

No. 32/20/2023/W-I/DG/229
Government of India
Directorate General
Central Public Works Department
Email: dir_pwa@nic.in; Ph.: 23062218

Nirman Bhawan, New Delhi
Dated: 27, December, 2023

OFFICE MEMORANDUM

Sub: Vivad se Vishwas I- Relief to MSMEs.

Ref.: M/o Finance OM No. F.17/13/2023-PPD dated 12.10.2023.

Attention is invited towards Writ Petition (Civil) No. 10106 of 2023 filed by HSK Infra Pvt. Ltd. (HIPL) in the High Court of Delhi against Union of India & Others wherein, the petitioner is aggrieved by the decision of CPWD in which the claim of the petitioner under the Vivad se Vishwas I- scheme, was rejected on the grounds of arbitration proceedings pendency before the Arbitral Tribunal. CPWD further mentioned that the claim was rejected stating that the scheme is not applicable to works contract.

In this connection, reference is invited towards this Department OM No. F.1/1/2023-PPD dated 22.06.2023 (copy enclosed) vide which it was already clarified that all cases including works contracts, which are otherwise eligible for relief under the scheme are eligible for relief under the scheme, even if a dispute with regard to the relevant contract is pending before a Court or Arbitral Tribunal. The Court/Arbitral Tribunal shall be kept informed about the action taken by the Government. It was also requested to review rejection of claims, as rejection of the claim was prima-facie not correct.

With reference to M/o Finance OM No. F.1/1/2023-PPD dated 25.05.2023 and dated 22.06.2023, now, DoE, M/o Finance has requested vide their OM No. F.17/13/2023-PPD dated 12.10.2023 (copy enclosed) to review rejection of claims of HSK Infra Pvt. Ltd. (HIPL), and extend the benefits due to the company under the said scheme, if admissible and defend the above on the grounds of arbitration proceedings pendency before the Arbitral Tribunal in respect of Writ Petition (Civil) No. 10106 of 2023.

In view of the above, it is once again requested to review of claim of HIPL and extend the benefits due to the company under the said scheme, if admissible and defend the above said Writ Petition (Civil) No. 10106 of 2023 keeping the interests of Union of India in line with the clarifications given above.

This issues with the approval of competent authority.

Encl: As above.


(DIVAKAR AGRAWAL)
DIRECTOR (P&WA)

Copy to:

(Through CPWD website)

All concerned SDG's/ADG's are requested to take necessary action in this matter.

No.F. 1/1/2023-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

264-C, North Block, New Delhi.
22.06.2023

OFFICE MEMORANDUM

Subject: Vivad se Vishwas I - Relief to MSMEs.

Attention is invited towards this Department's OM No. 1/1/2023-PPD dated 25.05.2023 (copy enclosed) vide which this department has requested to monitor the Vivad se Vishwas scheme closely so the purpose of the scheme i.e. providing the reliefs to MSMEs can be achieved

2 The Scheme was announced by the Government in order to provide relief to MSMEs due to the problems being faced by them during the Covid period. The mandate of the scheme is to give reliefs to MSMEs on account of forfeiture of Bid Security/ Earnest Money Deposit, forfeiture of Performance Security, imposition of Liquidated Damages (LD) and the damages levied under Risk purchase. The scheme is applicable for all contracts which are otherwise eligible as per eligibility criteria provided in para 2 of this Department's OM No. F.1/1/2023-PPD dated 11.04.2023 and 02.06.2023 (copies enclosed).

3 It is clarified, however, that cases otherwise eligible for relief under the scheme shall remain eligible for relief under the scheme, even if a dispute with regard to the relevant contract is pending before a Court or Arbitral Tribunal. The Court/ Arbitral Tribunal shall be kept informed and claim amount shall also be suitably reduced, duly protecting the interest of the Government.

4. In this context, a representation dated 19.06.2023 of M/s Hsk Infra Pvt Ltd (HIPL) regarding claims of HIPL under Vivad se Vishwas I scheme is forwarded herewith for taking necessary action in this regard.

