(1) பக்கங்களின் எண்ணிக்கை 46

(2) புதுக்கித் திருப்பிய நாள் Aug. 88

(3) ஆதாரங்குறிப்பவர் கருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

P.W.D துறை

அரசாணை எண். 3488-W. அச்சகம்
மு. கோப்புத் தாள் எண். பலவகை

நாள் : 3.11.1888 198 .

மடிக்கவோ கண்டபடி கையாளவோ கூடாது

எண. எஸ்-1—18,006—15-6-87.

3488/1

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

General.
Account.

Read—the following paper:—

From the Superintending Engineer,	I Circle,	dated	19th June	1888,	No.	185 G.L.
" " "	II "	"	4th Oct.	"	"	268 G.L.
" " "	III "	"	11th June	"	"	464.
" " "	IV "	"	26th May	"	"	197 E.W.
" " "	V "	"	7th June	"	"	980.
" " "	VI "	"	6th "	"	"	489 T.J.
" Consulting Architect to Government,		"	14th "	"	"	436.
" Examiner, Public Works Accounts,		"	31st Oct.	"	"	2510.

Note by the Chief Engineer, Public Works Department.

I consider that the question of requiring a deposit of cash as earnest money to accompany a tender for the execution of works is one which should be left to the discretion of the Superintending Engineer or Executive Engineer concerned, and that there should be no hard and fast rule on the subject.

2. The discretionary power referred to above is apparently vested in the officers of the department by para. 1360 of the Public Works Code, which lays down that "as a rule" earnest money should be deposited.

3. I therefore see no reason for modifying the Code para. referred to.

Order—dated 3rd November 1888, No. 3488 W., Public Works.

The Government concur in the opinion expressed by the Chief Engineer and consider that no alteration is required in para. 1360 of the Public Works Code.

(True Extract.)

Captain, R.E.,
Under-Secy. to Govt., P.W.D.

To Superintending Engineers.
To the Examiner, Public Works Accounts.
" Consulting Architect

Exd. S. J. Pereira.
Spare Copies

GENERAL.
ACCOUNT.

Govt. of {1888} Madras.

PUBLIC WORKS.

Dated November, 3rd.

Read. *Encl.*

G.O., 3rd Nov. 1888, No. 3488 W.

NOVEMBER.

Para. 1360 of the Public Works Code

Modification of —, considered unnecessary.

No. 185 G.C.

FROM,

G. T. Walch Esqre

THE SUPERINTENDING ENGINEER

FIRST CIRCLE.

TO,

THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT.

DOWLAISHWARAM, 19th June 1888

SIR,

In reference to your Memo No 1835 C. dated 9th May 1888, I have the honor to inform you that as para 1360 of the Code leaves to the discretion of the "Executive Engineer or other officer" the extent to which earnest money shall be demanded I see no necessity for the alteration of that para.

I have the honor to be,
Sir,
your most obedient Servt

G. T. Walch

Supt Engr 1st Circle

GW

3-10-88.

Superintending Engineer
1st Circle

EXAMINED 1650 1 ENCLOSURES P. W. ACCOUNTS.

FROM,

G. T. Walch Esqr

~~THE~~ SUPERINTENDING ENGINEER

FIRST CIRCLE.

TO,

THE CHIEF ENGINEER

PUBLIC WORKS DEPARTMENT.

DATED 19th
DESPTCHED 23rd June 1888.
RECEIVED

No. 1854 G.C.

ENCLOSURES.

SUBJECT.

Deposit of Earnest money.

Informs that para 1360 of the P. W. Code should remain unaltered -

Copy file
27.6.88

No 268 G.C.

Superintending Engineer's office
2nd Circle. Bezwada
4th October 1888

From

J. Hannam Esquire.
Superintending Engineer.
II Circle.

To

The Chief Engineer,
Public Works Department,
Madras.

Sir,

With reference to your Memo. No 1835 C of the 9th May 1888, requesting Superintending Engineers to report whether the Conditional deposit of earnest money by Contractors may in future be left to the discretion of the Executive Engineers, I have the honor to inform you that I am of opinion that Para 1360 of the P.W. Code should be modified, so as to allow Executive Engineers some discretion in the matter -

I have the honor to be
Sir
Your Most Obedt Servant
J Hannam
Superintending Engineer
II Circle

3.10.88.

