



Himachal Pradesh Power Corporation Limited

(A State Government Undertaking)

Himfed Building, BCS, New Shimla, Shimla-171 009

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CIN U4010HP2006SGC030591

Circular 2/2017

Alternate Dispute Resolution Policy

It has been observed that the claims of the Contractors executing various works in HPPCL are landing up in litigation. Even though there is provision for resolution of disputes in respective Contract Agreements yet there is no clear-cut SOP (Standard Operating Procedure) for dealing such matters; especially with regards to decide the future course of action once the decision of Dispute Board (DB)/ Arbitral Tribunal (AT)/ Court of Law (Court) is received in a case. Also there is no clear cut distinction with regards to the preparation and finalization of Statement of Defense (SoD), Statement of Claims (SoC), rejoinders/ sur-rejoinders etc. which at times are prone to chances of perverse incentives. Moreover, it has also been observed that in certain cases the cost and time used in defending/ contesting such cases either equals or is more than that of the actual claim. Thus, a need has been felt for establishing a mechanism for acceptance and rejection of decision of DB/ AT/ Court in respect of claims of Contractor(s)/ Employer.

Accordingly, under the name of "Alternate Dispute Resolution Policy", a dedicated **Alternate Dispute Resolution Cell (ADRC)** is hereby created under the administrative control and supervision of Head of the Corporate Civil Contracts Cell which shall be responsible for monitoring and assisting in defending/ contesting the disputes related to 'Works' and 'Procurement of Goods and Services' before the Adjudicator/ DB/ AT/ Court by the concerned HoP/ HoD. Initially, services of Officers/ Officials from the respective divisions/ wings/ cells on need basis shall be taken for this purpose and later on, ADRC shall be manned by dedicated manpower from various disciplines. Till such time, a Standing Committee comprising the following members shall be constituted on case to case basis to act as ADRC:

- (i) Nominee of Director (Civil)
- (ii) Nominee of Director (Electrical)
- (iii) Nominee of Director (Finance)
- (iv) Nominee of Director (Personnel)
- (v) Nominee from Corporate Legal Cell

Not below the rank of Dy. Manager
(E-4 Level)

For-6w
17/5/18

The AGM/ DGM (Civil Contracts) shall be the Chairman of the Standing Committee and the concerned Officer from Civil (Contracts)/ Electrical (Contracts)/ P&A/ F&A/ IT shall be the Member Secretary.

In this regard, the following procedural instructions are hereby issued:

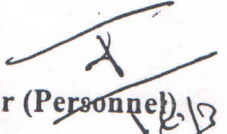
1. In respect of works awarded with the approval of Director/ Managing Director/ Board of Directors (BoDs), immediately after receiving the decision of DB and on/ or notification of any dispute by the contractor for reference to AT:
 - (a) the concerned HoP/ EIC will submit the complete case along with detailed comments and clear-cut recommendations to the ADRC in respect of disputes pertaining to Civil Work packages.
 - (b) the concerned HoP/ EIC will submit the complete case along with detailed comments and clear-cut recommendations to the Corporate Electrical Contracts who in turn shall forward the case with comments/ recommendations to ADRC in respect of disputes pertaining to Electro-mechanical work packages and Wind/ Solar Power Projects.
2. In respect of disputes pertaining to procurement of Goods and Services at Corporate Office, immediately after receiving the decision of DB and on/ or notification of any dispute by the contractor for reference to AT, the respective HoD will submit the complete case along with detailed comments and clear-cut recommendations to the ADRC.
3. The concerned officer from the Project/ Corporate office shall present the case before the ADRC. The ADRC after considering the case in totality shall submit its recommendations normally within a period of two to three weeks to the Head of Corporate Civil Contracts.
4. After obtaining the recommendations/ comments of ADRC, the Head of Corporate Civil Contracts shall submit the case along with the recommendations to Whole Time Directors (WTD) which shall comprise all whole time Directors of HPPCL excluding the Managing Director.

5. The WTD shall further submit its recommendations as whether to contest/ defend the case at next level or otherwise to the Managing Director, HPPCL within two weeks time.
6. After decision on the matter by the Managing Director (or BoDs in case Managing Director deems it fit to refer the matter to BoDs), the process to refer the matter to the adjudicating forum shall be initiated. In case the decision is to be accepted the same shall be placed before the competent authority for approval.
7. Steps 1-6 above shall be repeated (even if it is the same case) when the case is moved from AT to court of law and further from one court to another court after receiving the decision therefrom.
8. After the decision is obtained as per Sr. No.: 5 above, the concerned HoP/EIC/HoD shall in consultation with concerned Finance and legal counsel, if any engaged, prepare and finalize Statement of Defense (SoD), Statement of Claims (SoC), re-joinders/ sur-rejoinders etc. and submit the same to ADRC in the same manner as indicated at Sr. No.1 & 2 above for vetting, well in advance of stipulated timeline for filing the same.
9. After vetting, the final documents duly signed by HoP/ EIC/ HoD/ DGM P&A wing as the case may be, shall be filed before the AT/ Court by the authorized presenting officer/ through counsel before the expiry of stipulated timeline/ limitation period. As per System Circular No.: HPPCL/P&A-Law/General - Vol-IV/2013-193-212 dated 17-05-2013, the case shall be defended by the concerned HoP/ HoD. The representative from concerned Finance and Corporate Legal Cell will associate in the proceedings before Adjudicator/ DB/ AT/ Court.
10. In respect of the disputes pertaining to works/ procurement of goods and services awarded at project level, the same shall continue to be processed/ managed at the project levels by the respective HoPs.

Notwithstanding the provisions/ procedures set forth hereinabove, the **Alternate Dispute Resolution (ADR)** is voluntary and the choice of when and how to use ADR is within the discretion of HPPCL. The statement of policy does not create any right to judicial review involving compliance or non compliance with the statement. The dispute resolution processes are not intended to replace or limit but to supplement HPPCL dispute resolution

procedures. Further, HPPCL reserve the right to add/ amend/ delete any or all of the above provisions.

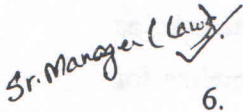
All concerned are accordingly directed to comply with the above policy in letter & spirit.


Director (Personnel)

No.: HPPCL/P&A/Policy Circular/2017 - 30160-81

Dated: 16.03.2018

Copy forwarded to the following for information and necessary action to:

1. PS to the Managing Director, HPPCL, for kind information of worthy Managing Director.
2. The Director (Civil), HPPCL.
3. The Director (Electrical), HPPCL.
4. The Director (Finance), HPPCL.
5.  All the HOPs//HODs in HPPCL.
6. The AGM (F&A), HPPCL.


Director (Personnel)