

भारत सरकार BHARAT SARKAR
रेल मंत्रालय MINISTRY OF RAILWAYS
रेलवे बोर्ड RAILWAY BOARD

No. 2004/RS(G)/779/11/Pt.

नई दिल्ली New Delhi Dated: 26.05.2020

The General Managers, All Indian Railways/PUs, NF(C), CORE
The DG/RDSO/Lucknow, NAIR/Vadodara and all other CTIs,
CAOs, DMW/Patiala, WPO/Patna, COFMOW/NDLS, RCF/RBL/NDLS.
CMDs of PSUs, RVNL, KRCL, MRVC, MCF/Bela

Sub. Performance Security/ Security Deposit in procurement of Stores.

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- Ref.: i. Railway Board letter No. 2004/RS(G)/779/11/Pt . dated 23/12/2019.
ii. Railway Board's letter no. 2018/Trans Cell/Store Procurement dated 02.01.2019.
iii. Railway Board's letter no. 2004/RS(G)/779/11/Pt. dated 27.03.2019.
iv. GFR Rule 171.
v. Department of Expenditure, Min of Finance OM No. F. 18/4/2020-PPD dated 13/05/2020.

1. Department of Expenditure, Ministry of Finance, vide Office Memorandum referred at (v) above, has issued guidelines regarding Performance Security/ Security deposit, in view of the extraordinary situation arising out of spread of Corona Virus.
2. A copy of Office Memorandum of Ministry of Finance is attached herewith, for information and compliance by all concerned.

This is issued with the concurrence of Finance Directorate of the Ministry of Railways.

(Praveen Kumar)
Jt. Director Railway Stores/G
Railway Board

Copy to:

1. PCMMs, PCEs, PFAs, CMEs, CEEs, CSTEes, All Indian Railways & PUs, RCF/RBL/NDLS, COFMOW, CORE, WPO and RWP/Bela
2. Sr. Prof. (Material Management), NAIR, Vadodara, Executive Director (Stores), RDSO, Lucknow
3. MD, CRIS, Chanakyapuri, New Delhi
4. MD, RITES, RITES Bhavan, Sector-29, Gurugram
5. Director, Iron & Steel, 3, Koila Ghat Street, Kolkata
6. Chief Commissioner, Railway Safety, Lucknow
7. Zonal Railway Training Institute, Sukadia Circle, Udaipur
8. The Genl. Secy., AIRF, Room No. 248, & NFIR Room No. 256-C, Rail Bhavan
9. The Secy. Genl., IRPOF, Room No. 268, FROA, Room No. 256-D & AIRPOA, Room No. 256-D Rail Bhavan

Copy to:- Sr. PPSs / PPS / PS to :

1. MR, MoS(R)
2. CRB, FC, ME, MTR, MRS, MS, MT, SECY., DG (RHS), DG (RPF)
3. All AMs, PEDs & Executive Directors of Railway Board

F. 18/4/2020- PPD
Government of India,
Ministry of Finance,
Department of Expenditure
Procurement Policy Division

Room No. 512, Lok Nayak Bhawan,
New Delhi dated the 13th May, 2020

OFFICE MEMORANDUM

Subject: Performance Security in terms of Rule 171 of General Financial Rules, 2017 (GFR) – Guidelines Regarding

Rule 171 of the GFR 2017 prescribes conditions for obtaining performance security for the execution of goods and works contract. The Rule prescribes that performance security is to be obtained from the successful bidder which is awarded the contract amounting to 5% - 10% of the value of contract as specified in the bid documents. The validity of the performance security is for a period of 60 days beyond the date of completion of all contractual obligations of the supplier including warranty obligation.

2. Attention is drawn to Department of Expenditure's O.M. No. F.18/4/2020 – PPD dated 19.2.2020 wherein it was clarified that disruption of supply chains due to spread of Corona virus in China or any other country would be considered as extraordinary events or circumstances beyond human control and would be termed as a natural calamity. It was, therefore, advised that wherever considered appropriate, after following due procedure as stated in para 9.7.7 of the Manual for Procurement of Goods 2017, "Force Majeure Clause" (FMC) may be invoked.

3. Since the issue of the said O.M., restrictions have been placed on the movement of goods, services and manpower on account of the lockdown situation prevailing in the country in terms of the guidelines issued by the Ministry of Home Affairs (MHA) in terms of the Disaster Management Act 2005 (D.M. Act 2005) and executive orders of the respective States and U.T. Governments. Under such situations the payment cycle too has got disrupted due to the restrictive measures, on account of which some contractors, who have otherwise fulfilled their contractual obligations, are facing liquidity problems impacting their future performance. In some cases, it may not have been possible for a contractor/supplier to fulfil all his contractual obligations in terms of the contract. Public interest lies in quick resumption of economic activity.

4. Therefore, in the following circumstances:

- (a) where an application is made by a contractor who is not in default of any contractual obligations; or
- (b) where FMC is invoked by a contractor and the requirements of FMC are fulfilled,

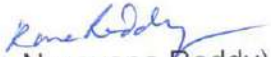
the contractee (Government Department/Agency) may return the value of performance security to the contractor/supplier as is proportional to the supplies made/contract work completed to the total contract value.

5. It is clarified that if the contractor/ supplier is in violation of the contractual obligation, the contractee shall be under no obligation to take action as per these guidelines. It is further clarified that the guidelines contained in the present OM shall apply only in respect of such non-performance as can be attributable to a lockdown

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situation or restrictions imposed under any Act or executive order of the Government/s on account of COVID-19 global pandemic.

6. These guidelines are issued under Rule 6(1) of GFR 2017.


(Kotluru Narayana Reddy)
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To:
Secretaries of all Central Government Ministries/Departments