



**जनेपन्यास
JNPT**

JAWAHARLAL NEHRU PORT TRUST

VIGILANCE DEPARTMENT

DOS AND DON'TS IN TENDERING

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Sn	CONTENTS	Page No
1	GENERAL CONDUCT	3
2	ESTIMATES	5
3	NOTICE INVITING TENDER (NIT)	6
4	PRE-QUALIFICATION CRITERIA (PQ)	7
5	TENDER / BID DOCUMENT	8
6	PROJECT MANAGEMENT CONSULTANCY (PMC) WORKS	9
7	STORE PROCUREMENT / SALE OF SCRAP	10
8	RECEIPT OF TENDERS	11
9	E-TENDERING	12
10	POSTPONEMENT OF TENDER OPENING	13
11	OPENING OF TENDERS	14
12	EVALUATION OF TENDER	15
13	POST TENDER NEGOTIATIONS	16
14	REASONABLENESS OF PRICE/ MARKET RATE JUSTIFICATION	17
15	AWARD OF WORK AND SIGNING OF CONTRACT AGREEMENT	18
16	MOBILIZATION ADVANCE	19
17	BANK GUARANTEE	20
18	INSURANCE	21
19	COMPLETION OF CONTRACT	22
20	DEFECT LIABILITY PERIOD CLAUSE	23
21	PAYMENT TERMS AND APPLICABILITY OF TAXES AND DUTIES	24
22	MODIFICATIONS OF CONTRACT CONDITIONS / SEPCIFICATIONS	25
23	ARBITRATION	26
24	RECORD MANAGEMENT	28

1. GENERAL CONDUCT

Dos

- Do always remember that you are a responsible employee of a JNPT and you are answerable for all your activities.
- Do nothing which is unbecoming of an employee of your status.
- Do uphold the image of your Organization.
- Do always keep in your mind JNPT's Mission, Vision, Policies and Objectives.
- Do understand that the JNPT expects absolute integrity and devotion to duty from its employees at all times.
- Do remember that the JNPT Employees Service (Conduct) and JNPT (CC&A) rules keep the management informed about the employees.
- Do understand that conduct means the general & uniform orderly behavior that is expected of an employee of the organization.
- Do submit the periodical returns of immovable property as on 1st January, every year.
- Do remember to obtain permission/intimate JNPT before purchase /sale of high priced movable/immovable assets.
- Do keep image of you and your organization clear before the client as well as before the general public.
- Do a periodical self-assessment/self-analysis of yourself as an employee, a good citizen and a vigilant official.
- Do keep in mind that you have to act in a judicious manner with due care and attention and not for self-interest or to benefit a few with vested interest.
- Do remember that you are answerable for any suspected malafide action on your part.
- Do acquaint yourself with the civil laws of the area of your work and observe them scrupulously.
- Do remember that ignorance of law/rules / regulations/ guidelines of the Government/ Company are no excuse.
- Do make surprise and periodical visits to check the progress of the work and to have clear and first hand information of the problems being faced by the site employees.
- Do encourage your subordinates to do their best and take all possible steps to ensure their loyalty to the organization, integrity and devotion to duty.
- Do intensive monitoring of delays and disposal of your files that helps to curb corruption and projects better image of the organization.
- Do settle issues promptly but without undue haste.
- Do take prompt action to redress the complaints / grievances as per laid down procedures otherwise it may take the form of resentment.
- Do have a designed mechanism for redress of grievance on the basis of existing rules/guidelines.

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- Do remember that any representation /letter to higher authorities should be addressed through proper channel.
 - Do create a vigilance friendly environment in JNPT through your own positive, transparent and timely action.
 - Do remember that every employee is required to maintain absolute integrity at all times.
 - Do groom a second man in your line of duty so that he may tackle the situation in your absence.
 - Do plug all pilferages and wastages and be cost conscious and cost effective.
 - Do inform to the organization if you are married/going to marry a person other than of Indian nationality.

