the Tender Accepting Authorities (TAA). Railways have, broadly speaking, three systems of tenders. These are: (i) the open tender system, (ii) the limited tender system and (iii) the single tender system. In the open tender system, the tender notice is given due publicity through prescribed channels/media and anyone (any individual or firm) who is desirous of taking up the contract is eligible to bid for the work. Under the limited tender system, tender notices are issued only to select-firms/entities which are short listed in advance on the basis

of their credentials, expertise and specialization vis-a-vis the kind of work in question, in other words, such agencies are those who are supposed to be borne on the 'approved list' being maintained by the Deptt. Single tender system, on the other hand is taken recourse to only in emergencies and exceptional cases — where the other tender routes cannot be followed on account of exigencies of the given situation.

9. The procedures governing the open tender and limited tender system are, no doubt, well defined. At the same time, it is still possible to manipulate the system to benefit favour a particular tenderer at the cost of a more deserving one — and, thus, at the cost of the Deptt. Itself. In fact, if the Tender Committee is bent upon patronizing a particular bidder, things can be twisted, manipulated and managed to project the said bidder as the most 'suitable' one. The TAA is, many a time, left with no option but to endorse the TC's recommendations, more so when the subject matter (i.e. the kind of work/project in question) does not fall within his own discipline/specialization: and when the recommendations of the TC are unanimous. In fact, only in very rare instances a TAA may reject, reverse or modify the TC recommendations.

10. From a critical study of the cases involving allegations about irregularities in the processing & award of tenders/contracts, it has been observed that it is the TC which turn out (predictably) to be the villain of the piece — i.e. when the allegations are proved to be correct. By the very nature/scheme of things, a TC can resort to twistings, suppressions, exaggerations, manipulations and half truths with the object of 'projecting' a particular bidder as the most suitable and depicting a better-placed bidder as unsuitable or less suitable. The various modus operandi adopted by the TC in this regard are commonly as under — as noted from the history of the cases under review:

- (a) Exaggerating the 'track record' of the favourite' bidder.
- (b) Suppressing and/or down-playing his past failures.
- (c) Exaggerating the past failures of his main rival.      (d) Ignoring/suppressing the otherwise satisfactory credentials of the main rival.
- (e) Projecting, falsely, that the lower rates offered by the main rival are "unworkable" on the basis of the estimated cost which, in the first place, was exaggerated deliberately.
- (f) Projecting undue/artificial "urgency" and then by-passing the lower offer on the ground that the party already has some works on hand and that, therefore, it may not be trusted to complete the subject-work within the stipulated time-frame. [In reality, it has been observed, once the tender is awarded to the other party on these premises, the party is merrily granted extension after extension (of time) either with token penalties or with no penalties even.]
- (g) Certifying, falsely, that the quality of the product/material offered by the 'favourite' contractor is okay (vis-a-vis the specifications)
- (h) Painting, deliberately, the quality of the product offered by the better placed bidder (who has quoted lower rates) as unsatisfactory/unsuitable.

- (i) Exaggerating the capacity/resources of a favourite contractor and downplaying that of his rival (lower bidder).

11. Normally, a TC consists of three Members. The first of these who is designated as the Convenor Member is an officer from what could be called the user-Department. He is also expected to be an expert in the given subject. The 2nd Member is the representative of the Finance Deptt. and the '3<sup>RD</sup> Member' is an officer drawn from any other discipline.

12. Cartel formation amongst the bidders is another feature which has been noted in many cases relating to award of contracts - whether it is for execution of works "or supply/procurement of machineries and stores. Technically, one might say that the officers/engineers concerned cannot be blamed for the ring formation of the contractors. This might be true at times: but fact of the matter, it has been noted, is also that in a majority of cases this ring formation is done by contractors in active collusion with the concerned engineers/officers. Needless to say that such ring formations lead to elimination of competition and award of the works/procurement orders at exorbitant rates at the cost of the deptt. Of course, it is next to impossible to prove the un-holy nexus a view to 'projecting' a particular party/contractor as the most 'suitable' one — by resorting to twistings, suppressions, exaggerations and half-truths: and for depicting a more deserving party as inferior or less suitable.

### **Maneuvering in TC minutes**

(iii) It goes without saying that it is the TC which decides, practically speaking, the outcome of a tender, because as noted earlier, many a time the TAA is guided and carried away by the TC's recommendations — right or wrong. And even amongst the TC members, it is the first Member (i.e. the Convenor-Member) whose role is most pivotal. If the TC Members have no 'hidden agenda', they may differ in their views/assessment and recommendations. This is NOT TO SAY that when the recommendations are unanimous it is an indication of any unholy "nexus" amongst the TC members & contractors. All the same, in majority of the cases the 'TC's recommendations turn out, invariably, to be unanimous. This unanimity may not always be on account of a genuine consensus amongst the Members. On the other hand, the same is attributable, many a time, to : (a) either a "meeting of minds" amongst the TC members or (b) sheer absence of application of mind, independently, by the Finance- Member and 3<sup>rd</sup> Member of the TC who have a tendency, very often, to sign blindly on the dotted lines as drawn by the Convenor-member. In fact, when irregularities/ maneuvering are detected subsequently in the processing of the tenders, the common refrain of the 2<sup>nd</sup> and 3<sup>rd</sup> members (of the TC) is that their own accountability in the matter is 'nil' since they have only endorsed the views of the Convenor — Member was the 'authority' on the subject. Sometimes, the Deptt. also tend to support this view — more so in the case of the 3<sup>rd</sup> member. The Commission had occasions to point out, in this regard, that this argument (which in effect amounts to saying that the 3<sup>rd</sup> Member is only a rubber stamp) is an unacceptable proposition even if his own capability may not to be equated with that of the Convenor-Member and the Finance Member. In fact, if the so-called 3<sup>rd</sup> Member's role is wholly peripheral, it will be totally redundant to associate him with the TC proceedings.

