



उत्तर प्रदेश पावर कारपोरेशन लिमिटेड

(उत्तर प्रदेश सरकार का उपक्रम)

U P POWER CORPORATION LTD.

(Govt. of Uttar Pradesh Undertaking)

CIN:U32201UP1999SGC024928

No:-1957-Works-14/PCL/2024-15-K-2024

Date:22 October, 2024

Office Order

Government of India Vide its O.M. No & F-1/2/2024-PPD Date June 3rd, 2024 has issued guidelines regarding Arbitration and Mediation in contracts of Domestic Public Procurement. Which are applicable to Central Government Ministries / Department, attached / subordinate offices and autonomous bodies, Central Public Sector Enterprises including Banks & Financial Institutions etc, inspired by the principle enumerated therein, an office order no: 1542-Work-14/PCL/2024-15-k-2024 Date August 9th, 2024 was issued by UPPCL for compliance with UPPCL and all its subsidiary companies. As a revision was required in the said OM, in supersession of the same, revised guidelines are being issued as follows :-

1. This order will not be applicable to the disputes, the subject matter of which falls under the jurisdiction of UPERC, CERC, Appellate Tribunal for Electricity or any other regulatory commission under the Electricity Act, 2003.
2. **The provisions of dispute resolution through arbitration under Arbitration and Conciliation Act, 1996 Shall be deleted from all contracts and purchase orders, as well as request for proposal (RFP) and work orders to be issued, whether for capital works or for O&M works, including those for deposit works, effective from the date of issue of this order in this regard.**
3. The dispute resolution will be according to the following two categories:
 - a. Disputes with value less than and up to Rs.10 crore.
 - b. Disputes with value greater than Rs.10 crore.
4. **Disputes with value up to Rs.10 crores will be dealt in the following manner:-**
 - a) The contractor or vendor will refer the matter to the Managing Director, UPPCL, except in cases where MD, UPPCL himself is the other party in dispute (in which case para 5 will be applicable), who will examine the dispute or grievance impartially and try to settle the same through the process of mutual discussion for an amicable resolution in a time bound manner. For this purpose, MD may seek necessary advice and inputs from domain experts, finance experts and legal experts, as required. The result of such resolution (s) shall be duly recorded in writing and shall be signed by the parties concerned as well as by MD, UPPCL.
 - b) In the event that the contractor(s) or vendor(s) is / are not satisfied by the proposed solution they may refer the matter to a Conciliation Committee of Independent Experts (CCIE) for resolution, negotiation or adjudication.
 - c) In order to deal with such disputes, one or more CCIEs may be set up by UPPCL comprising the following members:
 - i. Former/ retired officer of the rank of Principal Secretary to the Government of UP or above.
 - ii. Sector expert, either retired or serving, having substantial domain knowledge of project development, execution and O&M of distribution systems not below the rank of Chief Engineer L1 of UPPCL.

