

**GOVERNMENT OF JAMMU & KASHMIR
FINANCE DEPARTMENT,
CIVIL SECRETARIAT, JAMMU**

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

CIRCULAR

Ministry Of Finance, Government of India, has vide Office Memorandum No. F-18/4/2020-PPD Dated: 13.05.2020 issued Guidelines regarding Performance Security in terms of Rule – 171 of General Financial Rules, 2017 (GFR) which are reproduced as follows:-

1. Rule 171 of the GFR 2017 prescribes conditions for obtaining performance security for the execution of goods and work contracts. 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 19.02.2020 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 guidelines issued by 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 fulfill 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 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.

7. Accordingly, all the Administrative Departments are advised to follow the above guidelines issued by Ministry of Finance, Government of India. Any action under these guidelines shall be taken by the department in consultation with Financial Advisor/Director Finance posted in the department.

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

No.A/GFR(2019)-Arrears-533

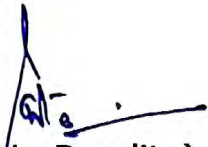
Dated: 19-06-2020

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5. Principal Resident Commissioner, 5 Prithvi Raj Road, New Delhi.
6. Principal Secretary to Lieutenant Governor.
7. Chief Electoral Officer, J&K.
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22. Secretary J&K Legislative Assembly.
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25. Director Accounts & Treasuries Srinagar/Jammu.
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27. Joint Director Funds Organization Srinagar/Jammu.
28. All Treasury Officers.
29. General Manager, Government Press for publication in Government Gazette.
30. Pvt. Secretary to Advisor (S/F/B/BK) to Lieutenant Governor.
31. Pvt. Secretary to Chief Secretary.
32. Pvt. Secretary to Financial Commissioner, Finance.
33. I/c Website, FD. (www.jakfinance.nic.in).
34. I/c Website, GAD (www.jkgad.nic.in).


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Director General (Codes)
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