

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

No: 2017/RS(G)/779/2 Vol.II

New Delhi, dated: 01.01.2020

The PCMMs
Zonal Railways/PUs
CORE/Allahabad, COFMOW/New Delhi
NF(C)/Guwahati, ED/Stores/RDSO/Lucknow
WPO/Patna & RWP/Bela

Sub: Revised Model of EBR-IF funded Contracts.


Ref: Railway Board's letter no. 2018/AC-II/1/57 dated 16.12.2019.

Vide letter under reference (copy enclosed), Railway Board has issued instructions regarding signing of novation agreements in contracts funded by EBR-IF.

2. Zonal Railways/PUs are requested to ensure compliance of the instructions by due date, in supply contracts, wherever applicable.

This is issued with the approval of Board (MMM).

DA: As above


(Praveen Kumar)
Joint Director Railway Stores (G)
Railway Board

Copy to: (i) AM/RS, PED/RS(C) and PED(Accounts), Railway Board.
(ii) All EDs and Directors of Stores Dte., Railway Board.



(भारत सरकार) GOVERNMENT OF INDIA
(रेल मंत्रालय) MINISTRY OF RAILWAYS
(रेलवे बोर्ड) RAILWAY BOARD

RBA No. 109/2019
GST Circular No. 32/2019

F.No. 2018/AC-II/1/57

16th December, 2019

General Manager,
All Zonal Railways/Production Units

Sub :- Revised Model of EBR-IF funded Contracts.

The issue relating to re-modeling the existing supplies of goods and services which are funded through the EBR-IF route has been reviewed in Railway Board within the GST framework and effecting tax efficiency. Below are key highlights of new model:

1. IRFC funded supplies of goods and services shall be regulated in such a manner that IRFC will be the "Disclosed Principal" for the EBR-IF projects that are getting executed by Indian Railways.
2. Till 31.3.2019, there are 410 projects that have been funded out of EBR-IF in respect of Doubling, Traffic Facilities, Electrification, Gauge Conversion, New Lines, Workshops project, detail of which is already available with all the Zonal Railways.
3. Indian Railways shall be treated as a pure agent of IRFC, for the purpose of awarding the works contracts to Contractors/ Vendors for construction of infrastructure projects involving supply of different goods and services in the name of IRFC.
4. Indian Railways shall only be an agent of IRFC for administration and management of contractors on project location and shall not be the principal (i.e. not the owner or buyer of assets being constructed) under the contract.
5. This arrangement shall be effective w.e.f. 01.01.2020.

6. Novation Agreements

This re-modelling not only changes certain clauses of existing contracts but also makes IRFC as one of the party to the contracts signed for all the projects funded by EBR-IF. Hence, a novation agreement needs to be signed, with all the contractors who are supplying goods and services, related to IRFC funded projects in respective states.

Such novation agreements, shall incorporate all the clauses, as mentioned in Appendix-I to this letter, to give effect the above mentioned re-modeling, between Indian Railways and IRFC w.e.f. 01.01.2020. Associate finance's concurrence shall be obtained without fail.

Also, the novation agreement shall clearly provide that all other existing terms and conditions related to original contracts shall stand valid along with the additional clauses mentioned below.

This novation agreement shall be signed by all 3 parties i.e. respective Contractor, Indian Railways and IRFC.

7. IRFC to obtain GSTIN in respective states

As mentioned above that IRFC shall be the owner of assets, therefore, all invoices from contractors/ vendors shall be issued in name of IRFC with GSTIN of IRFC only.

Currently IRFC has GST registration only in the State of Delhi from where it operates its business. However, going forward with the new arrangement, IRFC is required to obtain the GST registrations in respective States where IRFC funded Infrastructure Assets would be located.

EDF/Budget and RM, Railway Board has already circulated the list of States/UTs to IRFC wherein it should mandatorily obtain GST registration. Further, the same has been communicated to Zonal Railways by IRFC, to provide the documents such as NOC for address, etc in order to obtain the GST registrations.

Once IRFC obtains all GSTIN in respective States/UTs, it shall communicate the same to Zonal Railways so that it can be further communicated to contractors for their records to issue GST invoices.