Don'ts

- Don't forget to do your duty as efficiently as you can.
- Don't yield to temptations or run after petty gains.
- Don't take any obligation in any form.
- Don't decide issues whimsically.
- Don't act in such a way so as to damage the property of the organization.
- Don't engage yourself or participate in any demonstration which involves incitement to an offence.
- Don't send any official document/information without approval of Competent Authority to any outsider.

2. ESTIMATES

Dos

- Do prepare preliminary estimates taking into account various factors for particular works, geographical location etc. as laid down.
- Do give the website address of the organization in the advertisement/NIT published in newspaper.
- Do prepare detailed estimates from drawings/ sketches fully supported by calculations as far as practicable.
- Do prepare estimates in a realistic and objective manner.
- Do try to include items with standard specifications only. However, if inclusion of some items without standard specification becomes unavoidable, reasons for procuring such items must be recorded.
- Do prepare cost estimates based on CPWD/SSR/DSR/PWD norms only and wherever the norms are not available, market rates with proper verifications be taken.
- Do take rates from the standard schedule of rates, but add reasonable premium as per prevailing market conditions.
- Do include in the estimates the basic price, fabrication charges, inspection fees, duties, packing, handling and transport charges, erection, testing, commissioning charges, contingency charges etc. as applicable at the time of conception of the project for preparation of estimates based on realistic market rates.
- Do include all commercial clauses including taxes, duties of all types and other statutory charges.
- Do clearly mention various conditions of contract such as “General conditions of contract (GCC)”, “Special Conditions of Contract (SCC)” or “Conditions of Particular Application (COPA)” and “Technical Specifications (TS)”.
- Do take approval of estimates from Competent Authority, before calling for tender.

Don'ts

- Don't make vague estimates without adequate details, which may lead to huge quantity variations and creation of extra and substituted items.
- Don't try to procure items without standard specifications.
- Don't make use of unspecified items to make estimate unrealistic.
- Don't mention conflicting conditions.
- Don't include such items or scope of work which are not needed in the work, which may unnecessarily load and vitiate the tender.
- Don't revise the estimates to justify the received L1 rates after opening of the price bids.

3. NOTICE INVITING TENDER (NIT)

Dos

- Do float press advertisements for open tender in local and national newspapers for wide circulation.
- Do give the organization website address in the advertisement/ NIT published in the newspapers.
- Do display the NIT including all necessary details of the tender on the website of the organization.
- Do provide sufficient time to the bidder for preparation and submission of the bid.
- Do check the dates of sale and submission of tenders with respect of working days in order to avoid unnecessary corrigendum/addendum at a later date.
- Do provide all the relevant information related to tender, its sale, submission and opening of bids like estimated cost, EMD, place and period of sale of tender date of submission and opening of tender.
- Do put notices of all tenders (be it limited or open tender) on the respective web-site of the organization.

Don'ts

- Don't reject any tender without assigning any reason as tender accepting authority is bound to record clear, logical reason for all actions of acceptance /rejection.
- Don't forget to intimate any corrigendum issued for extension of date or any other information individually to the parties by various means and also to publish in the media and display on organization web site and Notice Boards.
- No activity of the organization shall give an impression that it has special liking or disliking for a firm / company.

4. PRE-QUALIFICATION CRITERIA (PQ)

Dos

- Do prepare the PQ criteria specific to the requirement of the work in clear terms.
- Do ensure that the PQ criteria are exhaustive, yet specific and there is fair competition.
- Do ensure that the PQ criteria are clearly stipulated in unambiguous terms in the bid document.
- Do keep in view the end purpose while framing prequalification criteria.
- Do fix in advance the minimum qualification, experience and number of similar works of a minimum magnitude satisfactorily executed in terms of quality and period of execution.
- Do keep the following points in view while fixing the eligibility criteria for civil/electrical works as per CVC Guideline issued vide Memorandum No.12-02-1-CTE-6 dated 17.12.2002
- Do incorporate the criteria regarding satisfactory performance of works, personnel, establishment, plant, equipment etc. according to the requirement of the project.
- Do re-tender if relaxation on PQ criteria is necessary.

