

resolve the issue internally. The present internal mechanism in the CPSU / Statutory Body may be fully exercised to resolve the issue even before attempting conciliation by CCIE.

4.3 Once a conciliation request has been raised by the contractor, within 30 days the same shall be referred to the CCIE in the event of the matter remaining unresolved internally. The CMD/Board of the Developer may suitably decide an amount involved in the dispute below which it would not go into the exercise of conciliation after weighing the nature and quantum of disputes in the concerned organization.

4.4 The Developer will also be free to suggest the option of resolution of disputes by conciliation in case a dispute has arisen. The contractor may select any one of the three CCIEs after leaving out those CCIEs which are unavailable due to work load or any other reason. A CCIE will normally be considered unavailable if it is handling cases to such an extent that there would be avoidable delay in the event of more cases being taken up by the same CCIE.

4.5 The work of maintaining details of CCIE, its members, work load and allocation of a dispute to CCIE will be entrusted to CEA.

5. The possibility of non-availability of any one of the members of CCIE in any proceedings cannot be ruled out. As such, the Committee comprising the other two members shall be competent to proceed in the matter. The proceedings of the Committee shall not be vitiated if one of the three members of CCIE is not present in the deliberations of the Committee. When the parties sign the settlement agreement, at least two conciliators shall authenticate the same. Such conciliation proceedings shall be considered valid and the settlement agreement will be binding on the parties.

6. In case of any disagreement during execution of contracts, it is expected that the parties will take up the matter first with the Dispute Avoidance Mechanism (through Independent Engineer), wherever the option is available. In case of its failure, the parties may refer the matter further to the Conciliation Committee. The Conciliation process shall be conducted under Part III of the Arbitration and Conciliation Act, 1996. The Conciliation Committee would either be able to resolve and settle and dispute(s) between the parties, or the process may fail. In case of failure of the conciliation process at the level of the Conciliation Committee, the parties may withdraw from conciliation process and take recourse to the laid down legal process of Courts. However, the option of Arbitration would not be available once the conciliation mechanism has been exercised. In the event of the conciliation proceedings being successful, the parties to the dispute would sign the written settlement agreement and the conciliators would authenticate the same. Such settlement agreement would then be binding on the parties in terms of Section 73 of the Arbitration and Conciliation Act, 1996

7. After successful conclusion of proceedings, the Parties to the conciliation process, have to undertake and complete all necessary actions for implementation of the terms of settlement within a period of 30 days from execution of settlement agreement, unless a different timeline not exceeding 60 days is agreed upon in settlement agreement. All pending claims of parties, in connection with the dispute, before any other legal forum are to be withdrawn within the said 30 days in pursuance of the settlement agreement.

8. Once the conciliation process succeeds in reaching a settlement agreement, at the level of the Conciliation Committee, further legal proceedings by the CPSU/ Statutory Body/



Autonomous Body under MoP, will be allowed only after obtaining the approval of Ministry of Power.

9. Procedure in cases already pending before the Arbitral Tribunals / Courts:

In cases of disputes pending before the Arbitration Tribunals or the Courts, both of the parties [i.e. Developer and Contractor] need to agree to explore the possibilities of conciliation through the Conciliation Committee of Independent Experts. In case of such agreement, an appropriate reference shall be made to the Conciliation Committee, upon which the Committee shall proceed to examine such reference(s). The option of resolution through conciliation through CCIE would be open only in the event of the parties withdrawing from arbitration proceedings and undertaking to forego their rights to proceed for further arbitration in the subject matter. However, other legal remedies would be open to the parties in the event of the conciliation proceedings not being successful.

10. The Conciliation Mechanism shall be available in all the existing and future contracts. Suitable provisions of Conciliation Mechanism shall be incorporated in the contract documents entered into in the future by all CPSUs/Statutory Bodies of Ministry of Power.

11. CCIE is an alternate dispute resolution mechanism being put in the place by the Ministry. If the Contractor is not willing to take recourse to this process or has any reluctance in this behalf, there shall be no compulsion to take such a recourse.

This issues with the approval of Hon'ble Minister of Power and New & Renewable Energy.