Surely, the 3<sup>rd</sup> Member also is expected to apply his mind carefully, independently and dispassionately into the merits of the case and to bring own record his own considered views, regardless of the recommendations of the other two. If, on the other hand, the 3<sup>rd</sup> Member is supposed to be only a mute spectator, one might as well say that there is simply noticed for a 3<sup>rd</sup> member in a TC.

### **Non application of mind by Tender Accepting Authorities (TAA)**

(iv) As mentioned earlier, the recommendations of the TC members are almost always unanimous. Dissenting notes are, in fact, exceptions. As such, a TAA is almost often presented with a "fact-accompli" where he is induced to okay the TC proposals: more so when he is himself not an expert/authority on the work/product/project/equipments in question. Whenever irregularities are detected in the award of a tender, the common defence of a TAA is that he had only approved, in good faith, the unanimous recommendation of the TC. This is, in the Commission's view an untenable argument. Even if the TC recommendations are unanimous, a TAA is certainly expected to apply his mind carefully and independently and take decisions prudently and in the best interest of the Deptt. In fact, if the TAA's job is merely to endorse, mechanically, whatever the TC has suggested, there is no need for a TAA. Even when the TAA may not be an expert in the given subject (which may pertain, to another discipline), he can as well obtain, in his own way, opinion and views of other authorities on the subject with a view to satisfying himself about the fairness of the TC's recommendations.

15. These are, as mentioned already, only illustrative modus operandi adopted [of maneuverings resorted to by the TC which goes-about its job with a pre-determined agenda] with a view to ensuring award of the tender to a less deserving bidder at the cost of a more deserving one. Fact of the matter, quite-simply, is that the TC is in a very commanding position, many a time, to "doctor" everything the way it wants — i.e. when it processes the tenders with a hidden agenda.

15.1 Instances have been noted-in several cases where the TAA had also acted with malafides, i.e. with a view to favouring a particular bidder at the cost of a more' deserving one, by reversing/modifying the TC's recommendations, by applying pressure- overtly or covertly — on the TC members to modify-their proposals and so forth.

16. Local Purchases is another area which has generated quite a few cases. An analysis of such cases has shown that rampant irregularities are resorted to, many a time, in local purchases. The most common type of irregularities noted in this area are as under:

- (i) Generating artificial demand' for materials to justify purchases.
- (ii) Splitting up of demands/quantities with a view to bringing each case under the financial powers of the local purchase officer like the ACOS, DCOS etc.
- (iii) Projecting artificial urgency to the purchase although no such urgency actually exists.



- (iv) Obtaining "supporting -quotations" from fictitious/non existent entities where the quoted rates are invariably higher vis-a-vis the rates of the predetermined supplier.
- (v) Effecting redundant purchases at exorbitant rates.

17. In purchase/procurement cases, the quantum of items proposed to be procured is invariably to be specified in the NIT. True, at times it may not be possible to assess with accuracy the exact requirement: and in such cases the quantity is indicated as 'approximate'. It has been observed in many cases that when the requirement is huge, the idea / intention is to split the quantity amongst several eligible bidders at the rate quoted by the L-1 bidder (by making counter-offers to the other bidders at the rate quoted by the L-1) provided, of course, the L-1 bidder's rate is acceptable to them. While this is okay, this 'intention' of the Deptt. (of splitting the quantity amongst all valid bidders) is many a time not indicated in the NIT. This leads to a situation where every bidder quotes his rates under the presumption that the entire order is meant to be given to the lowest valid tender and he quotes his rates accordingly. It is a matter of common knowledge that the rate quoted is, many a time, w.r.t. the quantity involved : i.e. the higher the quantity, the lower the rates and vice-versa. When a successful bidder is told, subsequently, that he will be given order for only a certain percentage (of the total quantity), disputes arise about the rates and sometimes he may even withdraw his offer. Needless to say that such difficulties/problems can easily be avoided if it is clearly mentioned in the NIT itself that the order is proposed to be split amongst all valid/eligible bidders and, accordingly, rates are solicited w.r.t. slabs of quantities.

18. The common irregularities noted in the Traffic & Commercial disciplines are briefly as under:

- (i) Preferential treatments (favouritism and/or discrimination) in the matter of allotment of rakes and wagons.
- (ii) Waival of demurrage and wharfage charges with a view to benefiting, at the cost of the Deptt., pvt. parties.
- (iii) Violation of norms/guidelines in the matter of allotments of vending stalls
- (iv) Favouritism in the allotment of catering stalls.
- (v) Irregularities in the procurement of catering items.
- (vi) Irregularities in fixation, periodical revision, recovery etc. of license fees from vendors and contractors
- (vii) Malpractices in the booking of goods like under-weighting, over-loading, wrong classification of the nature of goods, wrong calculation of distance, booking of goods under 'paid traffic' (where a concession of 15% is allowed) by showing, falsely, that the party had made payment in advance etc.
- (viii) Manipulations in the handling of parcels like surreptitious transportation of unbooked parcels, charging of lower rates, violations of priority & the like.
- (ix) Permitting unauthorized vendors to sell their wares on platforms and other restricted areas.
- (x) Permitting vendors to sell unauthorized items.