Don'ts

- Don't fix stringent PQ criteria as it results in poor competition.
- Don't relax the PQ criteria after issue of NIT.
- Don't deny participation to any bidder during pre-qualification/post qualification for the reasons unrelated to its capability and resources to successfully perform the contract unless such parties are black listed.

5. TENDER / BID DOCUMENT

Dos

- Do update tender documents to suit the present contract requirements containing instructions to bidder, general and the special conditions of contract.
- Do fix reasonable amount of EMD on the basis of an estimated value of the proposed work particularly in the two bid system.
- Do mention the form in which EMD is acceptable clearly in the tender documents.
- Do incorporate in the bid documents detailed generic technical specifications along with a list of preferred makes of major equipments.
- Do mention the order of precedence in the tender documents to overcome some contradicting and conflicting specifications/ conditions.
- Do specify in unequivocal terms in the bidding documents, the performance parameters and the technical/price evaluation criteria, if any.
- Do issue tender document to eligible bidder under signature of authorized person.

Don'ts

- Don't forget to mention important clauses pertaining to Earnest Money Deposit (EMD), completion schedule, testing of equipments, performance bank guarantee (security deposit or performance security), payment terms, penalty for delayed completion, comprehensive insurance cover, contractor's liability, safety arrangements, statutory requirements for labour welfare, arbitration clause etc. in a proper and explicit manner.
- Don't sub divide/split a bigger work into smaller work without its approval by Competent Authority.
- Don't provide rate only item in the bill of quantities without giving quantity against them.
- Don't provide unrealistic period of completion of work as unworkable period leads to frequent grant of extension of time and litigation.
- Don't alter specifications and conditions of contract if left out work of a rescinded contract is to be executed at the risk and cost of the defaulting agency.



6. PROJECT MANAGEMENT CONSULTANCY (PMC) WORKS

Dos

- Do ensure that necessary approval from Client and Competent Authority exists for tendering based on sufficient details such as preliminary estimate/ DPR based on survey & drawings.
- Do ensure that work is carried out as per MOU/ Agreement entered with Client.
- Do first decide whether tender to be called is in two packets (Technical & Financial) system through open tendering or through PQ route.
- Do follow the conditions as specified by Clients, which supersedes the other conditions.
- Do ensure Client's participation in decision making for award of work, if provided in MOU.

Don'ts

- Don't violate the terms of MOU/Agreement with Client.
- Don't divert fund of PMC Works to any other work.
- Don't forget to endorse copy of LOI/Work Order/Agreement to Client for information.

7. STORE PROCUREMENT / SALE OF SCRAP

Dos

- Do prefer to go for rate contract for recurring type of consumable items rather than procuring the same in piecemeal manner.
- Do give a supply order with proper specifications, rate schedule, mode of dispatch, insurance clause or risk indemnity / liquidated damages.
- Do prepare proper systems for floating, receipt, storage and custody of tenders received.
- Do keep in view the quantity, delivery and value requirement while fixing the PQ criteria.
- Do fix PQ criteria based entirely upon the capabilities and resources of prospective bidders to perform the particular contract satisfactorily taking into account their experience and past performance on similar contracts, capabilities with respect to personnel, equipment and manufacturing facility and financial standing.
- Do accept materials strictly as per the specifications.
- Do ensure the consumption pattern of an item before procuring.
- Do ensure the store-receipt vouchers and indents are not manipulated in collusion with site indenting people.
- Do maintain bin card / ledger for every receipt/issue of item from stores.
- Do insist on stock verification of the store items at the time of taking over the change.
- Do ascertain the type of scrap such as copper, steel, aluminum before fixing the scrap price.
- Do take all parameters into consideration while fixing the price of scrap items.
- Do mark separately the lot numbers for scrap materials.