8. Invoicing by contractors/ vendors on or after 01.01.2020

In line with the remodeling as mentioned above, post obtaining GST registrations by IRFC in the respective States/UTs, billing/ invoicing by the Contractors to be done in the below manner:

- a. Contractor shall issue the tax invoices in the name of IRFC (instead of Indian Railways) i.e. GSTIN of IRFC shall be mentioned on invoices for each state separately;
- b. Contractor shall also capture the proper description of supply of goods and services on the invoice and other supporting documents. Also, it is to be noted that wherein contractor is appointed to supply both goods and services related to immovable property, invoice shall be issued with the description of 'Works contract' services and then itemised details may be given on invoice for each goods and services;

9. Post novation of agreement, w.e.f 01.01.2020, it is to be ensured that in case, contractor/vendor invoices are not issued in name of IRFC with GSTIN of IRFC, such invoices shall be returned to contractor/vendor for correction and shall not be processed for payment until corrected invoice are received by IR in name of IRFC.

This issues with the approval of FC(Rlys).

DA:- Appendix-I

(Anjali Goyal)
Principal Executive Director/Accounts
Railway Board

Copy to:-

1. PSO to FC(Rlys), ME, MRS, MTR, Member/S&T, MMM, Railway Board;
2. ED/W, ED/WP, ED/RE, EDME/Projects, EDTK/P, EDTK/M, EDRS/G, EDFB&RM, EDFX-I, EDFX-II, Railway Board;
3. Director/Finance, CRIS, Chanakyapuri, New Delhi 110 021.
4. Director/Sig-I, DRS/IG, DTK/P, DTK/M, Railway Board,
5. DDL&F, Railway Board;

Below shall be the additional clauses which will form part of the respective Novation agreements to be signed:

i. Invoicing and Payment for the supply of goods and services by Contractor:

In line with the remodeling as mentioned in above letter, post obtaining GST registrations by IRFC in the respective states, billing/ invoicing by the Contractors to be done in the below manner:

- Contractor shall issue the tax invoices in the name of IRFC (instead of Indian Railways) i.e. GSTIN of IRFC shall be mentioned on invoices for each state separately.
- With regard to the payment of invoices, contractors shall submit 2 copies of invoices i.e. one with IRFC and another one to Indian Railways where payment is being arranged.
- Indian Railways shall be making payment to contractors on behalf of IRFC (i.e. acting as an agent for IRFC), therefore, contractors shall submit all the supporting documents along with tax invoice to Indian Railways for payment processing.
- Further, all the payments for the invoice issued by contractors shall be subject to deduction of TDS in accordance with provisions under the Income Tax and GST laws.

ii. Invoicing for supplies that are pending for certification: Any supply of goods and services that has been completed by contractor, on the effective date of the novation agreement for which payment is pending for certification by bill accepting authority as per originally agreed terms, shall be invoiced by the contractor as per revised arrangement terms as highlighted in the clause (b) above.

Additionally, any invoice being issued by the contractor shall be accompanied with all details of goods and services supplied against that particular invoice and accordingly, IRFC shall be availing the input tax credit, which is eligible to it as per GST law.

iii. The under noted clauses shall form an integral part of original contracts through the issue of an addendum to the contracts:

- Contractor shall ensure overall compliance with the tax laws including GST laws and rules prescribed thereunder and shall be solely responsible to pay the GST or any other applicable taxes for the supply of goods or services made by the contractor.

- Contractor shall be liable to pay/refund the amount collected as GST to the IRFC along with interest and penalties, if any imposed by the authorities, in case GST input tax credit of IRFC is denied/rejected by the tax authorities due to reasons mentioned below but not limited to:

- wrong/incorrect invoices issued by Contractor;
- non-filing of GST returns;
- non-payment of GST collected from IR to the authorities;
- any other non-compliance done by Contractor;

- **General Indemnity Clause:** Contractor hereby agrees to indemnify and hold harmless the Indian Railways and IRFC from and against any and all losses, including loss on account of Input Tax Credit and all losses incurred by the IRFC relating to or arising out of or in connection with any actual or threatened claim, legal action, proceedings, prosecution or inquiry by or against the IRFC arising out, directly or indirectly, of failure by the contractor to comply with the provisions of GST and related laws, or based upon or arising from any failure by the Contractor.

- **Retention Money clause:** Any payment liable to be paid by Indian Railways and IRFC to contractor against the goods or services or both supplied by such contractor to IRFC shall be kept on hold in case supplier makes any non-compliance of any of the GST law provisions including non-reporting of invoices in GST returns. Such payment shall be released after proper verification of records and availability of ITC to IRFC as per provisions of GST law.

The above clauses shall be incorporated in the novation agreement and shall form part of all existing contracts with the concurrence of associate finance and approval of the competent authority. Besides, acceptance of the contractor may be invariably obtained. Preparatory action taken in this matter may be advised to Railway Board on a weekly basis.