

1 Title: (1) These rules may be called the ‘**Arunachal Pradesh Enlistment of contractors in Works Departments Rules, 2008**’.

(2) It shall extend to whole of the state of Arunachal Pradesh.

(3) It shall come into force on the date of their publication in the Arunachal Pradesh Gazette.

2 Short Title: Hereinafter these rules shall be referred to as ‘Enlistment Rules 2008’ for the sake of brevity.

The term Arunachal Pradesh Works Departments or (AP WD) wherever occurs, shall be deemed to include, works departments like Public Works Department (PWD), Rural Works Department (RWD), Public Health Engineer Department (PHED), Water Resource Department (WRD), Department of Hydro-Power Department (DHPD), Urban Development & Housing Department (UD&HD), Rural Development Department (RDD) etc under Government of Arunachal Pradesh.

3 Repeal and Saving

3(1) All rules regarding enlistment/revalidation of contractors existing, or adopted in AP PWD by extension from CPWD, before coming into force of Enlistment Rules 2008 are hereby repealed.

3(2) Notwithstanding such repeal, the contractors if already enlisted on the basis of rules earlier in force or adopted by extension in AP PWD shall continue to enjoy the status of enlisted contractors of AP WD till the period of such enlistment, including revalidation/extension granted before coming into effect of the Enlistment Rules 2008, expires. However, in regard to all other matters and further revalidation of their enlistment, they shall be governed by the Enlistment Rules 2008.

4 Applicability: AP WD enlists contractors who intend to work with the department. It is done to have a ready list of suitable and competent contractors for AP WD works, so as to minimize requirement of verification of credentials of contractors at the time of individual tenders. At the same time only those contractors are allowed to continue in the list that remain active in AP WD and perform well. Any Indian Individual, Sole Proprietorship Firm, Partnership Firm, Public Limited Company or a Private Limited Company or Co-operative Society, registered by the Registrar of Co-operative Societies, may apply for enlistment as a contractor in AP WD under these Rules provided the eligibility criteria and other conditions are fulfilled. The enlisted contractors have to abide by all the rules made herein and as amended from time to time while their enlistment is in force, or not declared as insolvent or nullified..

4(1) No individual, or a firm having such individual as one of the partners, who is a dismissed government servant, or removed from the approved list of Contractors, or black listed demoted to lower class, or having business banned/suspended by any government department in the past, or convicted by a court of law shall be entitled for enlistment.

- 4(2) No Engineer or any other official employed in Engineering or Administrative duties in the Engineering Department of the Government of Arunachal Pradesh is allowed to work in the AP WD, either as contractor or as employee of a contractor, for a period of two years after his/her retirement from Government service unless he has obtained prior permission of Government of Arunachal Pradesh to do so. Even after enlistment, if either the contractor or any of his/her employees is found to be a person who had not obtained the prior permission of Government of Arunachal Pradesh as aforesaid, the name of the contractor shall be removed from the list of enlisted contractors.
- 4(3) A contractor is permitted to have enlistment in more than one category and under more than one enlistment authority but not in more than one class of the same category in Arunachal Pradesh Works Department.
- 4(4) A contractor is not permitted to have enlistment in more than one name.
- 4(5) A partner of a firm or a director of a company enlisted as a contractor cannot be a partner/director in any other enlisted firm/company in AP WD.
- 4(6) A contractor will not be enlisted if it was enlisted in any category or class earlier but had remained inactive in AP WD during its previous enlistment period.
- 5 **Scope:** The enlistment of a contractor in AP WD shall only entitle him/her to be considered for issue of tender papers subject to the conditions laid down in each individual Notice Inviting Tenders. It shall not confer any right on him/her either to be necessarily issued the tender papers or for award of work.
- 5(1) Enlistment of enlisted contractor to issue of tender papers shall be limited to works of general specification and of limited magnitude. For works of larger magnitude and/or highly specialized nature, AP WD may invite open tenders not limiting to the enlisted contractors only, and lay special conditions in the NIT like prequalification, post-qualification, specific experience or specialized T&P.
- 6 **Enlistment Procedure:** The contractor shall have to submit the application in a prescribed form as per **Annexure-I** to the enlistment authority, complete with all documents as per **Annexure-II**.
- 6(1) Incomplete applications and applications not accompanied with necessary documents shall liable to be rejected.
- 6(2) All verification, submission of reports etc are to be pursued by the applicant. Any delay on account of delay in verification, submissions of reports etc will not entitle the applicant for any claim to enlistment, if not completed within the stipulated time.
- 6(3) The enlistment authority shall have the right to independently verify the details furnished by the contractor and to get works done by the contractor inspected and/or to get such other reports as may be considered necessary.
- 6(4) If the enlistment authority finds the contractor suitable for enlistment, it shall issue the enlistment order or, otherwise, send a letter of rejection of the application to the contractor. The decision of the enlistment authority shall be final and binding on the contractor.

