

15 GOVERNMENT OF ANDHRA PRADESH
IRRIGATION & CAD (IW) DEPARTMENT

Memo. No. 10416/Ser.VII(V&E)-1/2005-1

Dated. 16-08-2005

Sub:- V&E – Tenders backing out of lowest bidder at the time of Agreement-
Punishment – System improvement Note – Reg.

Ref:- From G.A. (V&E) Dept., System improvement note No. 2
(1246/V&E/E1/104) dated. 09-02-2005.

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A copy of the reference is communicated to Engineer-in-Chief (Admn. Wing), I&CAD Department, Hyderabad and he is informed that when the lowest tenderer backs out from signing the agreement in view of the low rates quoted and the impending losses thereby causing extra burden to the Government. It is necessary to provide certain measures in the rules to take action against such contractors. Therefore, the following recommendations may be placed before Board of Chief Engineer in the next meeting and get them examined to issue clear guidelines for deterring contractors from backing out under such situation in consultation with Government.

1. In the first such instance when the Tender has backed out for the first time within the validity period, he may be demoted to a lower class and the additional expenditure incurred by the Government due to entrusting the work to the second lowest or the subsequent tender, over and above the E.M.D., of 1% collected at the time of issue of tender document may be recovered.
2. In the second or subsequent event of backing out, the tender may be black listed for at least 2 to 3 years at the discretion of the competent authority duly recovering the extra burden caused to the Government as stated above at (1). After completion of the black listed period, on review if the Government is of the opinion that punishment already undergone is adequate in the circumstances of the case, the black listing orders may be revoked, but the tenderer shall be demoted to a lower class.
3. The same should be applicable to the second, third or subsequent lowest tenders in the event of the proceeding lowest tenderer backing out but within the original or extended validating period.
4. There is also a possibility that the lowest tender (L1) backs out in connivance with the second lowest (L2) by arriving at an understanding to share the benefits especially so when there is considerable difference between the rates quoted by L1 & L2. To prevent such a situation whenever L1 backs out, L2 should be offered the contract at the fresh tenders may be called.

5. Since this amounts to collusion of contractors, the EMD of L1 may be forfeited (cash or bank guarantee or both) as per clause 6 (b) of G.O. Ms. No. 94, I& CAD (PW-COD) department dated. 1-7-2003.

Dr. C.V. S.K. Sarma,
Principal Secretary to Government.

Endt. No. DWA/Hyd/Sn.II/A5/G.Os/1214

Dated. 15-12-2005.

Copy communicated to all Joint Directors of Works Accounts for information.
Copy to Director of Works Accounts and JDWA, O/o DWA Hyd.

Sd/-
JDWA.Hyd.