Encls: as above.

Kanwalpreet

Director (Procurement Policy)

Tel.: 23093811; Email: kanwal.irss@gov.in

To
Shri Manoj Joshi,
Secretary,
Ministry of Housing and Urban Affairs,
Room No. 122-C, Nirman Bhawan,
New Delhi-110001,
Tel: 23062377
Email: secyurban@nic.in

67.7.2023

SG-CPWD

No.F.1/1/2023-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

513, Lok Nayak Bhavan,
Khan Market, New Delhi,
25.05.2023

OFFICE MEMORANDUM

Subject: Budget Announcement: Vivad se Vishwas I: Relief for MSMEs.

The undersigned is directed to refer this Department OM No. F.1/1/2023-PPD dated 11.04.2023 regarding Vivad Se Vishwas I - Relief for MSMEs (copy enclosed). It may be recalled that the Scheme was formulated in pursuance of Budget 2023 announcement.

2. From the dashboard provided by Government e-Marketplace (GeM), as on 25.05.2023, it is noticed that a total of 7188 claims have been submitted by MSMEs. However, so far payment has been made only in two cases, 21 cases has been approved, but payment is yet to be made and 194 cases have been rejected by procuring entities. Balance cases are pending with procuring entities for the decision by them.

3. The Scheme was announced by the Government in order to provide relief to MSMEs due to the problems being faced by them during the Covid period. The rate of settlement of claims, by the procuring entities, is not encouraging.

4. In view of above, it is requested to monitor the scheme closely so the purpose of the scheme i.e. providing the reliefs to MSMEs can be achieved. In case access to dashboard is not available, GeM may kindly be approached for the same.

Usha Rani
25/05/2023

Under Secretary(Procurement Policy)
Tel.24621304
email: usha.rani64@gov.in

To

Secretaries of All Ministries/ Departments of Government of India for necessary action.

Copy to : Shri Prashant Kumar Singh, Chief Executive Officer, Government e-Marketplace (GeM), Department of Commerce, Ministry of Commerce & Industry, 2nd Floor Jeevan Bharati Building, Janpath, New Delhi, e-mail: ceo-gei@gov.in to provide access of dashboard to MoMSME, if not already provided.

Email

Manoj Joshi

Review of Implementation of Budget announcements by Cabinet Secretary

From : T.V. Somanathan <secyexp@nic.in>

Fri, May 26, 2023 06:31 PM

Subject : Review of Implementation of Budget announcements by Cabinet Secretary

2 attachments

To : ChairmanRailwayBoard RailwayBoard <crb@rb.railnet.gov.in>, Secy PNG <sec.png@nic.in>, Shri Kamran Rizvi <shioff@nic.in>, Manoj Joshi <secyurban@nic.in>, Shri Alok Kumar <secy-power@nic.in>, Mr Rajesh Bhushan <secyhfw@nic.in>, Manoj Ahuja <secy-agri@gov.in>, K. Sanjay Murthy <secy.dhe@nic.in>, Shailesh Kumar Singh <secyrd@nic.in>, Shri Pankaj Kumar <secy-mowr@nic.in>, Bidyut Behari Swain <secretary-msme@nic.in>, SECRETARY MORTH <secy-road@nic.in>

Dear Secretary/Chairman,

As you are aware, the Cabinet Secretary is going to review the implementation of Budget announcements on Tuesday, 30th May, 2023. During this meeting, the status of implementation of the Vivad se Vishwas I – Relief to MSMEs Scheme, will also be reviewed.

A copy of my O.M. as well as details of present status Ministry-wise are attached to this e-Mail.

Dr. T.V. Somanathan
Finance Secretary & Secretary (Expenditure)
26.05.2023

O/o Finance Secretary,
Government of India,
Department of Expenditure,
Ministry of Finance,
Room No.129-A, 1st Floor, Gate No.2, North Block, New Delhi - 110 001.
Tel: 91-11-2309 2929 / 2663 Fax: 91-11-23092546; http://finmin.nic.in



ONE EARTH - ONE FAMILY - ONE FUTURE

OM No 11 2023 PPD dated 25.05.2023.pdf
677 KB

VsV I.pptx
49 KB

No.F.1/1/2023-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

264-C, North Block, New Delhi.
02.06.2023.

