

**Government of Jammu and Kashmir
Finance Department, Civil Secretariat
Jammu/Srinagar**

- Subject: 1) Additional Performance Security in case of Abnormally Low Bids (ALBs).
2) Bid Security/ Earnest Money Deposit.
3) Performance Security.**

CIRCULAR

Attention of all Administrative Departments is invited to DO No. 9/4/2020-PPD dated 12.11.2020 of Department of Expenditure, Ministry of Finance, Government of India, wherein Government of Union Territory of J&K has been advised to issue instructions in respect of procurement by the Government bodies, Government Public Undertakings, local bodies and all agencies controlled by them in line with O.M No. F.9/4/2020-PPD dated 12.11.2020, issued by Department of Expenditure, Ministry of Finance, Government of India.

Keeping in view the exceptional circumstances created due to pandemic and acute financial crunch faced by many commercial entities and contractors, which in turn is affecting timely execution of contracts, Government of India has issued following instructions:-

- a) Reduction in Performance Security from existing 5-10% to 3% of the value of the contract for all existing contracts. The benefit of reduced performance security will not be given to Contracts under dispute. All tenders/contracts issued/concluded till 31.12.2021 should also have the provision of reduced performance security.
- b) No provisions regarding Bid Security should be kept in the Bid Documents in future and only provisions for Bid Security Declaration should be kept in the Bid Documents. Wherever there are compelling circumstances to ask for Bid Security, the same should be done only with the approval of next higher authority to the authority competent to finalize the particular tender. These instructions shall be applicable to all tenders upto 31.12.2021.
- c) No provisions should be kept in the Bid Documents regarding Additional Security Deposit/ Bank Guarantee (BG) in case of Abnormally Low bids.

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The detailed guidelines in this regard issued by Government of India, are enclosed as **Annexure "A"**.

It is hereby ordered that all these instructions shall apply mutatis mutandis to the Union territory of Jammu & Kashmir.

Sd/-
(Dr. Arun Kumar Mehta), IAS
Financial Commissioner,
Finance Department.

No. A/Misc(2018)-III-895/J

Dated: 22.12.2020

Copy to the:-

1. Advocate General, J&K High Court Jammu/Srinagar.
2. All Financial Commissioners.
3. Principal Accountant General J&K Jammu/Srinagar.
4. All Principal Secretaries to Government.
5. Principal Resident Commissioner, 5-Prithvi Raj Road New, Delhi.
6. Principal Secretary to Lieutenant Governor.
7. Chief Electoral Officer, J&K.
8. Joint Secretary (J&K) Ministry of Home Affairs, Government of India.
9. All Commissioner/ Secretaries to Government.
10. Divisional Commissioner Jammu/Kashmir.
11. Director Anti Corruption Bureau, J&K.
12. Registrar General, J&K High Court Jammu/Srinagar.
13. Director General, Audit and Inspections
14. Director General, Budget Division J&K.
15. Director General Accounts and Treasuries.
16. Director General, J&K Funds Organization.
17. Director General Local Fund Audit & Pensions, J&K.
18. Director Information, J&K.
19. All Head of Departments/ Managing Directors/ Chief Executives of State PSU's/ Autonomous Bodies/ Societies.
20. Secretary, J&K Public Service Commission.
21. All District Development Commissioners.
22. Secretary, J&K Legislative Assembly.
23. Principal Northern Zonal Accountancy Training Institute, Jammu/ Principal Accountancy Training School, Srinagar.
24. Director, Accounts and Treasuries Jammu/Srinagar.
25. All Directors of Finance/Financial Advisors & CAOs
26. Joint Director, Funds Organization Jammu/Srinagar.
27. General Manager, Govt. Press Jammu/Srinagar for publication in Government Gazette.
28. All Treasury Officers.
29. Private Secretary to Hon'ble Advisor (S/F/B/BK) to the Lieutenant Governor.
30. Private Secretary to Chief Secretary.
31. Private Secretary to Financial Commissioner, Finance Department.
32. I/C website, Finance Department (www.jakfinance.nic.in).
33. I/C website, GAD (www.jkgad.nic.in).
34. Government Order File (W2scs).

