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**SOUTHERN RAILWAY  
VIGILANCE ORGANISATION**

# **Information Capsule**

**ON**

# **Letter of Acceptance**



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**Vigilance Awareness Week 2024**



**VAW 2024**





# Letter of Acceptance

## **Introduction:**

The Letter of Acceptance (LOA) is a key document issued after a tender has been finalized. This "Information Capsule" aims to explain the importance of issuing an LOA, the implications of failing to do so- citing relevant legal provisions and case studies for illustration. It is expected that officials handling tenders will gain a good understanding of the LOA's significance through this article and will ensure its issuance in all tender cases.

## **What is LOA?**

A Letter of Acceptance (LOA) is a formal document issued by one party to accept an offer/proposal/bid from another party. It indicates that the terms and conditions of the offer have been agreed upon. LOAs are commonly used in procurement and contracting, where one party makes an offer and the other party confirms acceptance.

### Key features of an LOA:

- Formally acknowledges and accepts an offer or proposal.
- Details the terms, scope, and conditions of the accepted offer.
- Establishes a binding commitment to proceed further according to the agreed terms.

### What is the significance of issuing LOA?

The LOA (Letter of Acceptance) is the document through which the successful bidder(s) are notified that their offer has been accepted. Issuing the LOA finalizes the contract, and the release of a Purchase Order (PO) or signing of the contract is a mere formality. For works contracts, the commencement date for the work starts from the date the LOA is issued, not from the date the agreement or contract is signed.

As held in the case of ***Brogden vs Metropolitan Railway Company (1877) LR 2 AC 666 (HL)***, there shall be some external manifestation (by words or by conduct) of acceptance of offer and mere mental preparedness is not a valid acceptance.

LOA is that external manifestation by which the acceptance is communicated to the successful bidder(s). Thus, it is crucial that the LOA be issued promptly once the tender is finalized

**Why should not the issuance of the LOA be bypassed and the contract be signed or the Purchase Order (PO) be released directly? What is the necessity of issuing the LOA prior to these actions?**

- In certain cases, the successful bidder may need to provide a Security Deposit (SD) or Performance Guarantee (PG) before the Purchase Order (PO) is released or the contract is signed. In such cases, the bidder must first be notified that their bid has been accepted and that the submission of the SD/PG is required. The LOA serves as the document through which this notification is provided.
- As per the provisions of the Indian Contract Act, 1872, an offer could be revoked anytime by the offeror (bidder)- before the communication of the acceptance of its offer by the offeree. Therefore, if the acceptance of the offer was not communicated to the bidder, the bidder can withdraw its offer anytime. LOA is the tool through which the acceptance of the offer could be communicated to the successful bidder.

Apart from the above, there are several other advantages to issuing the LOA before directly releasing the Purchase Order (PO) or signing the contract, which can be better understood through the case studies presented below.

Therefore, bypassing the issuance of the LOA and directly releasing the PO or signing the contract is not recommended.

### Case Study-1:

A non-stock indent with an estimated value of Rs. 33 lakhs was received by a Divisional Stores Officer, and a tender was issued accordingly.

However, shortly after the tender was opened, a lockdown due to Covid-19 was enforced. While working from home, the officer accepted the lowest bid (L1), prepared the tender acceptance note, and finalized the tender but failed to issue the Letter of Acceptance (LOA).

A month later, when a draft Purchase Order (PO) was prepared and sent to the Accounts Department for vetting, it was returned because the validity period of L1 offer lapsed by then.

Attempts were made to get the L1 bidder to extend its offer, but there was no response. Consequently, the case was re-tendered, and the rates in the re-tender were higher than those of the L1 bid in the original tender.

The finalization of the re-tender resulted in a loss of approximately Rs. 10 lakhs to the Railways due to the higher rates compared to the original tender.

Had the officer issued the LOA immediately after accepting the L1 bid in the original tender, there would have been no necessity to have sought for the validity extension from L1 bidder, and the PO could have been released under the original tender, thus avoiding the Rs. 10 lakhs loss.

In summary, the failure to issue the LOA was the primary cause of Rs. 10 lakhs loss to the Railways in this case. The officer was held responsible for this lapse. As a result, "Minor Penalty" was imposed on the officer.