Office Memorandum

Subject: Vivad Se Vishwas I - Relief for MSMEs.

Attention is invited to this Department OM of even number dated 11.04.2023 wherein instructions were issued for providing certain benefits to the Micro, Small and Medium Enterprises (MSMEs) under the above mentioned scheme. Many references have been received from MSMEs requesting extension of the benefits to include procurement of works in the scheme.

2. The matter has examined and it has been decided to make following amendments to this Department OM No. F.1/1/2023-PPD dated 11.04.2023:

Existing provision			Amended provision		
Para 2 (i)			Para 2 (i)		
SN	Parameter	Eligibility condition	SN	Parameter	Eligibility condition
i	Nature of procurement eligible for the relief	Procurement of Goods and Services	i	Nature of procurement eligible for the relief	All procurements.
Para 2 (iii)			Para 2 (iii)		
SN	Parameter	Eligibility condition	SN	Parameter	Eligibility condition
iii	Nature of the supplier/ contractor eligible for the scheme	Registered as a Medium, Small or Micro Enterprise (MSME) as per prevalent scheme of Ministry of MSME on the date of claim by supplier/ contractor. MSME may be registered for any category of Goods and Services.	iii	Nature of the supplier/ contractor eligible for the scheme	Registered as a Medium, Small or Micro Enterprise (MSME) as per prevalent scheme of Ministry of MSME on the date of claim by supplier/ contractor. MSME may be registered for any category.

3. The date for submission of claims has also been extended to 31.07.2023.

W
02/06/2023
(Kanwalpreet)
Director(PPD)

Tel.No. 2309 3811; email: kanwal.irss@gov.in

To

1. Secretaries of all Ministries/ Departments of Government of India for information and necessary action. They are also requested to inform these provisions to all procuring entities under their administrative control.
2. Secretary, Department of Public Enterprises with a request to reiterate these orders in respect to public enterprises.
3. Secretary, Department of Financial Services with a request to reiterate these orders in respect to public sector financial institutions.
4. Secretary, Ministry of MSME with a request to monitor the procuring entities for implementation of the scheme.
5. Chief Secretaries/ Administrators of Union Territories
6. CEO/ GeM.

No.F.1/1/2023-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

264-C, North Block, New Delhi.
11th April, 2023.

Office Memorandum

Subject: Vivad Se Vishwas I - Relief for MSMEs: Revised order.

Government has been getting many references from Micro, Small and Medium Enterprises (MSMEs) regarding difficulties being faced by them in the last two years due to COVID 19 pandemic. The Government had provided certain benefits to the industry (including MSMEs) in Government contracts in the past. In continuation to the efforts of the Government in this regard, this Department had issued an OM of even number dated 06.02.2023. Many references have been received by this Department seeking clarifications on implementation of the scheme circulated on 06.02.2023. In this context, it has been decided to issue following instructions in supersession of this Department's OM of even number dated 06.02.2023 and 10.04.2023.

2. The following parameters will determine eligibility for benefits under this scheme:

SN	Parameter	Eligibility condition
i	Nature of procurement eligible for the relief	Procurement of Goods and Services
ii	Central government procurement entities to whom this scheme applies	Ministry/ Department/ attached or subordinate office/ autonomous body/ Central Public Sector Enterprise (CPSE)/ Central Public Sector Banks/ Financial Institution etc.
iii	Nature of the supplier/ contractor eligible for the scheme	Registered as a Medium, Small or Micro Enterprise (MSME) as per prevalent scheme of Ministry of MSME on the date of claim by supplier/ contractor. MSME may be registered for any category of Goods and Services.
iv	Eligible contracts in case of forfeiture of performance security or imposition of Liquidated Damages (LD) or the damages levied under "Risk Purchase" (RP) or debarment action	Where original delivery period/ completion period stipulated in contract was between 19.02.2020 and 31.03.2022 (both dates are inclusive). In case of risk purchase, the original delivery period of the main contract (and not the risk purchase contract) should be between 19.02.2020 and 31.03.2022.