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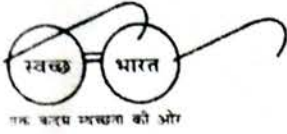

(S.L. Pandita)
Director General, Codes

ANNEXURE "A"



सर्वकार
वित्त मंत्रालय
व्यय विभाग
Government of India
Ministry of Finance
Department of Expenditure
North Block, New Delhi-110001
Tel.: 23092929, 23092663
Fax: 23092546
E-mail: docyexp@nic.in
Website: www.finmin.nic.in

डॉ. टी. वी. सोमनाथन, आई ए एस
सचिव (व्यय)
Dr. T. V. Somanathan, I.A.S.
Secretary (Expenditure)



D.O. No.9/4/2020-PPD

Dated 12th November 2020

Dear Chief Secretary,

The Government of India has received many representations that, on account of slowdown in economy due to the pandemic, there is an acute financial crunch among many commercial entities and contractors, which in turn is affecting timely execution of contracts. It has also been represented that this may affect the ability of contractors to bid in tenders and hence reduce competition. Requests are being received for reduction in quantum of various deposits which contractors are required to make in the Government contracts.

2. Keeping in view the above circumstances, the Government of India has issued following instructions, which are attached herewith:

- (i) Reduction in Performance Security from existing 5-10% to 3% of the value of the contract.
- (ii) No provisions regarding Bid Security should be kept in the Bid Documents in future and only provisions for Bid Security Declaration should be kept in the Bid Documents.
- (iii) No provision should be kept in the Bid Documents regarding Additional Security Deposit/ Bank Guarantee (BG) in case of Abnormally Low Bids.

State Governments are requested to kindly consider issuing similar instructions in respect of procurement by the State Government, by State Government public undertakings, local bodies and all agencies controlled by them.

With regards

Yours sincerely,

Chief Secretaries of all States
(Through email)

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A/Misc (2016)-III-8957
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512, Lok Nayak Bhawan, New Delhi
Dated the 12th November 2020

OFFICE MEMORANDUM

Subject: Additional Performance Security in case of Abnormally Low Bids (ALBs).

The Government is in receipt of many representations that on account of slowdown in economy due to the pandemic, there is acute financial crunch among many commercial entities and contractors, which in turn is affecting timely execution of the contracts. It has also been represented that this may affect the ability of contractors to bid in tenders and hence reduce competition. Requests are being received for reduction in quantum of Security Deposits in the Government contracts.

2. In this context, it is noted that Additional Performance Security in case of Abnormally Low Bids (ALBs) is being taken from the contractors by various Ministries/ Departments though there is no provision for the same in General Financial Rules (GFRs) 2017 or the Manuals for Procurement issued by this Department.

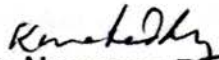
3. As per para 7.5.7 of the Manual for Procurement of Goods 2017 issued by this Department, *an Abnormally Low Bid is one in which the bid price, in combination with other elements of the Bid, appears so low that it raises material concerns as to the capability of the bidder to perform the contract at the offered price. Procuring Entity may in such cases seek written clarifications from the bidder, including detailed price analyses of its bid price in relation to scope, schedule, allocation of risks and responsibilities, and any other requirements of the bids document. If, after evaluating the price analyses, Procuring Entity determines that the bidder has substantially failed to demonstrate its capability to deliver the contract at the offered price, the Procuring Entity may reject the bid/ proposal. However, it would not be advisable to fix a normative percentage below the estimated cost, which would be automatically be considered as an abnormally low bid. Due care should be taken while formulating the specifications at the time of preparation of bid document so as to have a safeguard against the submission of abnormally low bid from the bidder.*

4. In view of above, **it is reiterated that no provisions should be kept in the Bid Documents regarding Additional Security Deposit/ Bank Guarantee (BG) in case of Abnormally Low Bids.**

5. Wherever, there are compelling circumstances to ask for Additional Security Deposit/ Bank Guarantee (BG) in case of ALBs, the same should be taken only with

the approval of the next higher authority to the authority competent to finalise the particular tender, or the Secretary of the Ministry/ Department, whichever is lower.

6. These instructions will be applicable for all kinds of procurements viz. Goods, Consultancy, Works, non-consulting Services etc.


(Kotluru Narayana Reddy)

Deputy Secretary to the Govt. of India

Tel: 24621305

Email: kn.reddy@gov.in

To,

All the Secretaries and Financial Advisers to Government of India

Copy to: Secretary, Department of Public Enterprises with a request to issue the same instructions to Central Public Sector Undertakings (CPSUs).

No. F.9/4/2020-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

512, Lok Nayak Bhawan, New Delhi
Dated the 12th November 2020

OFFICE MEMORANDUM

Subject: Bid Security/ Earnest Money Deposit.

