

**OFFICE OF THE SECRETARY (I&FC)  
GOVERNMENT OF NCT OF DELHI  
L.M. BUND OFFICE COMPLEX, SHASTRI NAGAR, DELHI – 110 031**

No.F.4(92)/Estt./Misc./CE(I&FC)/ 170-197

Dated: 26/02/2020

**ADVISORY**

It has been observed from the perusal of various files relating to due payment of arbitration fee to the Arbitrators appointed by the Department that due process envisaged under Section 35 of the CPWD Works Manual for appointment of Arbitrator, is not being scrupulously followed.

Section 35 of the CPWD Works Manual, inter-alia, clearly provides for the constitution of Dispute Redressal Committee to ensure an amicable and legitimate solution to the problem, based on the principle of equity and natural justice through the above-said Committee. Unfortunately, this committee has so far not been constituted in the Department, which implies that the primary requirement of the invocation of Arbitration Clause is not being adhered to by the department. This is a matter of serious concern besides being a procedural lapse and as such, requires to be rectified at once with the constitution of Dispute Redressal Committee in consonance with the provision of the CPWD Works Manual.

Further, Clause 25 of Standard Contract Form, which the department is using in the contract agreement with the Contractor, explicitly provides the procedure of the settlement of disputes and arbitration between the Contractor and the department. In many cases it has been seen that the concerned officers are not deciding the issues in accordance with the laid down procedure. This demonstrates lack of intent and due diligence in the officers qua the laid down procedures and the spirit of contractual obligation.

In view of the foregoing, it is, hereby, directed that:-

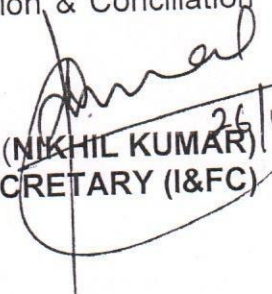
- i) The Dispute Redressal Committee with reference to each IFC Circle may be constituted with immediate effect with the prior approval of the Competent Authority;

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- ii) The procedure as laid down in the CPWD Works Manual, especially relating to the exhaustion of all the alternative remedies before invoking the Clause of Arbitration in conjunction with the provision of Clause 25 of the Standard Contract Form, shall be followed by the Department before formally appointing the Arbitrator;
- iii) All efforts shall be made to reason with the contractor to arrive at a consensus that is reasonable and legitimate. If no consensus is reached, cases shall be referred to the Committee only after exhausting all other remedies available with the department.
- iv) In no case, the Arbitrator shall be appointed without due compliance of the procedure as laid down in the CPWD Works Manual read with the provision of Clause 25 of Standard Contract Form;
- v) The procedure as laid down under section 35 for the appointment of Arbitrator and preparation of arbitration cases including due processing of the contractor's application in this regard, shall be followed strictly.

The instant Advisory aims to sensitize the officers towards the unerring adherence to the comprehensive and elaborate procedure laid down in the CPWD Works Manual and Clause 25 of Standard Contract Form in order to ensure fair and efficient arbitral procedure and passing of well-reasoned award without any unnecessary burden on the Govt. exchequer.

All the officers are, hereby, directed to follow the standardized guidelines and provisions of the CPWD Works Manual and the provision of Arbitration & Conciliation Act, 1996 while invoking of the arbitration clause in any matter.

  
(NIKHIL KUMAR) 26/02/2021  
SECRETARY (I&FC)

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2. CE (Zone-II), I&FC Department, Govt. of NCT of Delhi.
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