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कार्यालय ज्ञापन

विषय: Procedure to be adopted in dealing with Arbitration matters.

It is a pertinent fact that various contractors who have executed the works in the past and a few who are engaged in ongoing works are seeking dispute redressal by way of invoking standard Clause-25 of GCC (General Conditions of Contract), which is part of the agreement drawn by PWD.

Now in new NITs to be framed with effect from 22.04.2025, PWD GNCTD has issued specific directions through Office Order issued vide no. F.10(31)/2023/PWD-I/Court Matters/4309-17 dated 21.04.2025 not to include any Arbitration Clause in future NITs.

But still under the old agreements, PWD officers are dealing with various Arbitration issues where the claimant contractor has already invoked Clause-25 of GCC. In such Arbitration matters under old agreements, various client departments such as Education, Higher Education, Health, Home, Judiciary etc. usually object to additional allocation of budget, in case the claimant contractor gets relief from the Arbitrator.

All officers of PWD are well aware of the fact that the action taken under Clause-25 by either party to the contract cannot be ignored, as this Clause used to be an inherent part of all the past agreements entered into by PWD on or before 21.04.2025. Under such eventuality, it is enjoined upon all officers to uniformly follow the procedure and guidelines as detailed below:

1. All provisions of Clause 5.21 of CPWD Works Manual-2024 and SOP no. 5/31 of SOP-2024 to CPWD Works Manual 2024 should be followed.

2. Each and every correspondence held between claimant contractor and respondent Executive Engineer should be shared with the client department after invocation of Clause-25 by the claimant contractor such as appointment letter of Arbitrator, list of claims, statement of claims, statement of defence, rejoinders if any, copy of agreement, record of proceedings issued by the Arbitrator or any other relevant documents.

3. In case the award is published by the Ld. Arbitrator in favour of the claimant contractor, the copy of the award must be shared with the client department to seek their opinion in the matter besides simultaneously seeking the legal opinion from Law Department of GNCTD. This mandatorily to be followed before accepting, partially accepting or challenging the award in the court of law as decided by the competent authority i.e., the authority vested with the financial

powers to approve administrative approval and the expenditure sanction of the project as also stated under para no. 4 below.

4. Directions of Engineer-in-Chief, PWD contained in OM issued vide no. E-in-C/PWD/Works/2025/OM/1093 dated 02.05.2025 should be followed which is reproduced as below:

In the matter of "Benjamin Benjamin & Vats" Vs "Govt of NCT of Delhi", the Finance Department under GNCTD on 12.02.2024 has observed
"In this connection, it is stated that the amount of any arbitration award, other than a deposit in the Hon'ble Court for filing an appeal, amounts to the escalation in the project cost. It implies that the payment against any arbitration award resulting in to the escalation of a project cost shall be decided by such authority which has been vested with the financial powers to approve administrative approval and the expenditure sanction of the project including any amount due to arbitration award as per Delegation of Financial Powers".

As is evident from the above, the decision to accept or challenge an Arbitration Award resulting in to escalation of a project cost shall be decided by such authority which has been vested with the Financial Powers to approve administrative approval and expenditure sanction of the project. Therefore, all concerned officers must comply with the above directives in the matter of acceptance/ challenge of Arbitration award and further necessary action for payments of award amount, if approved by the competent authority after allocation of budget by client department.

5. In case award is accepted in full or part, concerned client department need to be briefed properly to make them understand the legality of the contract entered with the contractor and also about the future consequences and likely loss to Govt. Exchequer by way additional interest burden, if the necessary decision is not taken timely by A/A & E/S authority in accepting or rejecting the Arbitration Award and by the authority responsible for allocation of budget to PWD. Even in case, the accepting authority (A/A & E/S authority) rejects the award in part or full, claimant contractor is free to approach the court of law and in case his appeal is admitted by court of law, the challenged award amount is required to be deposited in the court of law for which also allocation of budget is required to be made by the client department to PWD.

6. In case, the client department refuses to allocate budget against the awarded amount, Hon'ble Court should be informed through the Govt. Counsel that PWD being a service department only and utilizes the budget allocated by the client department, therefore, is not in a position to pay/deposit award amount on its own. Under such eventuality, Hon'ble Court should be requested through Govt. Counsel to make client department party to the court case for speedy redressal of disputes.

7. Directions of PWD Secretariat, GNCTD issued vide circular no. 10(31)/2023/PWD-I/Court Matters/6796-6805 dated 16.06.2025 should be followed which is reproduced below:

"The attention of all concerned is invited to the guidelines issued by the Finance Department regarding the treatment and processing of arbitration awards under the Arbitration and Conciliation Act, 1996. These guidelines are to be kept in view and followed appropriately until the Standard Operating Procedures (SOPs) on the subject are finalized by Finance Department".