19. Recruitments/appointments, promotions (on the basis of departmental tests) etc. are also areas which generate sizable number of vigilance cases. True, direct recruitments are mostly limited to Group C and D staff. While Group D staff (watermen, casual labours, Khalasis etc.) is recruited at Zonal Railway level, direct appointments of Group C posts are made by RRBs, i.e. Railway Recruitment Boards. True, even recruitment is made by a duly constituted selection committee consisting of senior officials who carry out/finalize the selections on the basis of prescribed written tests, physical tests, viva-voce and the like: but despite all these, complaints are made alleging favouritism and/or discrimination in the matter of such recruitments. A close study of the cases falling under this category has shown that such complaints/allegations are attributable, inter alia, to the following factors/irregularities:

(a) **Screening of applications.** When recruitments are made on mass scale, the number of applications will be, obviously, quite huge. It is therefore essential to have a preliminary scrutiny/screening of the applications with a view to rejecting those which do not fulfill the eligibility criteria. This job is normally entrusted to a duly constituted Screening Committee. It has been observed, in several cases, that this Committee goes about its job in a casual manner, many a time, with the result that quite a few number of ineligible applications and the list of eligible applications and vice-versa. Since this elementary stage of the selection — exercise, malafides may be ruled out behind such inept handling/scrutiny of the applications. But, all the same, one cannot also totally condone such lackadaisical approach, which may ultimately result in the selection of ineligible candidates and or rejection of otherwise eligible candidates in the very first round itself.

(b) **Irregularities in the conduct of written test.** This is an area which gives rise to the maximum number of allegations, complaints and vigilance cases. Here, the evaluator (examiner) is accused of double standards, lack of uniformity etc. in the evaluation job and in the award of marks. It has been observed in many a case that such allegations very often turn out to be true, in fact, when it is found that there is absolute lack of uniformity on the part of the Examiner in the matter of award of marks, one has to conclude, per Se, that his evaluation was subjective with a view to favouring certain select candidates at the cost of more deserving ones. Malafides and quid-pro-quo in such situations are only a matter of natural inference. The common refrain of the accused 'officials caught in such situations is that they had to undertake/complete the evaluation job in addition to their normal duties, that the time available (for completing the job) was too inadequate and the like. Although there might be some substance in such submissions, one cannot straight away absolve the officials concerned of malafides by accepting such defences /excuses at its face value.

While there are strict instructions/guidelines relating to evaluation of answer sheets (The 'do's and 'dents' of it), it has been seen that these are violated in gay abandon by many of the Examiners. For example, instructions stipulate clearly that an Examiner should not be revising or enhancing the marks already allotted by him, that he should not be resorting to over writing/erasing (of marks) and the like. However, it has been noted in a number of cases that such instructions are openly violated. When confronted with such irregularities, the officer concerned tries to take shelter under the shield of ignorance of rules/instructions. Normally,

such a plea cannot be accepted at its face value because Examiners are fairly senior level officers who are expected to know, whatever discipline they may belong to, the fundamentals and the basic 'do's and 'don'ts to be observed by an Examiner. Even granting that a particular officer may truly be not conversant with the impugned instructions, he is supposed to acquaint himself with the instructions at least after he is entrusted with the job of evaluation in a particular case. And hence, in short, wide variations/discrepancies in evaluation/allotment of marks, absolute lack of uniformity, maneuverings and manipulations in the award of marks etc. have to be construed, ordinarily, as instances/evidences of ulterior motives on the part of the concerned Evaluator.

**Malpractices in viva-voce tests.** Maneuverings have also been noted in the conduct of the viva-voce proceedings as well. It is true that in a viva-voce test, marks are allotted to the candidates on the basis of the subjective evaluation/assessment of members of the interview committee: and that, naturally, there will be an element of subjectivity in it. However, it has been observed that candidates who get through the written examination with the barest minimum marks manage to score unbelievably high marks in the viva. Since such a thing is normally not possible and not believable, it gives rise to suspicions of malafides on the part of the interview committee members.

20. Promotions made on the basis of departmental tests and interviews also give rise to complaints/allegations of favouritism/discrimination etc. Here again, it has been found that the Examiners concerned resort to irregularities in the assessment of the answer papers relating to the written tests and in the award of marks with a view to favouring select candidates. It is only a matter of common knowledge that many a time money does change hands in such matters. However, it is next to impossible to have solid evidences in this regard for obvious reasons. As such when blatant irregularities (maneuverings and manipulations) are detected in the conduct of the written awarding test of marks and the like, an inference is inescapable that it was a case where the officers concerned acted with malafides and ulterior motives.

21. Mass recruitments are made to Group 'C' posts by the RRBs (Railway Recruitment Boards) functioning under various Zonal Railways. Large scale irregularities used to be reported and detected in the past in the selections finalized by the RRBs also. One of the main reasons for this was that the Boards used to be headed by political appointees; Sometimes, a good number of the Members of the Board also were political appointees. Obviously, such political appointees were beyond the purview of any disciplinary rules of the department and this provided them with a sort of immunity with the result that they could get away with almost everything. Resultantly, complaints and cases 'of selections based on monetary considerations were galore. However, the system of appointing politicians in the RRBs has since been dispensed with - and RRBs are now being manned exclusively by serving officials of the department. This has, no doubt, resulted in appreciable reduction in the various irregularities which used to be place, in selection exercises, in the past, obviously because the officers are aware that in case they are caught resorting to maneuverings, they can be taken up under the disciplinary rules and brought to book appropriately.

