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Shri Kanwalpreet
Director (PPD)
Procurement Policy Division,
Department of Expenditure
Ministry of Finance
Room No.264 C, North Block
New Delhi – 110 001

Sir,

**CFI Comments on Department of Expenditure, Ministry of Finance
Draft Vivad se Vishwas-II Scheme (Contractual Disputes)**

- Request for Brief Interactive Meeting with CFI Members

Construction Federation of India is the representative body of the leading infrastructure construction firms of the country engaged in building Highways, Roads, Bridges, Railways (metro & mono railways), Dams, Power Stations (Hydro, Nuclear), Irrigation & Water Supply projects etc. and other basic infrastructure of national importance.

On behalf of CFI members, we are attaching herewith Infrastructure Construction Industry detailed Comments on Department of Expenditure, Ministry of Finance draft Scheme Draft Vivad se Vishwas-II Scheme (Contractual Disputes) for your kind perusal and consideration please.

CFI members key submissions:

- **Ambit of Agencies covered under this scheme:** All institutions where GOI or its autonomous bodies either having contract and/or extending any support to the State Government and/or its undertaking for execution of the project under consideration in the state shall be brought under this scheme e.g. the projects being undertaken by MoRT& H through state PWDs.
- **Issue** an Advisory by the MoF/DoE to the State Governments to adopt this Scheme and include State Govt. entities as part of this Scheme.
- **Cut-off Date for Claims:** Instead of 30th Sep 2022, it may be extended until 31st Dec 2022 for Claims submitted by both Contractors and Procuring entities.
- **Scope** : Instead of covering only claims under conciliation or arbitration or litigation, it shall be expanded to all the claims submitted by both the parties (Contractor & Procuring entities) as on the cut-off date of 31.12.2022.

- a) **Settlement Amount** : For fair and equitable settlement and to make the scheme attractive, the percentage settlement amounts for **Court order passed; Arbitral Award passed; Ongoing Litigation** (Projects physical activity stopped); **Ongoing Litigation** (Projects in progress) shall be justifiably increased as elaborated in CFI Comments.

In cases where large EPC, PPP Projects are involved, the claims and counter claims are bound to be of higher values, hence if the limit of threshold is set at Rs 500 Crores (including the claims and counter claims), the effectiveness of the scheme would only be limited to a very small segment of the contracts. This will defeat the whole purpose of efficacious and quick settlement of disputes. Hence, it is proposed that a threshold amount of minimum amount of Rs.1500 Crs. (Claims minus counter claims) may be considered. A special committee needs to be set up to review the case only in cases of claims exceeding Rs.1500 Crs. before it is decided to accept the request for settlement.

Interest Payable :

- a. In cases where Arbitral Tribunal has given Award and/or Court has upheld the Arbitration Award, CFI has suggested that interest as stipulated in the Arbitral Award shall also be included till the date of acceptance of the claim under this scheme.
- b. However, in case of claims to be settled (which have not passed Arbitration award/Court decision), CFI suggests that a simple interest at the rate of 9% shall be payable in case there is a delay of more than 1 year of submissions of Claims by the Contractors to the procuring entities.

Timeline for Settlement : Defined timelines for verification and settlement of dispute under this scheme shall serve the purpose of expeditious disposal of the disputes. Therefore, we propose timelines to be adhered on verification of Disputes/Claims by Nodal Officer; Acceptance to the offer of procuring entity; Signing of Settlement Agreement; Withdrawal of cases etc.

We hope suggestions and justifications provided by the Federation are given due consideration and look forward to guidelines for implementation and execution of this Scheme for alleviating disputes between the clients and industry in national interest.

May we request your good-self to kindly extend an opportunity for a brief Interactive Meeting with select CFI members to discuss in detail difficulties being faced by industry as per mutual convenience please.

With kind regards,



(Ajit Gulabchand)
President CFI

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Encl : CFI Comments on Draft Vivad se Vishwas-II Scheme (Contractual Disputes)