- 6(5) The enlistment authority reserves the right to limit the number of contractors to be enlisted in any class or category.
- 6(6) Enlistment of contractors in the department may be closed at any point of time. While closing the enlistment, the department may have a reserved list of eligible contractors from the pending applications. Out of this, contractors may be enlisted depending on requirement in a particular area or for the State as a whole.

7 Period of enlistment/revalidation:

The enlistment shall be valid for a period of **five** years. The enlistment can, however, be revalidated in accordance with rules in this regard. Each revalidation shall be for a period of three years from the date of expiry of the previous enlistment/revalidation. The enlistment shall be open to review by the enlistment authority and liable to termination, suspension or any other such action at anytime if considered necessary by the enlistment authority, after issue of show cause notice.

8 Categories & Classes - The enlistment shall be done in the categories and classes mentioned in **Table – 1**

9 Jurisdiction and Tendering Limits The jurisdiction in which contractors enlisted in various categories and classes shall be permitted to tender and the tendering limit upto which they shall be eligible to tender shall be as given in **Table-1**.

9(1) The contractor shall be governed by the provisions existing at a particular point of time irrespective of when he was enlisted.

10 Authorities for Enlistment - Enlistment in different categories and classes shall be done by different authorities as identified in **Table-1**.

11 Eligibility Criteria: Before they can be considered for enlistment the contractors shall have to satisfy the minimum eligibility criteria specified in **Table-1**. The criteria for enlistment/revalidation shall be as applicable on date of enlistment/revalidation. All contractors are expected to keep abreast with enlistment/revalidation rules modified from time to time.

11(1) The criterion for experience, in case of enlistment, shall be the completion of requisite number of works, as the case may be, of prescribed nature and magnitude executed on independent contract basis or as a builder, during the last five years. The works should have been executed in the same name and style in which the enlistment is sought. Enlistment of an individual in corresponding category may also be done based on his Technical Qualification in lieu of experience of completion of works in last 5 years but other eligibility criteria will remain the same **as per Annexure-III**.

11(2) The financial soundness shall be judged on the basis of the Banker's certificate or the Working Capital certificate, as the case may be, issued by the Bankers of the contractor on the format prescribed in **Annexure-V**. Such certificate shall be issued by a scheduled bank and shall be submitted, in original, in a bank sealed cover, addressed to the enlistment authority.

- 11(3)** Applicant may be intimated when his/her application and verification is complete. The application may be decided within 90 days of such completion.
- 12 Processing fee** – The contractor shall have to pay a non-refundable processing fee by crossed Demand Draft drawn in favour of the authority authorized by enlisting authority. For various categories and classes of enlistment, the fees are prescribed in **Table - 1**. This fee is to be submitted alongwith application form to the enlisting authority.
- 13** Income Tax clearance – Deleted.
- 14 Electrical License** - The contractors of Electrical category shall have to produce valid electrical license from the competent authority in the name of the contractor. They shall keep valid license throughout the period of enlistment by getting it renewed at suitable intervals and submit an attested copy of the same to the enlistment authority after each renewal. In event of any discontinuity in validity of electrical license of the contractor, its enlistment and authority to work with the department will also automatically cease to be valid. For applying for tenders for a work in any place in the state the contractor shall have to possess electrical license of appropriate voltage issued by any State Govt. under Clause 45 of compilation of rule of Indian Electricity Rules 1956 or as amended from time to time.
- 15 Change in Constitution of Firm** - The contractor/firm shall not modify the existing partnership or enter into any fresh partnership without the prior approval of the enlistment authority. Such proposal, if any, shall be submitted in advance giving full details of the intended partnership/sole proprietorship along with the draft partnership deed/affidavit and documents as per **Annexure-VI**. Any change in status of the contractor as an ‘Individual’ or in constitution of the firm without prior approval of the enlistment authority will render the contractor/firm liable to be removed from the approved list of contractors.
- 15(1)** If a firm is converted in two or more firms by any action of its partners, the new firm(s) or any separated partner(s) in his/her(their) individual/joint capacity shall have to apply for the enlistment afresh on the basis of work experience gained as a separate entity.
- 15(2)** If new partners are taken in the firm, each new partner shall have to satisfy the eligibility conditions mentioned in Rule 4.
- 15(3)** If the number of original partners of a firm reduces to less than half due to any reason including death of partner(s), the enlistment of the firm shall be withdrawn. Original partners means the constituents at the time of enlistment and those who have remained as constituent for more than 5 years.
- 16 Change in Address** - While applying for enlistment, the contractor should mention address of his/her Registered Office as well as Head Office, if change. All documents i.e., Banker’s Certificate, Electrical License etc. should bear one of the above addresses; otherwise the same shall not be accepted. Registered Office of contractor has to be in the same area or jurisdiction for tendering of class and category in which enlistment is sought.

