

Clarification 3:

The methodology and the rates which shall apply for such cases is provided in detail in para 11.3 (c). As a measure of amplification the following points may also be incorporated:

(i) Value of the structures shall be made by a Valuer who is mutually acceptable to both Port Trusts and the existing lessee. The valuer has to be selected by the parties amongst the panel of 3 valuers to be proposed by Port authority within a fixed time period. Here the mutual acceptance is of the Valuer and not the value of the structure.

(ii) While the guidelines provide for EMD for a valid bid to be fixed at 10% of the latest SOR of the land being put on tender, there is no provision for EMD for the value of structures. An EMD for 10% of the value of the structures in the form of bank guarantee may also be taken from all bidders except the original lessee.

(iii) The valuation of the structure should be done on a 'replacement' basis following principles as defined in Indian Accounting Standard (Ind AS 113).

(This is issued in supersession of earlier clarification No. 6 issued on 14.5.2018)

Issue 4:

There are cases where successful bidder has been finalized following the E-Tender cum E-Auction. However, any judicial orders/laws which come into effect after the bid due date and which prevent the successful bidder from optimal utilisation or development and any other factor which is not attributable to the bidder. How to deal with such cases with regard to rentals recoverable?

Clarification 4:

(i) If the licensee/Port authority could not get the statutory clearances in the prescribed time and due to this the lessee is not able to proceed optimally or as per the agreement in the project, then to the extent of such delays no due should be recovered by the Port unless there is an express provision in the agreement after approval of the same by the Port Trust Board.

(ii) If the successful bidder is prevented from optimal utilisation and development of the project as per the agreement, due to changes which are akin to change in law or akin to force majeure event then the Port at its sole discretion can consider waiver of dues during such period after approval of the same by the Port Trust Board.

Issue 5:

There may be cases where land has been allotted on licence basis in custom bond area, the licence has been renewed periodically and the licencees have built permanent structures on the licenced land. Whether in such cases, the land can be allotted on lease basis as per Para 10.2 of PGLM 2015.

Clarification 5:

No, only in cases where licence was granted prior to 2004 in the custom bond area and the licenseees have built permanent structures can lease be granted following the principle as laid out in

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