22. It goes without saying that medical fitness of the operating staff is extremely important from the - point of view of safety of the Railways. As such,

recruitments are made against such posts only after the candidates are subjected to due medical checks and after they are found / declared to be fit in all respects. In addition such officials are also required to undergo periodical medical tests at regular/prescribed intervals. It has been found in many cases that such medical tests are carried out rather perfunctorily many a time. Cases have also been noticed where unfit candidates are declared fit in return for considerations. Again, although periodical medical checkups are mandatory for such staff, the instructions are not adhered to quite often. Needless to say that this is an extremely vulnerable area. The imperative of ensuring total rigidity and objectivity in the conduct of the medical tests of the operating staff can hardly be over emphasized. Similarly, it also needs to be ensured that instructions relating to periodical medical examinations are adhered to unfailingly.

23. Irregularities have also been noted, in several cases, in the issue of "sick" and "fit" certificates. Many a time, such irregularities are committed; it has been noted, in return for monetary considerations. Here, the employees who want to avail of leave for some reason or the other report to the nearest health unit and request to be placed on the sick list for a given number of days. The officials in the Health Unit (including the medical officer) readily oblige the so-called 'sick' man for a prescribed fee. The amount to be paid for the purpose is pre fixed and the total amount would depend on the number of days the employee desires to be placed on the sick list. True, this is an example of what could be called petty corruption or small-time corruption but, all the same, this practice has become institutionalized almost everywhere in the Railways.

24. Speaking about vigilance cases emanating from the Railways, a word of appreciation is due to the vigilance set up of the Railways also. As a matter of fact, Railways have a very good and well organized vigilance setup. At the apex level (i.e. in the Railway Board) it is headed by an Additional Secretary level officer designated as 'Advisor (Vig.)' He is assisted by two Jt. Secretary level officers (designated as Executive Dir./Vig.), about half a dozen Director — level officers, followed by Jt. Directors, Dy. Directors etc. At the level of the Zonal Railway, the vigilance set up is headed by an SAG level officer (designated as Sr. Deputy General Manager) and he is assisted by one or two officers of equal rank plus other officers and subordinate staff. It has also been observed that the quality of the investigations reports received from the Railways is generally speaking, upto the mark. More importantly, fact also is that almost every case receives due and adequate attention at the level of Sr. functionaries in the deptt. both at the zonal level and also at the level of the Railway Board. It is heartening to note proper application of mind even at the level of the General Managers of the Railways in the processing/examination of vigilance cases. An equally important feature of the Railway cases which goes to the credit of the vigilance department of the Railway Board is that while seeking the Commission's advice in every case, the case is examined and presented in a proper manner, where all relevant aspects of the case are discussed and incorporated and the case is presented to the Commission through a self contained and detailed reference.

## **ROLE OF TENDER COMMITTEE MEMBERS**

The TC essentially consists of:

1. A Technical Member, who is normally known as Convenor.
2. A Finance Member, a person from Associate Finance.
3. A Third Member drawn from any other Technical Department.

### **THE ROLE OF CONVENOR:**

He has normally full knowledge of work to be executed, all special features, site conditions, specifications of the work, credential of the tenderers, time frame, urgent etc. Market survey for rate analysis and implication of special conditions, if any, are also to be evaluated by him. He must fully brief the TC.

### **ROLE OF FINANCE MEMBER**

He must ensure that all tenderers have fulfilled the pre-requisite condition, i.e.:

- a. Tenders are in properly issued form.
- b. Tenders are signed by authorized persons.
- c. All tenders are correctly filled and if there are corrections and over-writings then they have been initialed by tender opening officials.
- d. Tenders have been opened correctly.
- e. Earnest money is requisite and in acceptable form.
- f. All valid tender offers are serially placed and put up in a comparative statement along with a briefing note, duly vetted.
- g. All special conditions have been mentioned and those having financial implications are evaluated.
- h. The arithmetical accuracy of the offer.
- i. A proper rate analysis has been prepared and placed on record by the Convenor.
- j. The funds position and if work is sanctioned.
- k. The partnership deed and any legal issue involved is examined.
- l. All special conditions having financial repercussions have been examined.
- m. Consistent approach is taken in dealing with tender for all similar cases, as he is a common member for all tenders.

### **ROLE OF THIRD MEMBER**

He must ensure that rules are followed in general, i.e.

- a. Reasonableness of rates has been properly examined.
- b. A uniform and consistent approach has been adopted in dealing with the tender. In cases of difference of opinion between members of TC he gives his definite Opinion.

## **RESPONSIBILITY OF TC AS A WHOLE**

It is the collective responsibility of the TC to give a definite recommendation with full facts and reasons bringing out all the known facts, background and valid apprehensions, which have formed the basis for its recommendations.

It must also clearly specify the authority competent to consider recommendation -of the TC.

## **ROLE OF TENDER ACCEPTING AUTHORITY (TAA)**

TAA is finally and ultimately responsible for the acceptance, although the TC is also responsible for its recommendations.