Don'ts

- Don't indent / procure in excess of normal annual consumption pattern to favour any party.
- Don't procure heavy cost equipment unless the same is actually required /desired.
- Don't accept imported propriety items such as spares/accessories from the vendors with short expiry period.
- Don't forget to take financial approval/ concurrence from finance wing before any procurement.
- Don't create undue urgencies to enhance or effect the delivery schedule.
- Don't move any material out of the premises without valid gate pass. Don't postpone the posting of entries to a later date.
- Don't divulge to any firm that a particular lot contains a better quality of scrap.

8. RECEIPT OF TENDERS

Dos

- Do ensure suitable arrangements for receipt of sealed tenders at the scheduled date, time and locations through conspicuously located tender boxes.
- Do ensure that the tender notice should categorically contain the information regarding receipt of bids viz. designation and address of officer to whom the tender should be addressed and due date and time of opening of tenders.
- Do ensure that in case where the tenders are required to be submitted by hand, the names and designation of at least two officers are mentioned in the bid documents.
- Do display information about these officers at the entrance/ reception of the premises where tenders are to be deposited so as to ensure convenient approach for the bidders.
- Do strictly follow the instructions to receive quotation in sealed cover only.
- Do maintain transparency in receipt of tenders,
- Do ensure that the received tenders should be opened on the stipulated date and time.

Don'ts

- Don't accept unsealed tender.
- Don't accept tender without E.M.D. or proof of submission of E.M.D. along with tender.
- Don't accept tender received after due date and time to maintain the sanctity of tender system.
- Don't write or sign on tender cover till it is opened by tender opening committee.



9. E-TENDERING

Dos

- In case of e-tendering, bidders should indicate their name, address and tender number in all the bids i.e. pre-qualification bid, technical bid and price bid.
- Check whether all information provided is as per the prescribed format with digital signature.
- Do provide contact details of tender initiating authority/help desk well in advance before the due date in case of any difficulty in filling up bids for the bidders.
- Ensure that the e-procurement system is available throughout the bidding period.

Don'ts

- Do not receive bids through fax or e-mail.
- Bids received through fax or e-mail should be summarily rejected.
- Do not allow bidder to submit any bids after the due date and time.



10. POSTPONEMENT OF TENDER OPENING

Dos

- Do record reasons for postponement of tender.
- Do notify to all the bidders any change in the tender terms and conditions, specification and tender opening date, etc. sufficiently in advance of the revised tender opening date.
- Do notify through the publication of corrigendum in the media and web site.
- Do extend tender sale date suitably so as to allow new participants in the bid in order to increase the competition, if technically possible.

Don'ts

- Don't extend date of submission or opening of tender on verbal request to tenderer.
- Don't extend date of submission or opening without any genuine reason.
- Don't disclose new date of submission or opening till it is officially approved by the Competent Authority.

11. OPENING OF TENDERS

Dos

- Do open tenders in presence of the bidders / representatives who chose to be present.
- Do maintain transparency in opening of tenders.
- Do ensure that while opening the tenders, each tender should be numbered serially, initialed and dated on the first page.
- Do ensure that each page of tender, particularly the price and important terms and conditions should be closely encircled and initialed with the date by all tender opening committee members.
- Do also ensure that all tender opening committee members encircle any cutting/overwriting and initial in red ink.
- Do prepare a statement giving details of the quotations received and other particulars like the prices, taxes/duties, EMD, any rebate etc. as read out during the opening of tenders.
- Do maintain a proper tender opening register preferably in a printed format containing information viz. date of opening including extension, if any, names and signature of all the persons present to witness the tender opening which should include the bidder's representatives also.
- Do ensure in case involving the two bid system that the tender opening committee members sign on the envelopes containing the price bid mentioning clearly the due date of opening of price bid. These envelopes should be kept in safe custody.

Don'ts

- Don't consider bids that are received after scheduled due date and time of receipt of tender.
- Don't accept unsealed bids.
- Don't consider bids without earnest money & other pre-requisite requirements.
- Don't entertain any unauthorized person during tender opening.

