

Guidelines on chartering of Foreign Flag Dredgers

Shipping Development Circular No.2 of 2004

NO: SD-13/POL(8)/2003

Dated April 16,2004

Sub: Guidelines on chartering of Foreign Flag Dredgers

With the development of large number of ports both in public and private sector, the requirement of dredging has increased many folds; this includes both Capital Dredging and Maintenance Dredging. The Directorate has not issued any specific guidelines only for dredgers and dredgers were included in the Chartering Guidelines of November 2002. Requests have been received to specifically issue instructions for chartering of dredgers which should be followed by all non major ports, whether in public sector or private sector.

The following guidelines shall be complied with before granting chartering permission / license by the Directorate.

1. All non-major ports/private ports shall be given permission to charter foreign flag dredgers only if competitive bidding process is followed for awarding the contract and the Indian dredging companies are given reasonable and sufficient opportunity to participate in the bidding process;
2. The intending charterer shall circulate the inquiry and/or invite International Competitive Bid (ICB) from dredger owners including Indian owners through Indian National Shipowners' Association (INSA) and Indian Coastal Conference (ICC), who shall in turn intimate the charterer and the Directorate General of Shipping (DGS) within 3 working days on the availability of Indian dredgers. Any claim made by the Indian owners, thereafter, shall not be entertained under any circumstance.
3. If no offer is received from the Indian owners through INSA/ ICC within stipulated 3 days, the charterer shall be free to apply to DGS for License in favour of the foreign flag dredger proposed to be chartered.
4. The Indian dredger owners, who participate in the bid, shall be entitled to exercise the "right of first refusal" subject to the following conditions. Those who have not participated in the bid shall not have any right to claim the "right of first refusal" under any circumstance at a later stage.
 - (i) The Indian flag dredgers offered by the Indian owners should broadly satisfy all the technical and commercial requirements of the bid;
 - (ii) The Indian owners shall be eligible to exercise the "right of first refusal" only if they match the lowest price quoted against foreign flag dredgers. In case more than one party matches the lowest rate, the eligible party to participate in the bid shall be decided on the basis of the original rate quoted;
 - (iii) The difference in the lowest quoted bid price between the technically qualified Indian flag dredger exercising the "right of first refusal" and the lowest rate quoted by the foreign flag dredger should not exceed 10%. In case the difference is more than 10%, the "right of first refusal" shall cease to exist;
 - (iv) Indian owners shall identify and offer their own dredger(s) for the entire performance of the proposed contract. In case the dredger(s) offered by the Indian owners is(are) under construction, such offers shall be considered only against an undertaking furnished by Indian owners that the dredger(s) shall be converted to Indian flag prior to the commencement of the contract;
 - (v) In case the "right of first refusal" is exercised by the Indian owner, it shall be mandatory to deploy the same dredger(s) for the entire performance of the contract and Indian owner shall not be allowed to offer the same dredger(s) for any other contract. In contingent situations, Indian owner will be allowed to substitute the dredger(s) with other Indian flag dredger(s) from his own fleet, but not with any foreign flag dredger;
 - (vi) To maintain transparency the charterer shall keep the documentation in tact to ensure that all records are maintained properly to demonstrate fulfillment of 10% price difference criteria for exercising the right of first refusal.

The D. G. Shipping reserves the right to take action as deemed fit, overriding any of the guidelines laid down hereinabove, to expedite national project-implementation, to increase Indian tonnage, to encourage

development - of Indian hub-ports and sea-trade routes, both new or existing - and to tackle an emergency or overcome a crisis.

These guidelines shall come into effect from 01st June, 2004 and shall supersede all the circulars, guidelines, instructions, orders, etc., if any, issued earlier in this regard.

Sd/-

(Naresh Salecha)

Senior Deputy Director General of Shipping