The Government is in receipt of many representations that on account of slowdown in economy due to the pandemic, there is acute financial crunch among many commercial entities and contractors, which in turn is affecting timely execution of the contracts. It has also been represented that this may affect the ability of contractors to bid in tenders and hence reduce competition. Requests are being received for reduction in quantum of Security Deposits in the Government contracts.

2. As per Rule 170 of General Financial Rules (GFRs) 2017, Micro and Small Enterprises (MSEs) and the firms registered with concerned Ministries/ Departments are exempted from submission of Bid Security. Further, in lieu of Bid Security, Ministries/ Departments may ask bidders to sign "Bid Security Declaration" accepting that if they withdraw or modify their bids during period of validity etc., they will be suspended for the time specified in the tender documents. Similar provisions also exist in the Manuals for Procurement of Works 2019 and Manual for Procurement of Consultancy & other Services 2017.

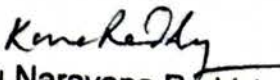
3. In this context it is noted that Bid Security (also known as Earnest Money Deposit) is still being taken from the contractors by the various Ministries/ Departments, though the relaxations have already been provided in General Financial Rules (GFRs) 2017.

4. In view of above, it is reiterated that notwithstanding anything contained in Rule 171 of GFRs 2017 or any other Rule or any provision contained in the Procurement Manuals, **no provisions regarding Bid Security should be kept in the Bid Documents in future and only provision for Bid Security Declaration should be kept in the Bid Documents.**

5. Wherever, there are compelling circumstances to ask for Bid Security, the same should be done only with the approval of the next higher authority to the authority competent to finalise the particular tender or the Secretary of the Ministry/ Department, whichever is lower.

6. The above instructions will be applicable for all the tenders issued till 31.12.2021.

7. These instructions will be applicable for all kinds of procurements viz. Goods, Consultancy, Works, non-consulting Services etc and are issued under Rule 6(1) of the GFRs 2017.


(Kotluru Narayana Reddy)
Deputy Secretary to the Govt. of India
Tel: 24621305
Email: kn.reddy@gov.in

To,

All the Secretaries and Financial Advisers to Government of India

Copy to: Secretary, Department of Public Enterprises with a request to issue the same instructions to Central Public Sector Undertakings (CPSUs).

No. F.9/4/2020-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

512, Lok Nayak Bhawan, New Delhi
Dated the 12th November 2020

OFFICE MEMORANDUM

Subject: Performance Security.

As per Rule 171 of General Financial Rules (GFRs) 2017, Performance Security is to be obtained from the successful bidder awarded the contract for an amount of five to ten percent of the value of the contract to ensure due performance of the contract. Similar provisions also exist in the Manual for Procurement of Works 2019 and Manual for Procurement of Consultancy & other Services 2017 issued by this Department.

2. The Government is in receipt of many representations that on account of slowdown in economy due to the pandemic, there is acute financial crunch among many commercial entities and contractors, which in turn is affecting timely execution of the contracts. It has also been represented that this may affect the ability of contractors to bid in tenders and hence reduce competition. Requests are being received for reduction in quantum of Security Deposits in the Government contracts.

3. In view of all above, it is decided to reduce **Performance Security from existing 5-10% to 3% of the value of the contract** for all existing contracts. However, the benefit of the reduced Performance Security will not be given in the contracts under dispute wherein arbitration/ court proceedings have been already started or are contemplated.

4. Further, all tenders/ contracts issued/ concluded till 31.12.2021 should also have the provision of reduced Performance Security.

5. In all contracts where Performance Security has been reduced to 3% in view of above stipulations, the reduced percentage of Performance Security shall continue for the entire duration of the contract and there should be no subsequent increase of Performance Security even beyond 31.12.2021.

Similarly, in all contracts entered into with the reduced percentage of Performance Security of 3%, there will be no subsequent increase in Performance Security even beyond 31.12.2021.

6. Wherever, there is compelling circumstances to ask for Performance Security in excess of three percent as stipulated above, the same should be done only with the approval of the next higher authority to the authority competent to finalise the

particular tender, or the Secretary of the Ministry/ Department, whichever is lower. Specific reasons justifying the exception shall be recorded.

7. These instructions will be applicable for all kinds of procurements viz. Goods, Consultancy, Works, non-consulting Services etc and are issued under Rule 6(1) of the GFRs 2017.


(Kotluru Narayana Reddy)
Deputy Secretary to the Govt. of India
Tel: 24621305
Email: kn.reddy@gov.in

To,

All the Secretaries and Financial Advisers to Government of India

Copy to: Secretary, Department of Public Enterprises with a request to issue the same instructions to Central Public Sector Undertakings (CPSUs).