12. EVALUATION OF TENDER

Dos

- Do ascertain whether bid is responsive as per laid down criteria.
- Do open price bid of only those bids which are responsive.
- Do evaluate tender as per the notified criteria.
- Do evaluate all pre-requisite criteria met by bidder before qualifying technical bid.
- Do finalize the acceptability of the bidding firms in respect of the qualifying criteria before or during holding technical negotiations with them.
- Do ask additional information only when it is mentioned in the tender or desired, otherwise avoid calling bidder. Call tender again, if it is unavoidable.
- Do complete the exercise of short listing of qualifying firms before opening of price bid/calling price bids.
- Do open price bids (in two bid system)/ call price bids of only those bidders whose design and other technical proposals are as per tender requirements.
- Do verify credentials of agencies.
- Do finalize tenders within validity period.

Don'ts

- Don't relax tender conditions as it will create a discriminatory treatment to others.
- Don't qualify tenders to avoid situation of a single tender.
- Don't evaluate bids on the basis of information not furnished by bidder/tenderer in his bid.
- Don't entertain any new information/document after tender is opened and evaluated unless the same is called for.
- Don't disclose details of evaluation of tender till it is officially accepted/rejected.
- Don't deny any bidder pre-qualification/post-qualification for reasons unrelated to its capability and resources to successfully perform the contract.
- Don't reject/approve the tender sample at the time of bidding. If detailed specifications exist for the item. However, advance sample may be submitted by the successful bidder for clearance before giving bulk production of the supply.

13. POST TENDER NEGOTIATIONS

Dos

- Do avoid post-tender negotiations with L-1 except in certain exceptional situations like procurement of proprietary items, with limited source of supply and items where there is suspicion of a cartel formation.
- Do record and document without any loss of time, the justification and details of such negotiations, if any.
- Do negotiate with L-1 bidder [s] for the supply of a bare minimum quantity for the urgent requirement, if the re-tendering is unavoidable, but balance should be procured expeditiously through a re-tender, following the normal tendering process.
- Do ensure that tenders are invariably finalized within their validity period.
- Do ensure that L-1 is not ignored on flimsy grounds.
- Do go for a re-tender in case L-1 backs out.
- Do pre-disclose the ratio of splitting the supply in the tender itself in cases where the organization decides in advance to have more than one source of supply (due to critical or vital nature of the item).
- Do make counter-offer to L-2, L-3 etc., (at the accepted rates of L-1) in case of splitting of quantities, as pre-disclosed in the tender. This shall not be deemed to be a negotiation.
- Do distribute the quantity being finally ordered among the other bidders in a manner that is fair, transparent and equitable, if after due processing, it is discovered that the quantity to be ordered is far more than what L-1 alone is capable of supplying and there was no prior decision to split the quantities.

Don'ts

- Don't ask for counter-offers to L-1 in order to arrive at an acceptable price as it shall amount to negotiation.
- Don't conduct post tender negotiations, unless unavoidable, without recording valid reasons and approval of Competent Authority. Don't disclose gist of negotiation, if any, till tender is finalized.



14. REASONABLENESS OF PRICE/ MARKET RATE JUSTIFICATION

Dos

- Do establish the reasonableness of rates on the basis of estimated rates and the prevailing market rates before acceptance of the offer.
- Do identify the abnormally high rate (AHR) and abnormally low rate (ALR) items and the officials/ agencies responsible for execution of work should be intimated to exercise appropriate control on such identified items to avoid vitiation.
- Do tender plus/minus percentage rate offer over identified estimated rate, if possible, to avoid getting AHR & ALR.

Don'ts

- Don't prepare estimates at a later date of receiving tender in order to justify already received rates.
- Don't collect market rate from unauthorized sources.