From,

The Supty Engineer,

2nd Circle.

To, The Chief Engineer,

P. W. D.

Dated 4th October 1888.

No. 268 J.L.

Deposit of earnest money by Contractors - States that Executive Engineers may be allowed some discretion in the matter of —.

Superintending Engineer's Office,

No. 4,614 Camp Tumkur from 3rd Circle

Bellary 11 June 1888.

From, Col. AG Smalley RE

THE SUPERINTENDING ENGINEER,

IIIrd CIRCLE.

To,

THE Chief Engineer

P. W. Department

Madras

Sir,

With reference to your memorandum No 1835 C dated 9th May 1888, I have the honor to forward copy of letter No. 318 dated 31st May 1888 from Executive Engineer Mr. Johnston as having my Concurrence regarding the deposit of earnest money by contractors tendering for works.

Enclosures. 1 Copy of letter from Executive Engineer

I have the honor to be

Sir

Your most Obedient Servant

A Smalley Col RE

Superintending Engineer 3rd Circle

P.W.D. No. 5748

1850

From,

The Superintending Engineer,
IIIrd Circle.

To,

The Chief Engineer
P. W. D.
Madras

Dated 11 June 1888.
Received

Enclosures. 1

No. 464.

Earnest money
ley Contractors tende
for works.

Expression of opinion on
the subject of—

Complete

Supg: Engineer's Office 4th Circle
Camp Barsi 26th May 1888

No. 497
From

Colonel J. Beatty R.E.
Supg: Engineer 4th Circle

To

The Chief Engineer
Public Works Departme
Madras.

Sir

Adverting to your memorandum
No: 1835C of 9th instant I have the
honor to report that in my opinion
the question of demanding earnest money
or not from Contractors may safely be
left to the discretion of the Executive
Engineers and that para 1360 of the Public
Works Code may be modified to that
effect.

I have the honor to be
Sir
Your Most Obedient Servt

J. Beatty Col: R.E.
Supg: Engineer 4th Circle

P.W.S: 5827

From

The Supg Engineer
Fourth circle

SECRETARIAT
1650
11 OCT 88
MADRAS

Dated 26th May 1888

Rd 30.5.88

No. 197
Cir.

Earnest Money:—

Requesting that the question of demanding — or not from contractors may safely be left to the discretion of Executive Engineers and that para 1360 of the Code may be modified to that effect.

Cir 30.5.88

Dup

SUPERINTENDING ENGINEER'S OFFICE,
V CIRCLE, MADRAS,

No. 980.

Bangalore Cheapak, 9th June 1888.

248/348

From

Colonel H. M. Vibart R.E
SUPERINTENDING ENGINEER,
V CIRCLE,

To

THE Chief Engineer
Public Works Department

SIR,

Enclosures

With reference to your circular No 1835 C dated 9th May 1888 I have the honor to state that I am of opinion that the deposit of earnest money with tenders should not in all cases be insisted upon and that Executive Engineers should be allowed some discretion in the matter and code para 1360 be modified accordingly.

I have the honor to be,
SIR,
Your Most Obedt Servant

H M Vibart
Col R.E
Supg: Engineer V Circle

P.W.C. No. 5444
11159/88

From

The Superintending Engineer,

V Circle,

ENGINEERS 11 1650 SUPERINTENDING

To

The Chief Engineer
P.W. Department.

Dated 7th
Recd. 9 June

Enclosures.

No. 900.

Deposit of earnest money.

State that Executive Engineers should be allowed some discretion in the matter of-

Contd

11/6/88

OFFICE OF THE SUPERINTENDING ENGINEER,
6TH CIRCLE.

Trichinopoly, 4th June 1889.
Copy 5th
348/9

No. 4893/J

From J. W. Rundall Esqr. M.I.C.E.

~~The~~ Superintending Engineer,

6th Circle.

To

The Chief Engineer
P. W. D.

Sir,

ENCLOSURES.

I have the honor with reference to your circular No. 1035 of the 9th ultimo, to state that having consulted the Executive Engineers in this circle, regarding the necessity of maintaining a rigid rule, that Earnest money must in every case be deposited when a contract is entered into, the consensus of opinion is in favor of its being left to the discretion of the Executive Engineer, especially in the case of small contracts.