(R. P. Pradhan)
Director (Hydel-II)

1. Chairperson, CEA
2. Chairperson, CWC
3. CMDs / Chairman(s) of all the CPSUs / Statutory Bodies / Autonomous Bodies under the Ministry of Power

Copy to:

1. PS to Hon'ble Minister of Power & NRE
2. PS to HMoS for Power
3. Sr. PPS to Secretary (Power)
4. Sr. PPS to AS (SKG) / Sr. PPS to AS (VKD) / Sr. PPS to AS&FA
5. PPS to All Joint Secretaries in Ministry of Power
6. PPS to EA
7. All Directors / Deputy Secretaries / Under Secretaries / Deputy Directors, MoP

Template Letter to be sent to the Concessionaire/ Contractor/ Consulting party

From:

HOP – concerned Developer

Address

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.....

To

No. _____ Date: _____

Subject: Your reference dated _____ regarding the Dispute in the project _____ for a meeting at the level of CMD (Developer) and Chairman (Contractor Agency) for settlement.

Sir,

Kindly refer to your above cited reference on the subject cited above. It is agreed to refer the matter for consideration of the CMD, Developer and Chairmen of BOD of the Contractor for settlement of the dispute. However, in order to arrive at any proposed conciliation, it would be useful if the team from the Developer and your Company / firm discuss and crystallise the issues in advance of the proposed meeting.

2. You are, therefore, requested to discuss the issues / disputes with the Developer team led by the Contract Management Division of the Developer on a date mutually convenient.

Yours Sincerely,

(_____)

HOD / General Manager
Concerned Developer

Copy to:

1. CMD, Developer
2. AGM(Project), Developer. It is requested that all correspondence / documents relating to the subject along with index may please be furnished to the Contract Management Division within 7 days of this letter.

F. No. 11/22/2021-Th.II
Government of India
(Bharat Sarkar)
Ministry of Power
(Vidyut Mantralay)

Shram Shakti Bhawan, Rafi Marg
New Delhi, the 22nd March, 2022

OFFICE MEMORANDUM

Subject: Constitution of Conciliation Committee of Independent Experts for resolution of contractual disputes in respect of the projects implemented by CPSUs / Statutory Bodies under administrative control of Ministry of Power – regarding.

With the approval of Hon'ble Minister of Power and New & Renewable Energy, Ministry of Power, vide OM of even number dated 29.12.2021 (**Annex-I**), introduced a conciliation mechanism for settlement of contractual disputes in contracts of CPSUs / Statutory Bodies under Ministry of Power executing power projects. For this purpose, it was decided to constitute three numbers of Conciliation Committees of Independent Experts (CCIEs).

2. Accordingly, a Notification of even number was issued on 07.01.2022 inviting Expression of Interest from the eligible candidates for empanelment as Independent Expert for constitution of the CCIEs. Consequently, with the approval of Hon'ble Minister of Power, a Search-cum-Selection Committee was also constituted for scrutiny of the EoIs as well as screening of the candidates.

3. Based on the recommendations of the Search-cum-Selection Committee, following three nos. of Conciliation Committee of Independent Experts are hereby constituted for settlement of contractual disputes in contracts of CPSUs / Statutory Bodies under Ministry of Power executing power projects:-

CCIE	Members of CCIE
CCIE-1	Shri Anup Wadhawan, Ex-Secretary (Commerce), GoI
	Shri Ravinder Kumar Sharma, Ex-MD, HBSEBL
	Shri Mrinal Kanti Bhattacharya, Ex-Executive Director, Indian Bank
CCIE-2	Ms. Rashmi Verma, Ex-Secretary (Tourism), GoI
	Shri Dharendra Veer Singh, Ex-CMD, THDC (India) Ltd.
	Shri Naveen Bhushan Gupta, Ex-Director (Finance), PFC Ltd.
CCIE-3	Shri P. S. Kharola, Ex-Secretary (Civil Aviation), GoI
	Shri Anil Kumar Jha, Ex-Director (Technical), NTPC Ltd.
	Shri Chinmaya Gangopadhyaya, Ex-Director (Projects), PFC Ltd.

4. The aforementioned CCIEs shall function as per the Standard Operating Procedure enumerated in this Ministry's Office Memorandum of even number dated 29.12.2021. Moreover, the tenure, remuneration and other terms and conditions of the engagement of above Members of CCIEs shall also be governed by the aforesaid OM.

This issues with the approval of Hon'ble Minister of Power and New & Renewable Energy.

Encl: as above.



(Vikrant S. Dhillon)
Deputy Director
Email: hydro2-mop@gov.in