15. AWARD OF WORK AND SIGNING OF CONTRACT AGREEMENT

Dos

- Do ensure that once the offer is found techno-commercially acceptable. The work is awarded without any loss of time.
- Do issue letter of intent after approval of tender and take acceptance of tenderer before signing of agreement.
- Do keep all the necessary documents ready before hand and a formal contract agreement containing all the requisite documents forming part of the agreement should be signed within a reasonable time.
- Do ensure that the contract document is precise, definite and complete.
- Do make the important papers, such as copy of amendments subsequent to the issue of tender documents, as a part of contract agreement.
- Do ensure that the detail of awarded contract is sent for posting on the web site.
- Do make the contractor sign the detailed agreement within the time frame to avoid any complication in the contract at later date.
- Do ensure that the agreement is well bound, page numbered, signed by both the parties and well secured.

Don'ts

- Don't keep a file pending for decision by the approving authority after the recommendation of the tender committee has been received.
- Don't award any contract on nomination basis as it would amount to a breach of article 14 of the constitution guaranteeing right to equality to all interested parties, except in rare and exceptional cases. For instance, during natural calamities and emergencies declared by the Government; where the procurement is possible from a single source only, where the supplier or the contractor has exclusive rights in respect of the goods or services and no reasonable alternative or substitute exists, where the auction was held on several dates but there were no bidders or the bids offered were too low, etc.

16. MOBILIZATION ADVANCE

Dos

- Provision of mobilization advance should essentially be need based.
- Do clearly stipulate in the tender document if the management feels the necessity of interest free mobilization advance in specific cases. However, recovery of all such advances is time-based and not linked with progress of work.
- Take part 'Bank Guarantees' (BGs) against the mobilization advance in as many numbers as the proposed recovery instalments. Such guarantees should be equivalent to the amount of each instalment.
- Do properly examine Bank Guarantee in lieu of mobilization advance.
- Do clearly stipulate rate of interest to be charged on delayed recoveries either due to late submission of bill by the contractor or for any other reasons, besides the reason giving rise to the encashment of BG as stated above.
- Do clearly stipulate in the tender document, the amount of mobilization advance; interest to be charged, if any; its recovery schedule and any other relevant detail.
- Do provide relevant format for BG in the tender document.
- Do verify the authenticity of such BGs from the issuing bank, confidentially and independently from the organization side.
- Do ensure in case of 'Machinery and Equipment advance', insurance and hypothecation certificates are taken from the contractor.
- Do obtain Utilization certificate from the contractor for the mobilization advance.
- Do provide preferably, mobilization advance in instalments and subsequent instalments should be released after getting satisfactory utilization certificate from the contractor for the earlier instalments.

Don'ts

- Don't forget to verify Bank Guarantee from the concerned bank regarding its genuineness before releasing of mobilization advance.

17. BANK GUARANTEE

Dos

- Do ensure that the Bank Guarantee normally unconditional is prepared from a scheduled bank/nationalized bank as notified by RBI in the prescribed format or as specified in tender.
- Do provide prescribed format for acceptance of Bank Guarantee (BG) along with tender documents, if possible.
- Do ensure taking reasonable amount as unconditional Performance Bank Guarantee valid up to construction/ Defect Liability period depending on a particular case.
- Do ensure that whenever the time extension for contract is guaranteed, the extension of validity of BG should also be appropriately asked.
- Do clearly spell out the date of submission for the BG and adhere to it at the time of the execution of the contract
- Do specify with clarity the clauses of invocation and revocation of BG.
- Do insist on the contractors/suppliers that BGs to be submitted by them should be sent to JNPT by the issuing bank directly under registered post (A.D.).
- Do write to issuing bank (if BG is submitted by the agency directly) to send by registered post (A.D.), an unstamped duplicate copy of the Guarantee directly to JNPT with a covering letter.
- Do compare this with the original BG for confirming that the BG submitted by the agency is in order.
- Do assign the responsibility for verification, timely renewal and timely extension of BG.
- Do take timely action for revalidation/encashment of BGs.

Don'ts

- Don't handover BG to supplier/contractor for getting its extension or verification but through speed/ registered post only.
- Don't wait till last moment for extension and in such case ask for encashment well in advance.