2. My own opinion is that in most cases it is desirable to

take earnest money, but I think that Executive Engineers may, with advantage, be allowed discretionary power in the matter.

I have the honor to be
Sir
Your most obedient servant.

S. W. Rundall
Capt. Engineer
Seisle

Cw

3488/10

P. W. D. 6TH CIRCLE.

From

The Superintending Engineer,

6th Circle.

To

The Chief Engineer
P. W. D
Madras

No. 4893 J

Dated 4th Sept. 1888
Received June 188

Enclosure. None.

Deposit Earnest money

Giving opinion that in most cases it is desirable to take ——

Complete work
7.6.88

No. 1. P. W. D.

Office of the Consulting Architect to Govt.,
Chepak, Madras,
14th June 1888.

No. 436

From

J. W. Brassington, Esq.,
Consulting Architect
to the Government of Madras,

To

The Chief Engineer
Public Works Department.

Sir,

Enclosures.

With reference to your Memo: No 1835C dated 9th May 1888, I have the honor to state that I consider that it should be left to the discretion of the Executive Engineer up to his power of sanction.

I have the honor to be
Sir
your most obedient Servant

J W Brassington
Consulting Architect
to Government.

ENCLOSURE
11 OCT 88

3488
12

PWC No: 5677
C. W. D

ENCLOSURE
11 OCT 88

From 1650

The Consulting Architect
to the Government of
Madras

To

The Chief Engineer
P. W. D.

No 436.

Dated 15th June 1888

Encls.

Subject.

Giving opinion as regards
the system of calling tenders
with earnest money.

Compile
Accts
15.6.88

No. 3797 C.

Government of Madras.

3748/13

PUBLIC WORKS DEPARTMENT,

Madras ~~Ootacamund~~, 9th October 1888.

OFFICE NOTE.

From

W

To

C

From S.E. I, No 185 dt. 2.7.19.C.88
- - II - 263 dt. 4.10.88
- - III - 464 dt. 11.6.88.
- - IV - 197 dt. 26.5.88
- - V - 980 dt. 7.C.88
- - VI - 489 dt. 24.6.88.
- C.A. - 436 dt. 14.6.88.

For favour of remarks.

Accts
8.10.88

SECRETARIAT TO GOVERNMENT
1 NOV. 88
P.W. DEPARTMENT, MADRAS.

To W. No. 2510 dt. 31.10.88
Encl

I think the question depends very much upon the purpose for which earnest money is required.

SAW

EXAMINED
11 OCT 1933
P.W. ACCOUNTS

when it is required. As I understand the matter earnest money is an instalment of security for the due performance of the contract implied in a tender, and it is required in order to provide against the contingency of a tenderer attempting to repudiate his tender after he has become acquainted with the terms tendered by his competitors, and before he has deposited more substantial security. In the absence of such security as is afforded by a deposit of earnest money, it is always open to a tenderer to back out of his tender and to say that, on further consideration, he does not see his way to taking the contract, except on such more favourable terms as may have been suggested to him by the information acquired from the tenders of his competitors; and in such case Government could only acquiesce, or call for fresh tenders. It would hardly be worth while to sue the

3 Sec 14

contractor either for damages or for his specific performance of the contract. It seems to follow that, if this view is correct, the amount of earnest money, when required, should be regulated according to the probable limits of divergence of different tenders.

2. Supposing Government to be of opinion that, for the purpose indicated above, earnest money should as a rule be demanded, I find a difficulty in seeing in what class or classes of cases there can be any advantage in dispensing with earnest money. The reasons given as far as I can make out are

(a) that the delays involved in calling for tenders are inadmissible in the case of urgent or emergent works, and

(b) that in certain localities the demand for a trifling sum as earnest money would choke off all contractors.

But as regards the first point Government has already expressed concurrence in the opinion, originally expressed by the late Supg. Engineer 6th. Circle (Mr Rundall) that emergent

works should be carried out departmentally, not being suitable subjects for contract; and as regards the second point it seems to me — and Government has I think, already concurred in this opinion also — that penniless adventurers who are not prepared to deposit a trifle in the shape of earnest money can hardly be suitable persons to enter into contracts with, at all.