Therefore, TAA, while considering the TC proceedings, should examine whether

- a. Works is essentially required and is covered by sanction and funds are available.
- b. In case of Open Tender, full opportunity has been given to all the tenderers. This includes sufficient notice for the tender.
- c. Response has been adequate, i.e., the number of tender sold vis-a-vis number of offers received. In case of poor response, this aspect should be specially examined.
- d. Reasonableness of offers has been properly examined by the TC.

## **HOW TO EXAMINE REASONABLENESS OF OFFERS?**

Reasonableness or rates should be based on:

1. A current market survey with a proper rate analysis of at least those items, which constitute about 75-80% of the total cost, i.e., by an ABC analysis.
2. The rate analysis is prepared by the Convenor but TAA must examine whether the analysis is based on data/survey from the market.
3. Comparison of last accepted rate for items which are similar and comparable. All Such rates may be brought out and not only those, which are favourable.
4. If a lower offer is being overlooked, sufficient reasons have to be given for doing so.
5. If some adverse factors are cited for justifying higher rates, they must be explained adequately to justify the action.
6. If high rates are justified on the basis of urgency, the fact should be available on record.

## **DEALING WITH TC RECOMMENDATIONS**

The first step is to examine all the basic facts about the tender, whether the recommendation of TC is unanimous or otherwise. Even in case of unanimous

recommendation, all the aspects about reasonableness of rate must be examined. Any deficiency noticed may be referred to TC.

TAA cannot function as a rubber stamp and must apply his/her mind independently and such appreciation should be visible. The acceptance or otherwise must be recorded on the body of TC proceedings itself. In case of non-unanimous recommendation, if TAA want to accept either single or majority recommendation, it should record detailed reasons for doing so.

TC recommendations should normally be accepted, but in case TAA rejects/modifies the same, clear-cut detailed grounds should be given for the same. It is not correct to obtain additional details from a third person but if such details are considered necessary, TC should be asked to obtain them and put up to TAA after proper examination of the same by TC.

TAA should take the decision in a reasonable period of time. Unavoidable delays should be explained.

### **Irregularities in Earthwork Contract in a GC Project**

Based upon source information, Railway Board Vigilance conducted a surprise check on the execution of earthwork through contract in a gauge conversion project.

The contract costing Rs. 75 lakhs involved mostly widening/shifting/raising of existing MG formation to B.G. standard for about 37 Km stretch.

On the detailed investigation, Vigilance had found following major irregularities:

Initial levels were fabricated to indicate much higher original ground than the actual to support such fabrication cut-spoils were dumped just at the toe of cuttings. The initial levels at some locations were as absurd as even the top of existing top was found below the original ground when the site verification was done by Vigilance.

The contract provided for earthwork in the embankment by using cut spoils of the cuttings and also the earth from borrow-pits. In this ease, the earthwork in embankment adjacent to cuttings were paid under item of filling from private land and the available cut-spoils were not utilized. The earth was not even used from the Rly land.

The cuttings were made more than stipulated width and it was seen that cut spoils have been used in earthwork in embankment but payment was made as if the entire work has been taken from private land.

It was possible to execute most of the earthwork in embankment by using cut- spoils from cuttings. Thus an avoidable expenditure was incurred to favour the contractor paying him at higher rates for earth from private land against the financial interest of Rly.

Heavy variations were proposed in the contract enhancing its value from Rs. 75 lakhs to Rs. 1.78 crores. These variations were mostly due to inflated levels, non- utilization of usable cut-spoil. All the officials processed variation in a mechanical fashion without application of mind or by tentative design to defraud Rly.

As per specifications of earthwork degree of compaction should not be less than 98%. In this case most of the samples tested revealed compaction upto 85% only i.e. substandard work was accepted.

In this case large scale payments were made through on a/c bills by AEN, who was not regular in-charge, but looking after in the absence of in charge XEN who was on short training course during this period.

Keeping in view of the above irregularity wherein malafides was suspected, penalty proceedings have been initiated against concerned Dy. CE(Con.), AEN (Con), SSE (Con.). The concerned CE(Con.) has also been taken up under minor penalty for recommending variation in casual manner.

### **Irregularity in Consideration of Credentials of Contractor**

In one of the Railways two open tenders were invited for construction of Buildings costing approximately Rs 1.67 crores and Rs 3.4 crores with the Eligibility Criteria as follows.

- 1) The contractor must have executed Civil Work of 1.5 times the cost of the tender during preceding 3 years.
- 2) At least one work of similar nature of approximately half the cost of the tender executed during the last three years. The similar work will be treated as multistoried building and construction.

During Vigilance investigation following irregularities were noticed tender wise.

1. **For Tender costing Rs. 1.67 crores :** The TC recommended the award of work to 4th lowest at the value of Rs. 1.55 crores. While going through the Tender file it was observed that the contractor did not fulfill the eligibility criteria. As per the condition stated above the contractor should have completed one similar nature of work of Rs. 83 lakhs for multi-storied buildings whereas contractor has submitted only credential indicating that he has executed the work of staff quarters costing Rs. 16 lakhs and work of Panel Interlocking costing Rs. 30 lakhs, the latter was not even relevant.