- 16(1)** The contractor shall intimate the change, if any, in any of the above addresses, in advance or maximum within one month of such change along with acknowledgement of noting down of such change in address from the Bank, Income Tax , Sales Tax authorities etc. Failure to do so may result in removal of his/her name from the approved list of contractors.
- 17** **Near Relatives Working in AP WD** - Contractors whose near relatives are Divisional Accountant/Accounts Officer or Engineering Officers between the grades of Superintending Engineer and Junior Engineer (both inclusive) in AP WD will not be allowed to tender for works if the circle responsible for award and execution of contract is the one where the near relative is working. For this purpose a near relative shall mean the family members as defined under Conduct Rules extended to Arunachal Pradesh.
- 18** **Review of Approved List of Contractors** – The contractors shall be required to secure works of appropriate magnitude in AP WD during the enlistment/revalidation period. Contractors shall be liable to be weeded out for non –observance of enlistment rules. For this purpose the enlistment authority shall have the power to periodically review the approved list of contractors.
- 19** **Revalidation of Enlistment** - The validity of initial enlistment of the contractor shall be as given in Rule 7. It shall, however, be revalidated on merits, if desired by the contractor. Only the contractor who has secured two works of appropriate magnitude (as applicable for enlistment in relevant class) in AP WD, RWD, PHED, WRD, DHPD, UD&HD, RDD Government of Arunachal Pradesh during the period of enlistment or last revalidation period of enlistment as the case may be with at least one of them having been completed 100% and the second work completed more than 50% shall be considered for revalidation. If second work is not completed by more than 50%, the department will select one non AP WD work out of the list furnished by the applicant for inspection and consideration of revalidation.
- 19 (1)** The work completed/secured as an associate contractor of the main contractor, to whom a composite contract was/has been awarded, shall also qualify for consideration of revalidation.
- 20** **Application for Revalidation:**
- 20(1)** The contractor shall apply for revalidation for his/her enlistment in the prescribed form as per **Annexure-VIII** alongwith all documents as per **Annexure-IX** so as to reach the enlistment authority at least 6 months before expiry of his/her enlistment. The revalidation application with all documents shall, however, be accepted without late fee up to the date of expiry of enlistment and with late fee thereafter over and above the normal processing fee prescribed.
- 20(2)** In cases where the application is received within three months after date of expiry of enlistment/revalidation, the application can be accepted with double the late fee. Applications received, thereafter, shall not be accepted and contractor should apply for fresh enlistment, as per rules.

20(3) Late fee shall be as Enlistment fee. This is payable in the form of Demand Draft in favour of the authority, as authorized by enlisting authority.

20(4) On receipt of application for revalidation complete in all respect and with all necessary documents, provisional extension up to six months from the date of expiry of enlistment/date of issue of order, which ever is later may be issued.