3. If Government consider that earnest money is not really necessary, it would, I think, be best to say so plainly. But if Government considers that it should be required as a rule, it may, I think, be desirable to indicate the purpose for which it is considered necessary, and the considerations by which its amount should be regulated; and if it is thought desirable to leave the Executive Engineer's discretion as to requiring it, or not requiring it, if the limits within which such discretion may be exercised cannot clearly be more or less defined, it should, I think, at least be made clear that the discretion is not intended to extend to absolutely ignoring the rule laid down, and the opinion of

Government of which the rule is the expression. If Government say that a thing shall as a rule be done, it can hardly be right for any officer to say that within his jurisdiction he does not consider it necessary to do it at all; which is what happened in the case out of which the present question arose.

C.

Mech 11159

Ry 1/11/88

Eng

3488/V

Public Works Department

No1835 C dated 9th May 1888.

3488/16

M E M O R A N D U M.

"It is very difficult "to get contractors in "this division, and if "earnest money is insist-"ed upon, hardly any ten-"ders will be received. "So the system of calling "for tenders with earnest "money is not suitable to "this division. I think "this is a question that "should be left to the "decision of the Executive "Engineer"

With reference to the marginal extract from a report by the Executive Engineer South Arcot Division, Suptg. Engineers are requested to report whether, in their opinion, deposit of earnest money should in all cases be insisted upon, or whether para 1360 of the Public Works Code should be modified so as to allow Executive Engineers some discretion in the matter.

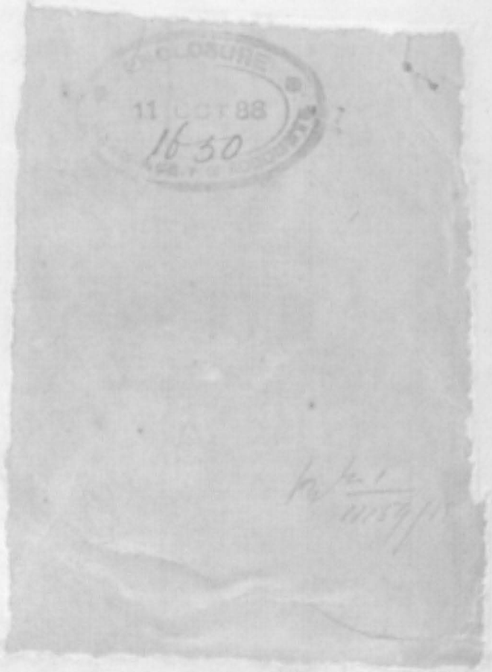
(By Order)

W C Baddeley Captain R. E.

Dy Chief Engineer P. W. D.

To

The Suptg. Engineers,
Consg. Archt. to Govt.
Examiner P. W. Accounts.



Encls: to PE 2nd letter no. 4614

Copy of letter No. 318 dated Madanapalle
31st May 1888 from John G. Johnston Esqre Executive
Engineer Cuddapah Division to the Superintending
Engineer 8th Circle

348/17

In reply to your endorsement No 293 dated
21st May 1888, on Chief Engineers Memo No. 1835 C dated
9th May 1888, I have the honor to report that I do
not consider that the deposit of earnest money
need in all cases be insist on.

2. When a work has to be urgently carried
out: the regular calling for tenders by advertise-
ments would delay it considerably. In that
case a few good Contractors are chosen and
told to send in tenders. They do so. but earnest
money is not insisted on. Earnest money is
necessary only in those cases in which tenders
are invited by advertisement; it is supposed to
be a check to keep those who are neither bonafide
Contractors nor are in 'earnest' from taking
up the time of this Department unnecessarily

3. Under these circumstances, I
think Executive Engineers should be allowed
discretion in the matter. All tenders advertised
for should be accompanied by earnest money

and tenders for important works are advertised for as a rule. In other cases I would allow the Executive Engineer to use his own discretion

1650
11 OCT 88

H Smalley

Superintending Engineer S Circle

11-10-88

E+
P/W 5-708
C1157

Memo

24/8/88

With reference to the marginal extract from a report by the Ex: Engineer South Coast Division, Supdg. Engineers are requested to report whether, in their opinion, deposit of earnest money should in all cases be insisted upon, or whether para 1360 of the P.W. Code should be modified so as to allow Ex: Engineers some discretion in the matter.