In the TC deliberations it was mentioned that the CR's of the contractors were not available as they are not working contractor of that Rly. It was found during investigations that the contractor was a working contractor of the same Rly and the CR's of the contractors were found to be maintained by the same organisation under concerned subordinate executive. In the CR's of the firm it was mentioned that the contractor can be entrusted the works only upto 50 lakhs. It was also noticed that one contract of contractor was terminated in the same Unit and credential relating to work of staff quarters committed by the firm were found to be fake.



2. Tender Costing Rs. 3.4 crores: The work was awarded to 2nd lowest contractor at a value of Rs. 2.40 crores. L-1 was bypassed on the basis of poor credentials. In the credentials submitted by L-2 it was noticed that a certificate was submitted for Rs. 1.32 crores against the minimum requirement of 1.52 crores from the adjoining Railway Headquartered at the same place. On the basis of this credential the tender was allotted to them. During the investigations it was revealed that the certificate submitted by the contractor was more than one year old and at that time work said to have been completed was still in progress. The format of the certificate was also misleading as detailed below.

Value of contract	- Rs. 1.34 crores
Work done during financial Year	- Rs. 0.20 crores
Work in progress	- Rs. 1.14 crores
Total Rs	- Rs. 1.34 crores

The above status of work was more than one year before the date of TC meeting but it was taken as work completed by the contractor. During the investigation it was found that the contractor had completed 26% of the work on the date of TC and the work was running under penalty clause on the extended period with adverse remarks in CR's.

The convenor neither verified the credentials nor called the CRs from the adjoining Rlys. Due to his wrong assessment the work was awarded to an ineligible firm with poor credentials.

In view of above irregularities, convenor of TC has been taken up under DAR and the accepting authority has also been counselled.

### **DEALING FALSE CLAIMS FRAUDULENTLY THROUGH ARBITRATION**

A railway contractor submitted 26 false claims for the works related to cess supply of ballast, lifting and packing of railway track reportedly executed during 1986-87 on one section of a Division. The railway contractor connived with railway officers on the basis of forged and fictitious documents for filing 26 false claims amounting to Rs.36 crores approximately for the said work. Factually incorrect information for the affidavit-in-position before the Hon'ble High Court was submitted for delinquent railway officers in the matter of appointment of Arbitrator under Arbitration and Reconciliation Act, 1996. Also, at the time of submission of counter statement of facts before the sole arbitrator, all the 26 claims of the contractor which were totally false and were not at all executed, were admitted without raising any doubt or making any effort to verify the genuineness of the same. This ultimately resulted in the award going in favour of the contractor. Although the department has filed an appeal before the Hon'ble High Court against the award of the sole Arbitrator which is presently sub-judice, railway, notwithstanding, stands committed to pay a whopping sum of Rs. 32 crores approximately to the contractor.

The matter was investigated departmentally and the CBI also registered a separate regular case on the matter. The departmental investigation report was considered and in consultation with Central Vigilance Commission, 3 officials/officer have been taken up under major penalty proceedings. One NGO

has since been removed from service as the outcome of the proceedings. The CBI also submitted its report which was considered in detail and as a consequence thereof, prosecution has been advised against three officials/officers and the delinquent firm. Besides, administration action has also been advised against an officer. The contractor being a private party, apart from prosecution which has been launched by the CBI, the department has also decided to ban its business dealings with the said firms and its all sister concerns, for ever.

-----

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAY  
(RAILWAY BOARD)**

Addressed to:- As per list attached.

Sub: Improving Vigilance Administration — Works Tenders.

Ref: (i) Board's letter No.99/CE.I/CT/I dated [15.1.99](#) ESO No.9.  
(ii) CVC's letter No. 98/ORD/1 dated [24.8.2000](#).

\*\*\*\*

1. Instructions have already been issued by Board not to hold post tender negotiations except with the lowest tenderer (L-1) vide letter at (1) above and further vide letter No..99/CE.I/CT/I Pt. Dated 24.10.2002 (ESO No.31/10/7). CVC have further issued some clarifications vide their letter (ii) above (copy enclosed).

2. Board have considered these instructions and it is noted that the instructions as contained in para 2 of CVC's letter referred at (ii) above are basically in connection with Stores' contracts hence should be dealt with in accordance with the Board's instructions issued by Stores Directorate vide letter No.99/RS(G)/T/9/2 Pt. I dated 16.4.2003.

3. Regarding instructions contained in para 3 of CVC's letter referred at (ii) above, Board desire that the instructions be followed meticulously i.e. if L-1 backs out, there should be retendering in a transparent and fair manner. The authority may, in such a situation, call for limited or short notice tender if so justified in the interest of work and take a decision on the basis of lowest tender. However, while deciding on L-1, instructions as contained in para 3.4.1 of Board's letter No.94/CE.I/CT/4 dated [17.10.2002](#) should be observed.

4. So far as, 2 packet system of tendering is concerned instructions issued by Board vide their letter. No.94/CE.I/CT/4 dated 17.10.2002 (para 2.8.5.2) and of even number dated [11.6.2003](#) shall be followed.

5. Board desire that these instructions be implemented with immediate effect.

6. This issues with the concurrence of Finance and Vigilance Directorates of the Board.

DA: As above.

(PARMOD KUMAR)  
Exec.Director, Civil Engg. (G)  
Railway Board.

No.90/CE.I/CT/I Pt.