18. INSURANCE

Dos

- Do incorporate and implement a comprehensive all risks insurance clause for men, material and construction so as to meet any contingency arising on account of fire/ earthquake, mishap during execution etc.
- Do also take care that safety precautions are taken at site during execution irrespective of insurance.

Don'ts

- Don't make RA payment until insurance as specified in the contract are submitted by the contractor.

19. COMPLETION OF CONTRACT

Dos

- Do stipulate milestones in the contract for the specific schedule of completion of contract in an unambiguous manner.
- Do monitor progress in accordance with such schedule.
- Do ensure that each and every contract. In case of big projects, should have its specific schedule of completion of intermediate milestone activities which inter-alia should be within the overall completion schedule of various activities in advance, if the work is broken into small contracts.
- Do specify the Liquidity Damages (LD) clause in case of delay in completion of intermediate milestone activities and overall project/contract.
- Do specify intermediate LD refunds in case overall completion target of the contract is achieved.
- Do take care that specialized work is executed through specialized agency.
- Do reconcile materials issued by department at various stages of work.
- Do ensure that materials are tested at proper frequency.
- Do ensure that the proper technical staff is employed by the contractor and work is executed qualitatively and timely.
- Do ensure that the project is not delayed due to contractor's fault such as non-deployment of adequate plant and machinery, technical staff, material, labour, etc.

Don'ts

- Don't forget to take as built drawings on completion of any contract.
- Don't forget to adjust all advances before completion of project and release of final payment.
- Don't forget to record delays on the part of contractor and recover LD as per provision of contract.
- Don't forget to take Bank Guarantees for long term guarantee for specialized items, if specified in contract.
- Don't release retention money before due date.

20. DEFECT LIABILITY PERIOD CLAUSE

Dos

- Do incorporate in the bid documents and in the resultant contract detailed “Defect Liability Period” clause embodying all the safeguards.
- Do reckon defect liability period only from the date of taking over of work viz. installation/commissioning in the contract involving installations /commissioning of equipments.
- Do proceed in such a manner that the time gap between supply and commissioning in minimal, in case supply and installations have to be executed through separate contract due to some compelling reasons.
- Do maintain a proper record of hindrance.

Don'ts

- Don't miss to provide this clause in all contracts.
- Don't fail to record date of completion in order to calculate defect liability period.

21. PAYMENT TERMS AND APPLICABILITY OF TAXES AND DUTIES

Dos

- Do make clear the applicability of various taxes/duties at the outset in the instruction to the bidder's part of the bid document in the case of a composite contract for supply and erection.
- Do define payment terms unequivocally.
- Do make the payment to the contractors based on the actual progress of the work.
- Do record the measurements of the item in the measurement book.
- Do attest the corrections in the MB, if any.
- Do get the test check of measurements by officer of a higher level.
- Do exercise appropriate check and control on the flow of funds while making the payments.
- Do pay the executed quantities beyond the stipulated time after deducting the LD as provided under the contract unless the valid time extension for the contract is given.
- Do reimburse taxes and duties, if applicable, only on the production of relevant documents.

Don'ts

- Don't vary the quantities/amount under the contract. If unavoidable, it shall not be made/paid without approval of competent authority.
- Don't deviate from payment terms provided in the contract.
- Don't make escalation payment, if provided in the contract, on owner issue material like cement and steel.
- Don't ignore any new taxes and recovery on this account, whether provided in the contract or not.



22. MODIFICATIONS OF CONTRACT CONDITIONS / SPECIFICATIONS

Dos

- Do discourage any relaxation in the contract terms/ specifications after conclusions of the contract.
- Do allow modifications/ amendments, only in exceptional cases which are considered absolutely essential but only after taking into account the financial implications.
- Do withhold a sufficient amount against the items received in an unfinished /incomplete condition so as to ensure that no extra payments are made against such items/ services.