## Case Study-2:

A tender was issued for a stock item to cover a six-month requirement due to urgency. An eligible bid was considered, and the LOA was issued to the successful bidder, who was then requested to provide a Security Deposit (SD). The SD was submitted within two weeks. The draft Purchase Order (PO) was then sent to the Accounts Department for vetting, but shortly after, a Covid-19 lockdown was imposed, delaying the release of the PO for two months.

After the lockdown ended, a new tender was issued for the same item, following the procurement cycle. The same bidder emerged as the lowest bidder (L1) again, though at higher rates.

The bidder then stated that it would not accept a PO against the previous tender because the offer validity had expired. The bidder also requested that the SD from the previous tender be applied to the new tender and that the PO be issued against the new tender.

The bidder was informed that by issuing the LOA within the offer validity period and receiving the SD, the contract was effectively concluded for the previous tender. Consequently, the offer validity was no longer relevant, and the issuance of the PO was simply a formality. The bidder had no choice but to accept this explanation, and eventually the supply was made against the PO.

Had the LOA not been issued in the first tender in this case, the validity of the L1 offer would have expired, leading to the new tender being finalized at higher rates and resulting in a loss for the Railways.

In summary, issuing the LOA immediately after finalizing the tender helped avoid a potential loss to the Railways in this case.

## Letter of Acceptance ■ ■

### Case Study-3:

A non-stock indent was placed by the executive department for the procurement of an item, which had volatile prices. The executive department assured that the necessary funds would be available at the time of the release of Purchase Order (PO), and this assurance was accepted by the Accounts Department during the indent's vetting.

The Stores Officer received the indent and floated a tender. Within a week of opening the tender, the officer decided on the case, prepared the tender acceptance note, and finalized the tender but failed to issue the Letter of Acceptance (LOA) to the eligible bidder.

Subsequently, the draft PO was prepared and sent to the Accounts Department for vetting. After multitude of correspondences, the executive department arranged the necessary funds only after three months, by which time the bidder's offer validity had expired.

As a result, the Accounts Department returned the draft PO and asked the Stores Officer to obtain a validity extension from the bidder. Given the volatile nature of the item's market price, there was a significant risk that the bidder might refuse to extend the offer validity. If this had occurred, the case would have needed to be re-tendered, potentially leading to higher prices and a loss for the Railways, for which the responsible party would have been held accountable.

Fortunately, the bidder agreed to extend the offer validity, and the PO was eventually issued without any financial loss to the Railways, so no further action was necessary in this case.

It becomes evident that rather than seeking validity extension, it is more effective to issue the LOA as soon as the tender is finalized, while the offer validity is still in effect, and then release the PO or sign the contract later.

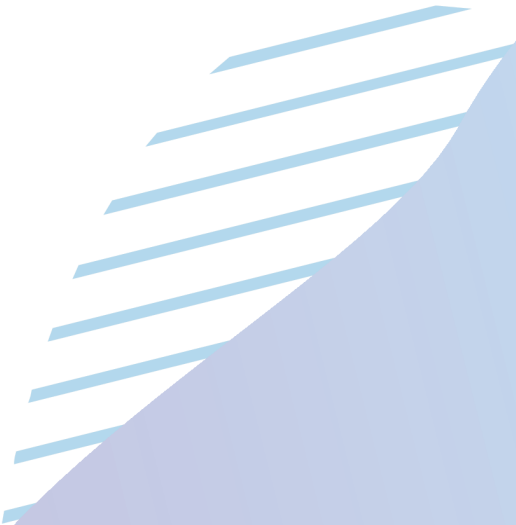




# Conclusion:

In conclusion, it could be seen that the Letter of Acceptance (LOA) plays a vital role in formalizing agreements. By clearly documenting the acceptance of an offer and specifying the agreed-upon terms and conditions, the LOA ensures that all parties have a mutual understanding of their commitments. This formal acknowledgment not only fosters clarity and reduces the risk of disputes but also establishes a binding commitment to proceed with the outlined terms. Therefore, timely issuance of the LOA is essential for smooth and effective contract execution, ultimately contributing to the successful completion of projects and procurement processes.





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**Vigilance Awareness Week 2024**

**“सत्यनिष्ठा की संस्कृति से राष्ट्र की समृद्धि”**

**“Culture of Integrity for Nation's Prosperity”**



**Thirukkural – 391**

**Learn thoroughly what should be learnt.  
And having learnt, stand according to that.**