## **VI. MISCELLANEOUS**

<b>Sl.NO.</b>	<b>Subject in Brief</b>	<b>Letter Dated</b>
<b>1</b>	<b>COMMUNICATIONS INVOLVING FINANCIAL IMPLICATIONS (Circulated Vide Lr. Dated 18.10.76)</b>	<b>13.09.76</b>
<b>2</b>	<b>Works to Be Entrusted to Cn Organisation</b>	<b>29.05.92</b>
<b>3</b>	<b>Post Facto Sanctions to Expenditure Already incurred by Railways</b>	<b>20.01.99</b>
<b>4</b>	<b>Instructions with Financial Implications – Concurrence of Associate Finance</b>	<b>19.03.99</b>
<b>5</b>	<b>Road Transportation of Railway Material</b>	<b>6.10.00</b>
<b>6</b>	<b>Transportation of Material by Road</b>	<b>13.11.03</b>
<b>7</b>	<b>Letters/ Orders Having Financial Implications</b>	<b>25.05.05</b>

## **SOUTHERN RAILWAY**

No. G.181/P/Vol.5

Headquarter's Office  
General Branch  
Madras-3. Dt. 18.10.76.

### **NOTE**

Sub: — Communications involving financial implications

A copy of Board's letter No.76/O&M/1/1 dated 13.9.76 is sent herewith for information and guidance.

(Arjun Krishna)  
Dy. General Manager/General

---

Copy of Railway Board's letter No.76/O&M/1/1 dt. 13.9.76 addressed to the General Managers all Indian Railways and others.

Sub:—Communications involving financial implications.

----

The Ministry of Railways have decided that in future all communications, orders/sanctions involving financial/budgetary implications, which are addressed to the Railway Administrations will contain the following endorsement.

"This issues with the concurrence of the Finance Directorate of the Ministry of Railways"

It shall be the responsibility of the concerned officers to see that communications involving financial implications, which are not endorsed as above, are acted upon only after financial concurrence as necessary has been obtained at the appropriate level.

-----

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No.91/W-II/Misc./N/31

New Delhi, dated 29 May 92

The General Manager,  
All Indian Railways,

The General Manager (Cons)  
N.F. Railway,  
Guwahati.

Sub: Works to be entrusted to Construction  
Organisation.

Ref: Board's letter No. 87/W5/0/9 dt.20.5.87

----

As per extant instructions, broadly works costing more than Rs.20 lakhs are entrusted to construction Organisation. Due to escalation in cost of labour and material over the years, even small works such as extension of loops, minor yard remodelling etc., are being entrusted to Construction Organisations, due to which the progress of these works has been slow on account of their being scattered over large areas and difficulties in co-ordination between the Construction Organisation and Open Line in finalizing of Plans, estimates, block-working and non-interlocked working in yards, which have led to time and cost over-runs.

Board have, therefore, decided that:

i) Such of the works which require very close co-ordination with the Divisions like extension of loop lines, provision of additional loops, cross-overs, Sidings, minor yard remodelling, upgrading standard of interlocking, IBH/ IBS and other similar works, should be entrusted to the Divisions for execution. However GM may use his discretion keeping in view the infrastructure available with the construction / Divisional organisation to deviate from the arrangement as required.

ii) Depending on the outlays and yardsticks laid down on year to year basis, work charged posts of officers and staff of Civil, Electrical and S&T Departments (Upto JA Grade only) may, if absolutely essential and inescapable be created and operated in the divisions by off-setting against the corresponding reduction in similar categories in the Construction wing, that there by ensuring that there is no overall increase. The outlay on the works transferred to Divisions should also be excluded from the Construction outlay for the purpose of creation/ continuation of posts at all levels in the Construction Wing.

3. The results of this procedure may be reported to the Board in a year's time.

4. Please acknowledge receipt.
5. Hindi version will follow.

(K.P.SINGH)

Copy of Railway Board. (Rail Mantralaya) letter No.98/LI(B)/2/23, New Delhi dated 20-1-1999 and addressed to the General Manager, Southern Railway, Chennai and All Indian Railways and. Officers on Special Duty, All new Zones.

Sub: Post facto sanctions to expenditure already incurred by Railways.

-----

Instances have occurred where zona1 railways have requested for post-facto-sanction for regularisation of expenditure already incurred on functions arranged for inauguration of various works. Railways have already been, given powers to sanction expenditure within a limit of Rs.40,000/-. However, of late, there has been a growing tendency to go in for large scale function. This tendency needs to be curbed immediately. Railways must try to limit the expenditure within the ceilings fixed for the purpose and under no circumstances, Railways should assume that post-facto-approvals will be automatically given. In exceptional cases, where the expenditure is likely to exceed that laid down limits, Board's prior approval must be obtained.

These instructions may please be brought to the notice of all concerned for strict compliance and receipt acknowledged.

Sd.  
(AJAY GOYAL)  
Joint Director , Land Management,  
Railway Board.



**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)**

No. F(X)II/94/Exp./2/Pt.

New Delhi, dated 19-3-1999

The General Managers, All Indian Railways  
including CLW, DLW, ICF and W&AP.

The Officers on Special Duty,  
East Cost Railway Bhubenshwar,  
East Central Railway Hajipur,  
North Central Railway, Allahabad,  
North Western Railway, Jaipur,  
South Western Bangalore,  
West Central Railway Jabalpur,  
New Railway Zone, Bilaspur.  
The General Manager (Constn.), N.F.Rly., Guwahati.  
The Director General, RDSO, Lucknow.

Sub: Instructions with Financial Implications  
Concurrence of Associate Finance.