v	Eligible tenders in case of forfeiture of Bid security (Earnest Money Deposit) or debarment action	Tenders, where date of closing of the tender was between 19.02.2020 and 31.03.2022 (both dates are inclusive).
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3. The following amount shall be refunded by the procuring entities as a relief under this scheme after determining eligibility as per para 2 as above:

SN	Cause of action	Amount/ extent of relief
i	Performance security forfeited by the procuring entities for failure to execute contracts by the contractors.	95% of the performance security forfeited by the procuring entity.
ii	Imposition of Liquidated damages (damages deducted for late deliveries) or the damages levied under the risk purchase.	95% of the Liquidated Damages (LD) deducted or 95% of the risk purchase amount realized by the procuring entities from the MSME.
iii	Bid security (Earnest Money Deposit) forfeited	95% of the Bid security (Earnest Money Deposit) forfeited.
iv	Debarment of the contractor due to default in execution of eligible contracts/ eligible tenders under the scheme	Revocation of debarment by issue of an appropriate order by the procuring entity. The date of revocation shall be the date of such order. However, in case a firm has been ignored for placement of any contract due to debarment in the interim period (i.e. date of debarment and the date of revocation under this order), no claim shall be entertained.

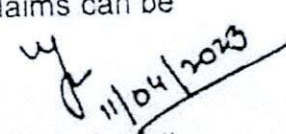
Notes:

- i. No interest shall be paid on such refund/ relief amount in any case.
- ii. *Deleted.*
- iii. In case liquidated damages and/ or performance security and/ or damages under risk purchase have been deducted in the same contract, total relief will be 95% of LD forfeited plus 95% of the performance security forfeited plus 95% of the damages under risk purchase realized.
- iv. For cases where recoveries/ forfeiture for liquidated damages and/ or performance security and/ or damages under risk purchase have not materialized/ completed, the cases shall be dealt on the principles of this circular under para 3 as above.

4. Government e-Marketplace (GeM) has provided a dedicated link on their portal for implementation of this scheme. The link/ portal has the functionality for MSME Vendors to register their claims through its authorized personnel. For non- GeM

contracts of Ministry of Railways. MSME vendors will be required to register on IRePS (www.ireps.gov.in). The information regarding contracts for which claim is to be lodged on IRePS will be provided on GeM as well as IRePS. The broad features of this portal are as under:

- i. The registered contractor shall list out the eligible contracts on the portal. The list of the procuring entities is available through drop down menu on the portal. The details, such as contract number, contracting authority, Deducted/ forfeited amount, etc. will be submitted by the contractor on the portal.
 - ii. GeM portal shall intimate through dashboard such details to the procuring entities to verify and refund the claim in terms of the eligibility etc. mentioned above and shall update the portal with the amount, date and transaction details of the payment. Procuring entities must approve/ reject the claim within 30 days of claim submitted by the contractor on the portal. Further, once claim is accepted, payment must be made and details are entered on the portal by the procuring entities within 30 days of the acceptance of the claim.
 - iii. Pendency Reports to each procuring entity shall be provided by GeM.
5. The date of commencement of the scheme will be 17.04.2023 and claims can be submitted by 30.06.2023.


(Kanwalpreet)
Director(PPD)

Tel.No. 2309 3811; email: kanwal.irss@gov.in

To

1. Secretaries of all Ministries/ Departments of Government of India for information and necessary action. They are also requested to inform these provisions to all procuring entities under their administrative control.
2. Secretary, Department of Public Enterprises with a request to reiterate these orders in respect to public enterprises.
3. Secretary, Department of Financial Services with a request to reiterate these orders in respect to public sector financial institutions.
4. Secretary, Ministry of MSME with a request to monitor the procuring entities for implementation of the scheme.
5. Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi.
6. CEO/ GeM.

