

Government of India  
Ministry of Railways  
(Railway Board).

RBS No. 11/2007

No.2006/RS(G)/779/2

New Delhi, dated 20-07-2007

The General Managers,  
All Indian Railways & Production Units including NF(Const.),  
The General Manager, CORE, Allahabad.  
The Director General, RDSO/Lucknow and RSC/Vadodara.  
CAO, DMW/Patiala and COFMOW/New Delhi.  
CAO/MTP, Mumbai, Chennai & Kolkata.  
CAO/MTP, NBCC Place, Bhishma Pitamah Marg, Pragati Vihar, New Delhi.  
The Managing Director, MRVC, 2<sup>nd</sup> Floor,  
Churchgate Station Building, Mumbai - 400 020.  
The Managing director, KRCL, Raigad Bhavan,  
8<sup>th</sup> floor, Sector - II, CBD, Belapur, Navi Mumbai - 400 614.  
The Managing Director, CRIS, Chanakyapuri, New Delhi.

- Sub: 1. Purchase Preference Policy - Inclusion of Option Quantity value.  
2. Inter-se position of the tenderers in the tender for more than one item and/or consignee.

Ref: Judgment of Hon'ble High Court of Delhi in WP(C) 1027412006 & CM No. 7675/2006, 1380712006 in case of Jindal Stainless Steel Ltd., Vs. UOI & Others.

In the above referred Writ Petition filed by M/s Jindal Stainless Steel Ltd., challenging the decision of the Ministry of Railways to award the tender for procurement of 5 items of Stainless Steel, the Hon'ble High Court of Delhi, while dismissing writ petition filed, determined as below:

- i) The mere option (30% option quantity) to ask for further supply of tendered items cannot be construed to mean that the tender itself was for 30% higher value.
- ii) There was no clause in the tender or in the Instructions to Tenderers that the contract could be awarded to different bidders on the basis of individual items. The arguments that the tender provides for the supply of 5 separate items and, therefore, contract can be awarded to different tenderers on the basis of the different sizes, has no merit. The related argument that the petitioner was L1 for four items and one of the respondents was L1 for one item is consequently not sustainable.

Contd.2/-

Five size mixes in one tender could not imply that the tender was to be treated as five different tenders, since the tender was to be awarded on the basis of the final consolidated price and not on the basis of each item.


In view of above judgment of Hon'ble High Court of Delhi, the issues involved in this case and policy implications thereof have been examined and it has been decided as under:

- (1) The Purchase Preference Policy for products and services of Central Public Sector Enterprises, as communicated vide Board's letter No.92/RS(G)/363/1PEs dated 28-07-2005 with amendments, if any, has to be scrupulously followed. However, the value of option quantity need not be taken into consideration for deciding the applicability of Purchase Preference Policy.
- (2) The criterion for evaluation of offers/deciding inter-se position of bidders should be clearly mentioned in the tender documents i.e. in case of multi item or single item with multi consignees, as to whether the inter-se position will be decided item-wise and/ or consignee wise or total value as a whole.

In case the stipulation as above has not been clearly specified in the tender document, the inter-se position of bidders shall be decided based on the total value of the tender for all items & all consignees and not on the basis of individual items or individual consignees.

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

Please acknowledge receipt.

  
(Aruna Jain)  
DDRS(G)-II  
Railway Board

No. 2006/RS(G)/779/2

New Delhi, dated: 26-07-2007

Copy to:

1. FA&CAO, All Indian Railways & Production Units.
2. The ADAI(Railways), New Delhi (with 10 spare copies)
3. The Director of Audit, All Indian Railways.

  
for Financial Commissioner/Railways