-----

Attention is invited to Board's letter of even number dated 17-12-1997 wherein the Railways were advised not to act upon any instructions having financial implications unless issued with the specific concurrence/approval of the Ministry of Railways. One of the Railways has raised a doubt as to whether concurrence/approval of Finance Directorate of Ministry of Railways is to be insisted upon only in these cases which have a bearing on economy in expenditure or whether this should encompass all instructions having financial implications.

It is clarified that the said instructions are applicable in all cases having financial implications.

This disposes of Central Railway's letter No. AC/PX/1464/SOPGEN/F-1/Vol. II dated Nil, March 1999.

Please acknowledge receipt.

(Amit Kaushik)  
Joint Director, Finance (Exp.)  
Railway Board.

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
(RAILWAY BOARD)  
NEW DELHI-110001**

No.99/V3/C/31

Dated 6.10.2000

The Chief Engineer/  
Chief Administrative Officer (Const)  
All Zonal Railways

Sub: Road transportation of Railway material

----

In a number of cases investigated by Vigilance Directorate, it has come to the notice of Board that schedule of rate (SOR) items for leading for short leads are being operated for transportation of Railway material by road over long leads. This is resulting in payment of rates which may be very high as compared to market rates for long leads.

2. SOR items are meant for leading of the materials for short distances and cannot normally be directly applied for longer leads on pro-rata basis. Since these rates are basically for local handling of materials for short leads, these should not normally be operated beyond a distance, of 10 kms. A note to this effect should be incorporated for lead items in the schedule of rates (SOR) of your Railway.

3. The cost of leading the material is based on the material to be transported, lead involved and quantum of material. Hence, in all cases where major transportation is involved of particular items like Rails, Sleepers etc., preferably a separate contract should be finalised for transportation of materials on the basis of market rate analysis and should be preferably given to Transporter Firms instead of General category contractors. For this purpose, Railway can invite open/limited tenders.

4. The Railways should normally give preference to transportation of material by Railways. Only in exceptional cases of emergency or where it is not possible to transport the material by rail on account of piecemeal booking and transportation problems or non-availability of stock or where it will be financially economical, road transportation should be used.

5. In case of some of the contracts for supply of concrete sleeper, conditions have been provided in the contract agreements regarding transportation of sleepers by road paying rail freight or the road freight whichever is lower. Such contract clauses should be got operated for transportation of sleepers wherever available in contract agreement.

6. The Railways can also make use of transportation facilities offered by Container Corporation of India (CONCOR) in case of major transportation works, if available, which will ensure competition and check cartel formation.

(SHYAM KUMAR)  
EXECUTIVE DIRECTOR TRACK (M)  
RAILWAY BOARD

**GOVERNMENT OF INDIA  
MINISTRY OF RAILWAYS  
RAILWAY BOARD**

No. 2001/CE-I/CT/33(SOR)Pt

New Delhi, dated: 13.11.2003

Sub: Transportation of material by road.

Ref: Board's letter No. 99/V3/C/31 dated 6-10-2000

-----

1. It has come to the notice of the Board that a large number of Vigilance cases are arising out of the tenders/contracts relating to transportation of material by roads. It appears that Railways' Schedule of Rates do not cater for longer leads which have now become a regular feature on account of large scale transportation of material over long distances by road.

2. In this connection, Board's letter as mentioned above may also be referred to. Board have further decided that the Railways may review the Schedule of Rates on priority and include longer leads also as applicable to their Railway. For this, various slabs of leads may be provided in the Schedule of Rates for various types of materials to be transported. Till the Schedule of Rates (SOR) are revised to cater for long leads also, tender for transportation of material by road should be called based on SOR rates upto the leads which are catered for in the SOR directly i.e. without operating the items for additional lead. Tender for leads, more than the leads provided for in the SOR, should be called based on non-scheduled items duly following the procedure prescribed for such items.

3. Railways may also consider entering into yearly contracts for a Dy.CE's/Divisional jurisdiction on the lines of rate contract wherever such transportation of material is needed round the year in consultation with associate Finance. The schedule of the work may indicate the various slabs of leads for different types of materials. Railway should indicate the analysed rates for these items in the tender and should ask fixed percentage above or below on these rates from the tenderers.

4. This issues with the concurrence of Finance and Vigilance Dtes. of the Board.

(Parmod Kumar)  
Executive Director Civil Engineering(G)  
Railway Board.

**Government of India  
Ministry of Railways  
(Railway Board)**

No. 2005/O&M/2/6

Dated :25/5/05

The General Manager,  
All Indian Railways/PUs etc,  
DO & Ex-Officio GM/RDSO,  
DG/RSC Vadodara.

Reg: Letters/Orders having Financial Implications  
-----

As per extant instructions all letters/circulars/sanctions having financial implications are issued only after obtaining financial concurrence.

2. However, a case has come to the notice of the Board where an instruction having financial implication was issued by a directorate of Board's office without obtaining financial concurrence.

3. It is, therefore, advised that henceforth letters/sanctions/circulars issued from Board's office and having financial implications should be taken cognizance of only if it contains the phrase ' This issues with the concurrence of the Finance Directorate of the Ministry of Railways'.

4. Further, all such letters/sanctions/circulars having financial implications should invariably be endorsed to Audit bearing the counter signature of an official from Finance Directorate.

5. The above instructions should be followed in letter & spirit

(M.S. Mehra)  
Joint Secretary /Railway Board