

भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
(रेलवे बोर्ड Railway Board)

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

New Delhi, dated: 06-01-2009

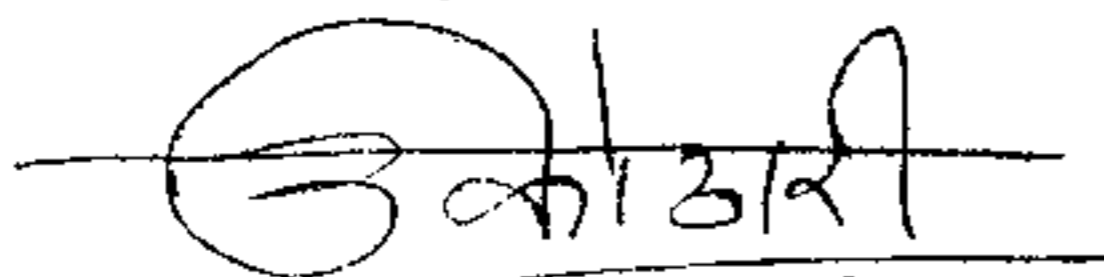
The Controller of Stores,
Chittranjan Locomotive Works,
Chittranjan.

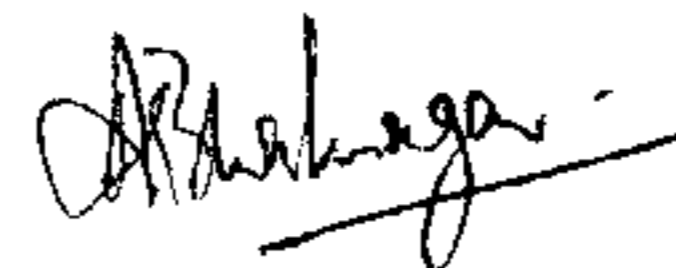
Sub: Tendering Proces- Negotiations with L1- pre decided split ordering.
Ref: (i)CLW's letter no COS/CRJ/Spl Condition of Contract Dated 08-05-2008
(ii) Board's letter of even number dated 15-02-2008.

Vide letter under reference(i), CLW has intimated the system being followed by them for establishing the "Zone of Consideration with per-se reasonability of rates". The system as advised by CLW makes certain assumptions which do not appear to be logical & reasonable. The whole matter has been examined in consultation with the Finance Directorate of Railway Board and accordingly the following are advised.

- 1 (a) Board vide their letter No. 76/RS(G)/779/96 dated 8.11.1979, on the subject of splitting of tendered quantity between more than one firms against a specific tender enquiry, advised that the difference in the rate between the lowest acceptable rate and that of the next higher offers should not exceed 10%.
(b) Subsequently, vide letter No. 79/RS(G)/779/41 dated 26.10.1980 Board withdrew the above ceiling limit of 10% price differential and further directed that each case may be decided on its merits, in consultation with associate finance.
(c) In terms of Board's letter No. 76/RS(G)/779/36 dated 6.11.1997, the difference in rate between the lowest acceptable rate and rate of the next higher offers may be decided on merits in consultation with associated Finance.
(d) **Hence, the terminal point of per-se reasonable rate should not be pre-fixed, as suggested by CLW.**
- 2 Board's letter of even no. dated 15.02.2008 stipulates that if the price differential between L₁ and L₂ tenderer exceeds 5%, at least 65% is to be ordered on the L₁ tenderer. For the quantity to be ordered on the L₂ tenderer, TC/TAA should decide as instructed in the said letter. According to CLW, this establishes that rates higher by more than 5% of the rate of the L₁ tenderer can still be considered reasonable. It is advised that such a generalised view should not be taken, keeping in view the dissertation made in Para-1 above.
- 3 Regarding applicability of Board's letter dated 15.2.2008 for split ordering on more than one source with price differential more than 5%, it is advised that:
(a) There can be a tender case where even the highest rate within the zone of consideration is lower than the LPR but price differential with reference to L₁ may be more than 5%. A very careful examination of such a situation should be made to see whether the same has been caused by the L₁ tenderer by cutting cost to corner the business. In such circumstances and where valid reasons exist to go for split ordering, Board's letter dated 15.2.2008 provides an enabling mechanism to the purchaser to go for split ordering (i.e. going beyond the L₁ tenderer) with a counter offer of the lowest rate eligible for bulk ordering.

Contd...2/


.. 06/01



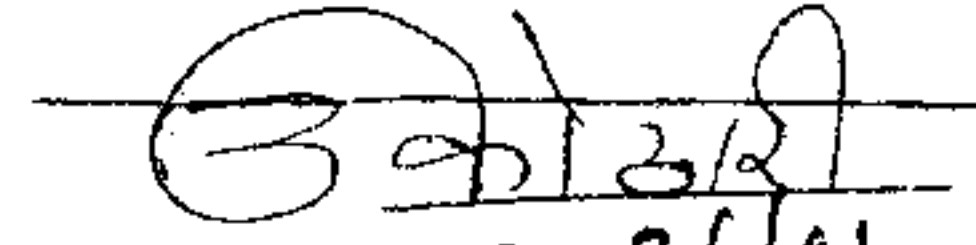
However, here also acceptable price differential between the lowest acceptable rate and the next higher offers should be decided on merits and in consultation with finance.

(b) In a tender case the afore-indicated price differential may be more than 5% but due to constraints in the L₁ offer as detailed in Para (iv) (page-3) of Board's letter of even number dated 15.10.2007 – it may not be advisable to order full quantity on the L₁ tenderer. In such a situation, the purchaser may resort to "**Deemed negotiation**" by counter offering the L₁ rate to the higher tenderer(s) considering the offers of such higher tender(s) on "**deemed single tender basis**" with the concurrence of FA&CAO and approval of GM.

(c) Enabling provisions as per para 3(a) and 3(b) above shall be subject to the conditions stipulated in Para 4.3 of Board's letter of even no. dated 15.02.2008.

- 4 As regards CLW's contention that the rates received from all Pt.I and Pt.II approved sources are per-se reasonable for the purpose of establishing the zone of consideration, it is advised such a view will be against all the existing procedure and directives and hence cannot be taken.

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



(Trilok Kothari)

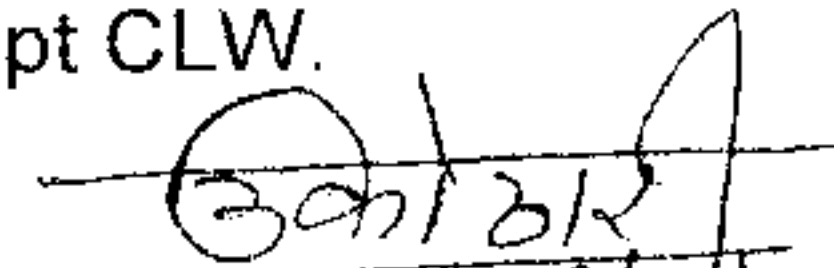
Director Railway Stores(IC)
Railway Board

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

New Delhi, dated: 06 -01-2009

Copy to:

1. The COSs, All Indian Railways/PUs including NF(C) except CLW.



(Trilok Kothari)

Director Railway Stores(IC)
Railway Board

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

New Delhi, dated: 06 -01-2009

Copy to:

1. FA&CAO, All Indian Railways & Production Units.
2. FA&CAO/Workshop Projects Organisation, 1st Floor, Chamber Bhawan, J.C. Raod, Patna - 800001
3. PCEs, All Indian Railways and Production Units.
4. The ADAI(Railways), New Delhi (with 10 spare copies)
5. The Director of Audit, All Indian Railways.



for Financial Commissioner/Railways