21 Annual Confidential Report of Contractors (ACRC):

21(1) Contractors will be required to complete the form of Annual Confidential Report of Contractor (ACRC), in duplicate as per **Annexure-VII**, on completion of work or every year in respect of works being executed by him/her under the AP WD Division and submit one copy of the same to the concerned Executive Engineer/Assistant Engineer of the concerned authority by 15th January. Second copy of the ACRC bearing acknowledgement of Executive Engineer/Assistant Engineer along with list of works as per **Annexure - VII** be submitted to enlisting authority by 31st January. This ACRC will be for the works done by the contractor for the period from 1st January to 31st December of the previous year or part thereof. Depending upon criteria fixed by the enlisting authority in respect of ACRC, contractors will be considered for revalidation. The enlisting authority reserves full right for fixing criteria for evaluation of ACRC.

21(2) The list of all works, pertaining to AP PWD and non-AP PWD, secured , in hand and completed during above mentioned period, shall be furnished as per **Annexure-III**. In case, the contractor hides any information, his/her revalidation will be liable to be cancelled.

22 Revalidation procedure: The revalidation shall be done on the basis of evaluation of ACRC on criteria as per **Annexure-X**.

23 Contractor's obligations: The contractor should fulfill all his/her obligations under these rules in time and manner as specified, failing which he shall be liable for the action as mentioned therein. Some of the obligations are summarized below:-

(a) Prior approval shall be obtained from the enlisting authority before changing the constitution of the firm/company.

(b) Intimation of change of address should be given in advance or within one month alongwith acknowledgement from Banker, Income Tax and Sales Tax authorities.

(c) He shall continue to possess, throughout the period of enlistment/revalidation, a valid electrical license of appropriate voltage issued by appropriate authority.

(d) He should secure works of specified magnitude during the period of enlistment/revalidation as provided in Rule 19 above.

(e) He shall abide by these rules.

- (f) He should not indulge in unethical practices and shall maintain good conduct
- (g) He shall execute the works awarded to him/her strictly as per the terms and conditions of the contract and specifications.

24 Disciplinary Actions: The contractor shall have to abide by all the Rules of Enlistment and also by the terms and conditions of the contract and the Notice Inviting Tenders. He shall have to execute the works as per contract on time and with good quality. The enlisting authority shall have the right to demote a contractor to a lower class, suspend business with him/her for any period, debar him/her or remove his/her name from the approved list of contractors indefinitely or for a period as may be decided by the authority, after issue of a show cause notice. Decision of the enlisting authority shall be final and binding on the contractor. The following actions of the contractor shall, in general, make him/her liable to disciplinary actions:-

24.1 Demotion to a lower class: The contractor shall be liable to demotion to a lower class, by the enlisting authority, if he:

- (a) fails to execute a contract, or executes it unsatisfactorily; or is proved to be responsible for constructional defects;
- (b) no longer has adequate equipment, technical personnel or financial resources; or
- (c) is litigious by nature; or
- (d) violates any important condition of contract; or
- (e) the contractors staff misconducts, or misbehaves with Arunachal Pradesh WD officials; while executing the work.
- (f) is responsible for a conduct which may justify his/her demotion to a lower class; or
- (g) any other reason which in view of enlisting authority is adequate for his/her demotion to a lower class.

24(2) Suspension of business - The enlistment authority may suspend business with a contractor for indefinite period or for a period as may be decided by enlisting authority, pending full enquiry into the allegations, if the enlistment authority is of the view that *prima facie* the contractor is guilty of an offence in relation to business dealings which, when established, would result in his/her removal/banning business and it is not considered desirable to entrust new works or continue business with the contractor. Business may also be suspended with a contractor up to a period of one year in case he fails to start the work after the award on two occasions.

24(3) Removal from the approved list: The name of the contractor may be removed from the approved list of contractors, by the enlisting authority, if he:

- (a) has, on more than one occasion, failed to execute a contract or has executed it unsatisfactorily; or
- (b) is proved to be responsible for constructional defects in two or more works; or
- (c) persistently violates any important conditions of the contract; or
- (d) fails to abide by the conditions of enlistment; or
- (e) is found to have given false particulars at the time of enlistment; or
- (f) has indulged in any type of forgery or falsification of records; or
- (g) changes constitution of the firm or Individual without prior approval of the enlistment authority; or
- (h) changes permanent address/business address without intimation to the enlistment authority; or
- (i) is declared or is in the process of being declared bankrupt, insolvent, wound up, dissolved or partitioned; or
- (j) persistently violates the labour regulations and rules, or
- (k) is involved in complaints of serious nature received from other departments which prima facie appear to be true; or
- (l) default in settlement of tax dues like income tax, contract tax, sales tax, VAT, service tax, octroi, duties etc; or
- (m) has already been demoted for other reason(s); or
- (n) ceases to fulfill eligibility criteria based on which enlistment/revalidation was done; or
- (o) is considered not required to be in list of contractors AP WD for any other reason considered fit by enlistment authority.
- (p) does not start the work after the same is awarded to him/her on three occasions.