Copy to: Chief Secretaries of all State Governments, for kind information, and with a request to consider formulation of similar schemes in their States.

From: "Deepak Agarwal" <deepakagarwal.edu@nic.in>
To: "Jaideep Chowdhury" <jaideep.roy@gov.in>
Sent: Monday, July 3, 2023 12:23:23 PM
Subject: Fwd: vivad se vishwas scheme 1 - relief for msme

From: "Manoj Joshi" <secyurban@nic.in>
To: "Deepak Agarwal" <deepakagarwal.edu@nic.in>
Sent: Friday, June 30, 2023 4:23:35 PM
Subject: Fwd: vivad se vishwas scheme 1 - relief for msme

O/o Secretary (H&UA)
M/o Housing and Urban Affairs,
Nirman Bhawan,
New Delhi - 110 011

Tel: 011-23062377, 23061179
Fax: 011-23061459

From: info@hskinfra.com
To: "Manoj Joshi" <secyurban@nic.in>
Sent: Friday, June 30, 2023 3:53:20 PM
Subject: Fwd: vivad se vishwas scheme 1 - relief for msme

Sent from my iPhone

Begin forwarded message:

From: Harn Anand <info@hskinfra.com>
Date: 30 June 2023 at 12:12:08 IST
To: secyurban@nic.in
Subject: vivad se vishwas scheme 1 - relief for msme

Respected sir,

We had applied for the vivad se vishwas scheme 1 -relief for msme on 21st april on the GEM portal as we were eligible for the scheme.

We had registered 2 claims as per the relief given as per the OM dtd 11.04.2023 of the ministry of finance.

Our claim no 1 of refund of performance guarantee with claim ID:

CL-66891682066096823 amounting to Rs. 1,90,00,000/-

Our claim No2 of refund of forfeited amount of LD with claim ID:

CL-7704168206936824 amounting to Rs. 2,96,18,385/-

Now as per the above said OM, the procurement authority that is in our case CPWD had to respond to the claims within 30 days but we got no response from CPWD.

When we contacted the GEM helpdesk regarding the same they advised us to contact the HOD/controlling ministry.

Then we had written an EMAIL to the DG, CPWD, the HOD of CPWD on 22.05.23, but we did not receive any response from them.

Then we registered a grievance on the CPGRAMS portal regarding the same on 26.05.2023 and then CPWD rejected our claims on 31.05.2023. The PG no of our grievance is DOURD/E/2023/0007167.

The grounds for rejections of the claims are as under :-

Claim No 1:-

Reason for claim rejection :- "Others- M/s Hsk infra Pvt limited had invoked the arbitration in Nov. 2022."

Claim Rejection Comment :- "The agreement 34/EE/BCD1/2019-20 was determined under clause 3.

M/s Hsk Infra Pvt. Ltd. itself had invoked arbitration in Nov. 2022. The statement of claim and statement of defence have already been submitted to the arbitral tribunal. M/s Hsk Infra pvt. ltd. vide his email dtd 15.05.2023 had sought 4 week time from the tribunal to file the rejoinder."

Claim No 2:-

Reason for claim rejection :- "Others- Already moved the application under section 17 before the arbitral tribunal in Nov. 2022."

Claim Rejection Comment :- "This Claim of LD is rejected, M/s Hsk Infra Pvt. Ltd. had already moved the application under section 17 before the arbitral tribunal in nov. 2022. The tribunal had made the final hearing and the decision is pending. Date of next hearing yet to be fixed by tribunal."

Then we had again written an Email on 31.05.2023 to the DG, CPWD, ADG Bhopal CPWD, SE and EE Bhopal CPWD where the work got executed, that as per the above said scheme there is no mention that the contracts which are under arbitration/litigation will not be eligible for the scheme and that their grounds for rejection were discriminatory and illegal and it was against the office memorandum Dated 11.04.2023 issued by ministry of finance and was also against the Budget announced by the Honourable Finance Minister of Govt of India.