Don'ts

- Don't modify any condition of contract as it would vitiate the contract and give chance to other party to go to court for claim of damages.
- Don't make any modification in contract conditions without mutual consent and competent authority's approval.
- Don't change the contract approved on percentage basis to item rate basis or vice-versa.
- Don't change the nature of the contract (viz. item rate/lump sum/percentage basis) as approved by the Competent Authority except specifically allowed by the Competent Authority.

23. ARBITRATION

Dos

- Do ensure that payment to contractor is made promptly after measuring works executed as per contract as it is most critical and key for successful & timely execution of works to avoid litigation and arbitration.
- Do remember that every clause of a contract has its meaning and fulfilment of each contract condition is binding on both the parties to avoid arbitration.
- Do remain vigilant that no opportunity is given to contractor for making any undue claim. Letter indicating so should be promptly replied to avoid any claim from contractor at a later date.
- Do process the case for appointment of the arbitrator, if so provided in the tender documents, well before its stipulated time and follow up constantly with Competent Authority so that the arbitrator is appointed within the time schedule and litigation is settled expeditiously otherwise the contractor may get chance to get arbitrator appointed through court.
- Do remember that once a case is under arbitration, the correspondence with the agency should be done in consultation with JNPT's legal expert.
- Do always keep in mind that a contractor always read in between the lines of the contract clause, hence one should be careful in dealing with the contract and the contractor.
- Do ensure listing of priority issues in the contract document.
- Do ensure that the important points are mentioned in the highest priority documents to avoid litigation.
- Do remember that existence of a dispute is a precondition for exercise of power by the arbitrator. The usual features of arbitration are the existence of a dispute between the parties and their agreement to refer it to the decision of a third person with the intention that he/she shall act judiciously.
- Do remember to consider all claims /receivable etc. beforehand so that claim/counterclaim is comprehensive.
- Do remember that the policy of the Arbitration & Conciliation Act, 1996 is to minimize the intervention of the court.
- Do remember when some claim referred to the Arbitrator is omitted from consideration in the Arbitral Award, a party can make a request to the Arbitrator or the Arbitrator Tribunal to make an additional award with respect to such claim with a notice to the other party but within thirty days of the receipt of the award.



Don'ts

- Don't delay the rightful payment of executed works as per the contract to the agency to avoid unnecessary arbitration/court cases.
- Don't delay appointment of the arbitrator as per the contract. When one party raised a dispute and denied by the other, then the objections raised would be exclusively within the jurisdiction of the Arbitral Tribunal.
- Do not lose time to appoint arbitrator when it is asked by the aggrieved party.
- Don't forget to identify the type of dispute. The matter in dispute must be of civil nature for referring to the arbitration, though if a single act involves civil as well as criminal consequences and the injured party has either remedy at his disposal, he may agree to refer the matter to arbitration even if it has the effect of wiping out the crime.
- Don't forget to give reminders for appointment of arbitrator as per provision of law of contract.
- Don't forget to take action on the arbitration award under 1996 Arbitration Act unless disputable.

24. RECORD MANAGEMENT

Dos

- Do remember that record constitutes complied wisdom of an organization and the backbone of any system.
- Do remember to follow instructions for retention of record issued by GOI/PSUs/JNPT.
- Do remember that as per RTI Act 2005 there is a penal provision for failure to furnish the information to the citizen on demand.
- Do maintain records in the record rooms designed for the purpose and also maintain current records electronically.
- Do make a list of the records kept in the record room for annual verification and destruction after completion of the life time of a particular record.
- Do remember to number all papers, including note sheets in green page and corresponding papers properly numbered before forwarding them to record room.
- Do ensure proper gist of each file in record room in electronic mode for easy reference.
- Do ensure quick retrieval of the information from the records.
- Do maintain all records in such a manner and form as is consistent with its operational requirements duly categorized and indexed.

Don'ts

- Don't forget to number each page of the correspondence and note sheet of the file.
- Don't forget to categorize the file according to their importance.
- Don't forget to review the records and files for change of categories/decision to destroy etc.
- Don't delay in parting of information as and when required for replying under RTI.