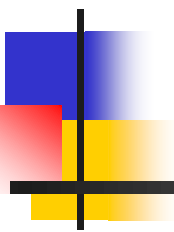


Concept of Tenders & Contracts



SP(DT)/ IRIMEE



Authority

- Finance Code Vol. – I, Chapter- VI
- Engineering Code, Chapter – XII
- Indian Contract Act – 1872



WHAT IS MEANT BY A

“TENDER”?



We get a clue from The Indian Contract Act- 1872



THE INDIAN CONTRACT ACT 1872

s. 2 (a) When one person (e.g., a vendor), signifies to another (e.g. to Railways), his willingness to do something, for obtaining the assent, he is said to make “proposal”.

(b) On acceptance, proposal becomes promise.

Acceptance must be absolute.—In order to convert a proposal into a promise, the acceptance must—

(1) be absolute and unqualified;

(2) be expressed in some usual and reasonable manner, unless the proposal prescribes the manner in which it is to be accepted.

(e) Every promise and every set of promises, forming the consideration for each other, is an agreement;

THE INDIAN CONTRACT ACT

1872

- Tender (or offer) is a proposal, submitted in a particular format, in response to the invitation.
- Tender Notice or “NIT” (Notice Inviting Tender) is not an offer. It is an invitation to parties who can submit tenders in response to such notice.



Why tender system?

- **Best value for public money,**
- **fair communication,**
- **healthy competition,**
- **development of vendors / service providers etc.**



Stages

- A. Preparation of tender papers.**
- B. Invitation**
- C. Receipt**
- D. Appraisal and selection**



Types of Tenders

1. Open

2. Limited

Approved list of contractors.

3. Special Limited

4. Single



Types of Contract

- Lump sum contract
 - for specific work in specific time and fixed payment in stages(water tank, building etc.)
- Scheduled contract (item wise)
 - Normally followed in all contracts in construction
- Piece work contract-Zonal contract.
 - No specific quantity. Approximate total cost is given.

Precautions prior to invitation

Have clarity about

- (a) **What exactly is to be done.**
- (b) **Where it is to be done.**
- (c) **Completion Period**
- (d) **Extent of Assistance by Railways**
- (e) **Realistic estimated cost, payment terms.**
- (f) **Approved drawings.**



Conditions

- GCC \ IRS Conditions
- Special conditions should be carefully drafted.
- In case of a conflict, special conditions will prevail.



Open tenders

- **Advertisements in the most public manner**
 - **In local newspapers**
 - **In national papers**
- **Notice in Railway offices**



Tender Document

- Sanction before tender – Detailed Estimate got sanctioned. In urgent cases with approval of DRM/PHOD/GM.
- Preparation of tender documents – approved by CA before issue of tender papers.
- Schedule of Rates – Non schedule of rates got vetted by finance.
- If foreign currency involve – approval of Railway Board.
- Value of Tender forms



Minimum eligibility criteria

- Past experience of similar works - in last 3 years; not be less than 35%
- The annual turn over 1.5 times of the estimated cost
- Machinery and Plants
- Financial Solvency



Open Tenders Notice Period

- **Tender notice to be published at least one month in advance.**
- **Lesser period with prior concurrence of FA&CAO.**



Model Tender Notice

Should state...

- (a) Where and when blank tender form can be obtained.**
- (b) Cost of form and EMD.**
- (c) Place, date, time at which tenders are to be submitted and will be opened.**
- (d) Eligibility Conditions**
- (e) Approx. Cost.**



Submission of Tenders

- **Opening of tenders: procedure**
- **Late and delayed tenders:-
To be marked in red ink.**



Tender Opening register

- Serial Number;
- Date of Opening;
- Name of the Work;
- Tender Notice No. & Date;
- Name of Tenderer;



The Tender Opening Register

- EMD details;
- Rate Quoted;
- Late or Delayed
- Number of forms issued
- Number of tenders received and opened
- Signatures of Tender Opening Officials:
- Signatures of Tenderers



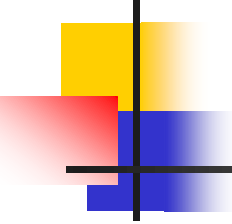
Assessment

- **Validity**
- **Competition.**
- **Previous experience.**
- **Rate reasonability/ LAR**
- **Conditions by Railways.**
- **Conditions by Parties.**
- **Modifications in specifications**
- **Negotiations**



Late and Delayed Tender (610-F/1251-E)

- Delayed Tenders
 - Received before the time of opening but after due date and time of receipt of tender.
 - Opened and dealt like other tender
- Late Tender
 - Receipt after the specified time of opening.
 - Open by concerned branch officer.
 - Envelope marked in red ink
- Remarks in Tender opening Register and comparative statement



Comparative Sheet and Briefing Notes

- Statement of comparative notes and tender condition.
 - Prepared by concerned executive
 - Verified by the Accounts Department
 - Put up to TC



Briefing Note

- Latest LAR
- Credential of the Tenderer
- Earnest Money
- Comments of validity of the offer
- Special condition if any
- Vetted by the associate finance.



Role of Convener

- **Has full knowledge of work, its special features, site conditions, tenderers' credentials, time frame, urgency etc.**
- **Should explain to other members about background, rate analysis, implication of special conditions.**



Single Tender

- Conditions.
 1. Emergent situation.
 1. Accident, Breaches, dislocation to traffic.
 2. Works of specialized nature.
 2. AMC- with the original manufacturer/authorized dealer with AGM sanction.

Procedure for Single Tender

- Delegation of the power as per SOP.
- Finance concurrence and CA's sanction.
- Precautions
 - Rarely
 - Controlled variation
 - No routine nature of work
 - Selection of agency from the approved list of contractors
 - Normally no extension (with adequate penalty)
 - No post facto concurrence.
 - Administrative approval from the GM
 - TCM one level higher.



Role of Finance Member

- **He should see that ...**
- **Tenders are in properly issued form**
- **Signed by authorized persons**
- **Correctly filled, corrections and overwritings are initialed by tender opening officials**
- **Opened correctly**
- **EMD adequacy, acceptability**



..contd

- Vetted Comparative statement, briefing note.
- All conditions with financial implications are evaluated.
- Proper rate analysis has been prepared by the Convener.



Role of Finance Member..contd

- **Sanction for the work and funds availability**
- **Legal issue are examined.**
- **Consistent approach**



Third Member

To ensure that :

- **Rules are followed in general**
- **Reasonableness of rates is examined**
- **A consistent approach**



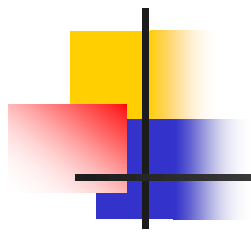
Responsibility of TC as a whole

It is the collective responsibility of the TC to give definite recommendation, with reasons, bringing out all the known facts, background and valid apprehensions which have formed the basis for recommendations.



Role of Tender Accepting Authority

- Examine that
 - Work is essentially required and is covered by sanction and funds are available.
 - In case of Open Tender, full opportunity including sufficient notice has been given to all the tenderers.
 - The competition has been adequate.
 - Reasonableness of offers has been properly examined by the TC.



Thank You