

No. Lit-I/Arbitrator Appointment/2019
Government of India
(Bharat Sarkar)
Ministry of Commerce & Industry
Department of Commerce
(Supply Division)

224-C, Nirman Bhawan,
New Delhi - 110011
New Delhi, the 28th June, 2024

OFFICE MEMORANDUM

Sub: Appointment of Sole Arbitrator in the residual Arbitration matters pertaining to supply orders placed against DGS&D Rate Contracts -reg.

The undersigned is directed to draw attention of all concerned Govt. Buyers/Indentors who placed Supply Orders for supply of stores utilizing the rate contracts of erstwhile Directorate General of Supplies & Disposals (DGS&D) (an attached office of the Ministry of Commerce & Industries) headed by Director General.

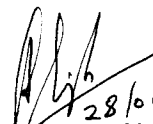
2. The general conditions [DGS&D Form 68(R) and later also in DGS&D Form 1001 as applicable] governing these supply orders outline how and in what manner resolution of contractual disputes shall be made through the process of Arbitration. Also that, the Director General of Supplies & Disposals; DG(S&D) was the officer competent for making appointment of the Sole Arbitrator for each individual arbitration matter.

3. The post of DG(S&D) ceased to exist in 2017 after the closure of DGS&D by a Cabinet decision. The Cabinet Committee approved a Cabinet Note No. 1 (8)/2016 GeM-Pol (Pt) dated 07.04.2017. Para 8.6 of said Cabinet note stipulates that the residual work of erstwhile DGS&D, including any remaining rate contract, shall be transferred either to the concerned line Ministries (who may take help of GeM SPV) or to the GeM SPV as the DGS&D (who was working as facilitator) has been wound up w.e.f. 31.10.2017. This Cabinet decision was notified vide Gazette Notification No. S.O 77(E) dated 05.01.2018 and the Government of India (Allocation of Business) Rules, 1961 was amended vide Gazette Notification No, S.O 3871 (E) dated 08.12.2017.

4. As per the Cabinet decision the line Ministry of the respective government buyer who made purchases using DGS&D rate contract is responsible for any remaining arbitration or court cases related to those purchases. However, as a temporary measure the Department of Commerce (Supply Division) under the Ministry of Commerce and Industries handled these remaining matters until they were transferred to the relevant line Ministries. Several requests from government buyers were received for the appointment of a new Sole Arbitrator in these arbitration cases. As the post of DG(S&D) was no longer in existence, an administrative decision was made on 19-02-2018, to delegate his authority to appoint an Arbitrator to the Secretary (Commerce). Such appointments were to be made in consultation with the Ministry of Law & Justice and after obtaining the consent of the parties involved in the individual contracts/supply orders. The aforesaid arrangement made for appointment of Arbitrator was a stop gap measure taken to avoid delays and to protect the interest of Union of India.

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5. The appointment/change of the Arbitrator also happens to be a residual matter of DGS&D for the line Ministry of the Govt. Buyer is the successor. The procedure of appointment of Arbitrator has been reviewed and it has been decided with the approval of Secretary (Commerce) that **henceforth this Ministry shall have no role in the appointment of Arbitrator in these residual matters of erstwhile DGS&D, which shall be made by the concerned government buyer in consultation with Ministry of Law & Justice and with the approval of Secretary of their line Ministry, after ensuring the consent of the parties of the contract/supply order for such appointment.** The aforesaid procedure shall be applicable for all these residual and also for new matters (if any) arisen after closure of DGS&D.



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To,

All Ministry(ies)/Departments of Government of India (As per standard list).

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