The following key points, as issued by the Finance Department are required to be meticulously followed:

i) The payment of awards by Arbitrators under Arbitration and Conciliation Act, 1996 will not be treated as 'Charged expenditure (Para2.13(1) of CPWD Works Manual 2024). The Payments made towards arbitration awards are charged to the work [para 11(ii) of SOP no. 5/31 of CPWD Works Manual 2024].

ii) The payment made towards arbitration awards are charged to the work as per CPWD Works Manual and DFPR. The Heads of Department and Administrative Department Secretaries may exercise Powers to settle Arbitration Awards upto the extent of powers delegated for Administrative Approval and Expenditure Sanction to Works/Projects [Sl. No. 11(c)] issued by Finance Department vide OM dated 02.09.2025 subject to compliance of all codal formalities as provisioned in General Financial Rules, 2017; Arbitration & Conciliation Act, 1996, CPWD Works Manual 2024 including SOP, Manual for Procurement of Works 2022, and other mandatory provisions.

iii) In all arbitration cases, where awards of the Arbitrator go against the Department (whether, by upholding the claims of the contractors or by rejecting the counter claims of the Department), detailed reasons and lapses, if any, on the part of concerned officials due to which the awards have gone against the Department, should be gone into in detail by the Chief Engineer concerned. The Chief Engineer should send his recommendations to the Administrative Secretary on the issue of fixing of responsibility and for taking action against the erring officers, where the amount of arbitral award exceeds 10% of the Works cost.

iv) The arbitral award means the total award including the interest awarded by the Arbitrator The amount of such interest is to be worked out upto the date specified in the award. Thereafter, the Administrative Department should ensure that the amount of arbitral award including interest (whether accepted or challenged) has to be added in the original works/project cost in which Arbitral Award has been ordered, while deciding the appropriate competent authority to accept/challenge of Arbitral Award as per Finance Department OM dated 02.09.2025.

v) On receiving the arbitral award, where in the opinion of Government/Defence Counsel Engineer in Charge, there are good grounds to challenge the award, the opinion of Law Department, Govt. of Delhi, shall be obtained before accepting/challenging the award within stipulated time frame as given in the SOP No. 5/31 of CPWD Works Manual 2024.

vi) The payment should be made to the contractor as soon as the arbitration award has been accepted by the Competent Authority. The onus is on the department to make the payment within the time frame as mentioned in the arbitration award to avoid accrual of interest.

vii) In case of delay resulting in accrual of interest and loss to exchequer, detailed reasons and lapses on the part of concerned officials should be placed on record to safeguard the Government interest.

8. Direction given by Hon'ble PWD Minister, GNCTD vide letter no. Minister/PWD/2025/2780 dated 28.07.2025 is to be followed in letter & spirit as reproduced below:

"Further, it is requested that henceforth, no payment shall be made in arbitration cases where the award is against the Government without exhausting all possible legal remedies and prior appraisal of the Hon'ble Minister. Appeals against such awards be filed in consultation with the Law Department, Government of NCT of Delhi (GNCTD)".

In case of any contradictory provisions observed in following the above guidelines, the matter may be brought to the notice of office of ADG (Projects), PWD, GNCTD.

31.X.2025

(प्रदीप गुप्ता)
अपर महानिदेशक (परियोजनाएँ)

सेवा में

1. प्रमुख अभियंता, लो॰नि॰वि॰ (दिल्ली सरकार), बारहवां तल, एम॰एस॰ओ॰ भवन, नई दिल्ली।
2. मुख्य अभियंता (परियोजनाए), लो॰नि॰वि॰ (दिल्ली सरकार), प्रथम तल, एम॰ एस॰ ओ॰ भवन, नई दिल्ली।
3. मुख्य अभियंता (जे एडं पी), लो॰नि॰वि॰ (दिल्ली सरकार), तेरहवां तल, एम॰एस॰ओ॰भवन, नई दिल्ली।
4. मुख्य अभियंता (स्वास्थय), लो॰नि॰वि॰ (दिल्ली सरकार), दुसरा तल, एम॰एस॰ओ॰भवन, नई दिल्ली।
5. परियोजना क्षेत्र के आधीनस्थ सभी संबंधित अधीक्षण अभियंता एवं कार्यपालक अभियंता, लो॰नि॰वि॰ (दिल्ली सरकार), नई दिल्ली।
6. लो॰नि॰वि॰ वेबसाइट।

Pl upload on website

31.X.2025

AAO/E-in-C Office