- iii. Expert in finance and taxation, commercial or mercantile law, as applicable, with experience in a senior position in the sector/financial institutions, not below the rank of Chief General Manager/General Manager of UPPCL.
 - d) In exceptional cases of disputes (even with value less than Rs.10Cr), where the decision may result in a policy change or a much wider impact than just being limited to the dispute in hand, MD, UPPCL shall refer the same to Chairman, UPPCL for resolution. The Chairman may adjudicate / resolve the dispute himself or refer the same to the High-Level Committee (HLC) as mentioned here in after.
5. **Disputes with value greater than Rs 10 crore will be dealt in the following manner:-**
- a) The contractor or vender will refer the matter to the Chairman, UPPCL who will examine the dispute or grievance impartially and try to settle the same through the process of mutual discussion for an amicable resolution in a time bound manner. For this purpose, Chairman may seek necessary advice and inputs from domain experts, finance experts and legal experts, as required. The result of such resolution (s) shall be duly recorded in writing and shall be signed by the parties concerned as well as by the Chairman, UPPCL.
 - b) Chairman may seek advice of a retired judge from the Hon. High Court / Hon. Supreme Court, if so required, at his discretion.
 - c) In the event that the contractor(s) or vendor(s) is/are not satisfied by the proposed solution, they may refer the matter to a High-Level Committee (HLC).
 - d) In order to deal with such disputes, one or more HLCs may be set up by UPPCL comprising the following members :
 - i) Former/ retired officer of the rank of Additional Chief Secretary to the Government of UP or above.
 - ii) Sector expert, either retired or serving, having substantial domain knowledge of project development, execution and O&M of distribution systems not below the rank of Director of UPPCL.
 - iii) Expert in finance and taxation, commercial or mercantile law, as applicable, with experience in a senior position in the sector/financial institutions, not below the rank of Director of UPPCL.
 - e) In exceptional cases, the Chairman, UPPCL, may provide that the HLC will be headed by a retired judge of Hon. High Court / Hon. Supreme Court with the other three members as mentioned in para 5(d) above.
6. In case, the parties opt for mediation, then the dispute shall be settled as per the provisions of the Mediation Act, 2023, in which case the procedure, as under, may be followed:
- a) The parties may negotiate the matter and place a tentative solution before the MD or Chairman UPPCL or CCIE or HLC (as the case may be), or
 - b) The parties may conduct the mediation through a mediator and then place the mediated agreement before the MD or Chairman UPPCL or CCIE or HLC (as the case may be), or
 - c) The parties may use the CCIE or the HLC, as the case may be, itself as a mediator.
7. Notwithstanding the above, in case(s) so necessitated, Chairman is authorized to exempt the application of this order and to include the Arbitration clause in a contract, subject to his prior approval in writing.
8. This order will be applicable with immediate effect and will be applied to all such contracts, work order or agreements which are not yet signed, even if LoA/Lol etc have been issued. In case of any deviation, the matter will be referred to UPPCL Headquarters for decision.

9. Further, this order shall also be applicable to any disputes that may be existing as on date of this order or may arise in respect of the already awarded contracts, work orders of agreements, subject to the consent of the parties involved therein. In case of disputes pending before the Arbitration Tribunals or Courts, the option of resolution as per the above process would also be open. In that case, the parties would need to withdraw from the arbitration proceedings and undertaking to forego their rights to proceed for further arbitration in the matter under dispute. However, other legal remedies would be open to the parties in the event of the resolution proceedings not being successful.


Board of Directors

No.-1957-works-14/UPPCL/2024-15-K-2024 Dated: October, 2024

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

1. Chairman, U.P. Power Corporation Ltd., Shakti Bhawan, Lucknow.
2. Managing Director, U.P. Power Corporation Ltd., Shakti Bhawan, Lucknow.
3. Managing Director, PuVVNL, Varanasi / MVVNL, Lucknow / DVVNL, Agra / PVVNL, Meerut & Kesco Kanpur.
4. Director (PM & A / C.P. / Fin. / Dist. / IT / Comm.), U.P. Power Corporation Ltd.
5. Director (P&M / Fin. / Tech. / Comm.), PuVVNL, Varanasi / MVVNL, Lucknow / DVVNL, Agra / PVVNL, Meerut & Kesco Kanpur.
6. All Chief Engineers, U.P. Power Corporation Ltd.
7. All Chief Engineers, PuVVNL, Varanasi / MVVNL, Lucknow / DVVNL, Agra / PVVNL, Meerut & Kesco Kanpur.
8. All Superintending Engineers/Executive Engineers, PuVVNL, Varanasi / MVVNL, Lucknow / DVVNL, Agra / PVVNL, Meerut & Kesco Kanpur.
9. All Deputy General Managers/ Deputy Chief Account Officers, UPPCL / PuVVNL, Varanasi / MVVNL, Lucknow / DVVNL, Agra / PVVNL, Meerut & Kesco Kanpur.
10. Executive Engineer (Web), Room no. 407, Shakti Bhawan, Lucknow for uploading on UPPCL website www.uppcl.org .

By Order,


(Gaurav Kumar)
Joint Secretary
(MPIT & Works)

22/7/24