

MORMUGAO PORT AUTHORITY  
GENERAL ADMINISTRATION DEPARTMENT

Ref. No. GAD/Legal/52/2023/02581

Date: 29/09/2023

**CIRCULAR**

Sub: For incorporating an important provision in the Tender Documents.

For floating a tender document to carry out any type of work in the Port or otherwise, substantial resources i.e. man power, money and time are utilized. Often Successful Bidders many a time, withdraw from the process after acceptance of the Offer or Letter of Acceptance (LOA) by making some allegations or otherwise, causing delay in time and money loss to the Port Authority.

Recently, in one of the E-Tender floated by the Engg. Civil Department, the successful party backed out even after depositing first year Licence Fee and Bank Guarantee equivalent to two years Licence Fee by giving insubstantial reasons. In the absence of specific provisions to forfeit the deposited amount, Port could attach only EMD sums and was forced to refund the BG and other sums, thereby causing substantial loss to the Port consequently.

While processing of the approval note in the FLM, the Chairperson/MPA has taken a note of the above situation and instructed that henceforth learning from this experience, it would be prudent to add relevant clause or provision in the tender documents stating that, whenever a successful bidder intends to back out or terminate prematurely from the tender, the amount deposited towards first year license fee or such other like sums shall not be refunded.

In view of the above, a sample draft incorporating the relevant clause is produced below specially for Estate Matters under the head "Award of Contract". Other departments may suitably carry out the modifications based on this draft clause.

**Award of Contract**

- a. The area of plot given is by approximation and there may be marginal variations. The sketch showing the location of the plot/premises is attached. At the time of handing over the area to the successful bidder the area will be measured and actual area at the site will be considered for payments and handed over to the successful bidder strictly on 'as is where is basis' at present, 'as is what is basis', 'whatever there is basis' and 'no recourse basis'
- b. The Bidder, whose Bid is accepted by MPA shall be issued Letter of Acceptance (LOA) prior to expiry of Bid validity. Bidder shall confirm acceptance by returning a signed copy of the LOA. MPA shall not be obliged to furnish any information/clarification/ explanation to the bidders as regards non-acceptance of their Bid.
- c. Upon issue of the Letter of Acceptance (LOA) by MPA to the successful bidder, the successful bidder opts to delay beyond one month to commence with the work, cancel,

...2/-

...2..

terminate, seeks to vary and/or withdraws from such contract for any reason whatsoever, than MPA in its own discretion may opt for any one or more of the following remedies/option, which shall be binding on such successful bidder:

- (i). Blacklist the unit whereby successful bidder or its/his/her sister concern will be barred to take part in any bidding/contract of MPA of any nature for the next 3 years or permanently in such serious cases as decided by the tendering authority;
- (ii). Forfeit/recover from such successful bidder the entire amount of Security Deposit equivalent to 24 months of license rent as also advance rent for the first year.

The Head of Departments are requested to bring the above contents to the notice of all officials/employees dealing with E-tender works and ensure that the above instructions are scrupulously followed in all the future tenders.

This issues with the approval of the Competent Authority.

  
(S. P. Mohan Kumar)  
Secretary

To.  
All HODs/MPA.