We had once again written an E-mail to the DG cpwd, Adg Bhopal, Se bhopal and EE bhopal on 21st june 2023 where we even undertook that when our payment against the said claims are released to us, we will withdraw the concerned claims from our statement of claims. We had once again written an E-mail to the EE where our Grievance was registered wherein we once again undertook that we would withdraw the concerned claims from our statement of claims once the payment against the same is released to us.

In the ATR filed by the EE cpwd, the concerned officer dealing with the above said PG DOURD/E/2023/0007167 the contention of rejection of the claims changed that works contract are not in the scope of vivad se vishwas scheme. We once again sent a mail to the concerned officer on 24.06.2023 and a reminder on 26.06.23 on PG portal citing the O.M dtd 02.06.2023 of the ministry of finance wherein they have amended their own O.M dtd 11.04.2023 and clarified that this scheme is applicable for all contracts. Our said grievance was also closed by CPWD on 27.06.2023 without making us the payment. We have filed an appeal on the PG portal against the same on 27.06.2023. The appeal no is DOURD/E/A/23/0001361 for which we have not received any response till date.

Now this scheme was announced by the honourable finance minister of the Govt of India in the Amrit kal budget in the budget session of the parliament 2023-24.

Till date we have not received any relief as per the said scheme announced in the budget session of the parliament.

It is therefore humbly requested by your goodself to kindly intervene and please give us an opportunity for personal hearing if possible.

Thanking you

With regards,

For M/s Hsk Infra Pvt Ltd

Harn Pal Singh Anand

Director

9811603333



HSK Infra Pvt. Ltd.

Website: WWW.HSKINFRA.COM

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No.F.17/13/2023-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

515, LokNayak Bhawan, New Delhi
12.10.2023

OFFICE MEMORANDUM

Subject: Writ Petition (Civil) No. 10106 of 2023 filed by HSK Infra Pvt. Ltd. in the High Court of Delhi at New Delhi against Union of India & Others.

Attention is invited towards Writ Petition (Civil) No. 10106 of 2023 filed by HSK Infra Pvt. Ltd. (HIPL) in the High Court of Delhi at New Delhi against Union of India & Others wherein, the petitioner is aggrieved by the decision of Central Public Works Department (CPWD) in which the claim, under the Vivad se Vishwas I- Relief to MSMEs scheme, of the petitioner was rejected on the grounds of arbitration proceedings pendency before the Arbitral Tribunal. CPWD further mentioned that the claim by stating that the scheme is not applicable to works contract.

2. In this connection, Reference is invited towards this Department OM No. F.1/1/2023-PPD dated 22.06.2023 (copy enclosed) vide which it was already clarified that all cases including works contracts, which are otherwise eligible for relief under the scheme are eligible for relief under the scheme, even if a dispute with regard to the relevant contract is pending before a Court or Arbitral Tribunal. The Court/ Arbitral Tribunal shall be kept informed about the action taken by the Government. MoUHA (CPWD) was also requested to review rejection of claims, as rejection of the claim was prima-facie not correct.

3. In view of all above, it is once again requested to review the claim of HIPL, extend the benefits due to the company under the said scheme and defend the above said Writ Petition (Civil) No. 10106 of 2023 in terms of Cabinet Secretariat DO letter dated 16.06.2016 (copy enclosed) keeping the interests of Union of India in line with the clarifications given in above paras.



(Sher Bahadur)
Under Secretary (Procurement Policy)
Tel. No. 24621304
Email: sher.bahadur@nic.in

To:

- i. Ministry of Housing and Urban Affairs, {Kind Attention: Shri Manoj Joshi, Secretary} Room No.122C, Nirman Bhawan, New Delhi- 110011 email: secyurban@nic.in
- ii. CPWD, {Kind Attention: Shri Rajesh Kumar Kaushal, Director General}, 101-A, Nirman Bhawan, New Delhi – 110011 email- cpwd_dgw@nic.in