"It is very difficult to
"get contractors in this
"division, and if earnest
"money is insisted upon,
"hardly any tenders will be
"received. So the system of
"calling for tenders with
"earnest money is not
"suitable to this division.
"I think this is a question that
"should be left to the discretion
"of the Executive Engineer".

W
3.5.88

W Jobs
4/5/88

To Supdg Engrs
C.A. to Supt
Per Post d. 5

[C. No. 8.]

GOVT. OF MADRAS. } 1888. { P.W. DEPT.

EXAMINER, P. W. ACCOUNTS.

Madras, 16 AUGUST 1888.

OFFICE NOTE No. 2080

348/19

To

E.W.

WITH REFERENCE TO YOUR NO.1885/E C. DATED 15TH. AUGUST 1888, I BEG TO POINT OUT THAT THE REMINDER APPEARS TO BE A MISTAKE AS THE MEMORANDUM REFERRED TO OF WHICH A COPY WAS SENT TO ME APPARENTLY FOR INFORMATION ONLY ASKS SUPERINTENDING ENGINEERS TO REPORT.

C.

KEEP-WITH Genl. No.

dated 188 .

1,000—7-2-88.

No: 1835 C.t/9th May 1888

8/1675

8/1675 8/825 V 5/5 7-5-88

P.W.C. No. 814

R/17-8-88

No. 3797 C dt 9-X-88

No. 3797 C dt 9th October 1888

348/80

Office Note

From

W

To

C

From S.E. I No. 1859. E. dt 19-6-88

P.W.C. Nos. 6234, 10112, 5708 " - II - 2685. E dt 4-10-88

5027, 5444, 5326 & 5677 " - III - 464 dt 11-6-88

" - IV - 1978. W dt 26-5-88

" - V - 980 dt 7-6-88

" - VI - 4897 J. dt 4-6-88

" C.A. - 436 dt 14-6-88.

Replies to memo. No 1835 C dt 9-5-8 Regarding the system of calling tenders with earnest money.

For favour of remarks.

(Sd) W. L. C. B.

8-10-88

Dw

No. 1835 c 1/9 - 5 - 88

[illegible]

& 1350

C/

P.W.D.

Note by the Chief Engineer

348/81

I consider that the question of requiring a deposit of cash as earnest money to accompany a tender for the execution of works is one which should be left to the discretion of the Supty Engineer or Executive Engineer concerned - and that there should be no hard and fast rule on the subject.

2. The discretionary power referred to above is apparently vested in the officers of the department

by para 1360 of the P.W. Code which lays down that "as a rule" earnest money should be deposited.

3. I therefore see no reason for modifying the Code para referred to.

W.M.S. 2.11.88

E&S

G.D.R. 2/11/88

J.B. 2.xi.88.

Govt Copy

P.W.D. 3488 W

PUBLIC WORKS DEPARTMENT.

A/

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the 3rd Nov 88

READ the following

From the Supty Engineer I Circle No. No 185 Gl. dy June 19, 1888.
" " II " " " 268 Gl. dy Oct 4. "
" " III " " " 464 dy June 11, "
" " IV " " " 197 Ew. dy May 26, "
" " V " " " 980 dy June 7 "
" " VI " " " 489 Jg. dy " 6 "
" Consulting Architect to Govt " " 436 dy " 14 "
" Examiner P.W. Accts " " 2570 dy Oct 31. "
Note by the Chief Engineer P.W.D. dy Nov 2nd.

Dont print - Govt Copy

The Government concur in the opinion expressed by the Chief Engineer and consider that no alteration is required in para 1360 of the P.W. Code.

W.M.S. 2.11.88 G.D.R. 2/11/88

Supty Engineers.
Ex. P.W. Accts
Consulting Architect

T.K.M. 16/11

J.B. 5.11

11189.

Govt. of (1888) Madras.

PUBLIC WORKS.

Dated

Read

Encl.

G.O. 3rd Nov.r 1888. No. 3485 P.

Para 13 b of the
B.M. Code.

Modification of
Considered immediately

200
10

Secr 5/11. P.W.