24(4) Procedure for disciplinary Actions:

- (a) Disciplinary proceedings against a contractor, with contemplated action(s) like suspension of business, demotion to lower class or removal from the list, should be the last resort to be exercised only after giving him/her a reasonable opportunity to be heard and rectify such problem as may be making him/her liable to action being considered.
- (b) A show cause notice giving reasons for the contemplated action(s) shall be served to the defaulting contractor through registered post, with acknowledgement due card, addressed to his/her Registered Office or Head Office, directing him/her to submit his/her explanation within a specified time limit generally not later than a month.

- (c) If in response to the show cause notice no explanation is submitted by the contractor or explanation furnished by him/her is not satisfactory, action on suspension of business, demotion to lower class or removal from the list may be taken by a speaking order for the reasons to be recorded in writing behind the actions initiated.
- d) Copy of the order of suspension of business with contractor, demotion to lower class, or removal from the list, shall be served to the contractor through registered post with AD card, addressed to his/her Head Office or Registered Office . A copy of the order shall also be endorsed to the Chief Engineer (D&P) where he is not the enlisting authority. The CE (D&P)/other competent authority will issue a memorandum listing the contractors against whom disciplinary action has been taken by suspending business, demoting to lower class or removing from the list. The memorandum shall be circulated to all Zones, Circles, Divisions of works departments under Government of Arunachal Pradesh. A live list of contractors against whom disciplinary actions have been taken shall be maintained and circulated from time to time, at least once in six months.
- (e) In case of contractor being enlisted in more than one category, the order regarding suspension of business, demotion to lower class, or removal from the list against one category shall apply to all other categories.

24(5) Restoration:

- (a) The enlistment authority on recommendation from Circle/Zone office and being satisfied with the merit of each case, to be recorded in writing, may revoke the order of suspension of business, demotion to lower class or removal from the list when:
 - i) in respect of the same offence the accused has been honourably acquitted by a court of law; or
 - ii) on review, the enlistment authority is of the opinion that the punishment already undergone is adequate in the circumstances of the case; or
- (b) The order revoking earlier memorandum on suspension of business, demotion to lower class or removal from the list, in respect of a contractor, shall be circulated by the enlistment authority to all Zones / Circles / Divisions of AP works departments under the State Government.

25 Enlistment-cum-Disciplinary Committees:

To examine and recommend the cases for enlistment, revalidation and disciplinary actions Enlistment-cum-Disciplinary committees may be constituted as under:

- (a) Under Chief Engineer (Design & Planning)
 - (i) Chairman-Chief Engineer (D&P)
 - (ii) Members-CE(EZ), CE(WZ), CE (S&I), SFAO(EZ) and SFAO (WZ)

- (b) Under Chief Engineer of the concerned Works Zone
 - (i) Chairman-Chief Engineer of the concerned Zone
 - (ii) Members- SSW, SE (HQ) and SFAO of the Zone

- (c) Under Superintending Engineer of the concerned Circle
 - (i) Chairman-Superintending Engineer of the concerned Circle
 - (ii) Members-EE (P), EE(HQ) and EE of the nearest Division.

NOTE : Officers or other competent authority from RWD, PHED, WRD, DHPD, UD&HD and RDD may also be included in the enlistment cum Disciplinary committee in clause 25 (a) (b) (c)

26 Relaxation:

Subject to review and to encourage growth of contracting industry in the state with inclusive participation of local contractors, enlistment under classes I, II, III and IV of Civil category, concessions with relaxations shall be provided on the qualifying criteria specified against Past Experience, Financial Soundness, Engineering Establishment, T&P Machinery and Enlistment Processing Fees for Arunachal Pradesh Scheduled Tribe (APST) contractors as given in Table-1.