

F. No. 283/114/2018-GRID SOLAR
भारत सरकार / Government of India
नवीन और नवीकरणीय ऊर्जा मंत्रालय/ Ministry of New & Renewable Energy
ग्रिड सौर ऊर्जा प्रभाग / Grid Solar Power Division

Block No.14, C.G.O. Complex,
Lodhi Road, New Delhi – 110003.

Date: 07th March, 2022

To:

1. The Managing Director, Solar Energy Corporation of India (SECI), Plate-B, 6th Floor, Tower 2, NBCC Office Block, East Kidwai Nagar, New Delhi-110023.
2. The Chairman & Managing Director, NTPC Ltd., NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi- 110003.
3. The Chairman & Managing Director, NHPC Limited, N.H.P.C Office Complex, Sector-33, Faridabad, Haryana.

Sub: Extension of validity of Department of Expenditure's O.M. dated 12.11.2020 regarding 'Performance Security' -reg.

Madam/ Sir,

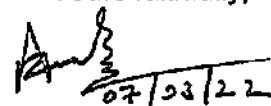
1. Reference is invited to this Ministry's letter of even no. dated 16.12.2021 (copy enclosed) regarding restoration of Bank Guarantees wherein it was conveyed to MNRE's RE Implementing Agencies (SECI/ NTPC/ NHPC) that an Earnest Money Deposit (EMD) of 2% of the estimated project cost and Performance Bank Guarantee (PBG) of 4% of estimated project cost (in case of site specified by the procurer) & 5% of estimated project cost (in case of site selected by the generator), is to be ensured in all RE tenders.
2. Subsequently, Department of Expenditure has issued O.M. No. 9/4/2020-PPD dated 30.12.2021 (copy enclosed) wherein it has been conveyed that the validity of Department of Expenditure's O.M. No. 9/4/2020-PPD dated 12.11.2020 (copy enclosed) regarding reduction in Performance Security from 5-10% to 3% of the value of contract has been extended till 31.03.2023.
3. Further, Department of Public Enterprises (DPE), vide its O.M. No. DPE/7(4)/2017-Fin. dated 10.01.2022 (copy enclosed) has forwarded the aforesaid O.M. dated 30.12.2021 from D/o Expenditure, to CPSEs for compliance.
4. MNRE's Renewable Energy Implementing Agencies (SECI/ NTPC/ NHPC) are hereby directed to ensure compliance to the aforesaid O.M. No. 9/4/2020-PPD dated 30.12.2021 from Department of Expenditure, Ministry of Finance. Accordingly, as per the referred OM dated 30.12.2021, the Performance Security values are to be maintained at the reduced value of 3% of the contract value for all tenders issued until 31.03.2023. It is further



clarified that Performance Security/ Performance Bank Guarantee in respect of tenders issued between 16.12.2021 and date of issuance of this letter, may also be maintained at 3%.

5. D/o Expenditure's O.M. No. 9/4/2020-PPD dated 12.11.2020 on the subject: 'Bid Security/ Earnest Money Deposit' (copy enclosed), inter-alia stated that: "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." This O.M. further stated that: 'The above instructions will be applicable for all the tenders issued till 31.12.2021.' Since D/o Expenditure's O.M. No. 9/4/2020-PPD dated 30.12.2021 is only regarding Performance Security, Earnest Money Deposit (EMD) of 2% of the estimated project cost, is to be kept in all RE tenders issued on or after 01.01.2022. Regarding EMD, for period prior to 01.01.2022, the provisions as per D/o Expenditure's O.M. No. 9/4/2020-PPD dated 12.11.2020 on the subject: 'Bid Security/ Earnest Money Deposit' (copy enclosed) shall be applicable.
6. This issues with the approval of Hon'ble Minister (NRE & Power).

Yours faithfully,



(Mohd Azmal Mansoori)

Scientist-B

Email: azmal.mnre@gov.in

Encl: as above

Copy to:

1. Addl. Chief Secretaries / Pr. Secretaries / Secretaries of Power / Energy / Renewable Energy Departments of State Governments/ UT Govts/ Administrations and Renewable Energy (RE) Organisations under State Governments/ UT Govts/ Administrations (with a request to consider issuing similar instructions)
2. NIC, MNRE, for uploading on MNRE website for dissemination of information

Copy for internal circulation to:

PS to Hon'ble Minister (NRE & Power)/ Sr. PPS to Secretary/ Sr. PPS to JS(VK)/ DS (VD)/ Sci-D (SK)

F. No. 283/114/2018-GRID SOLAR

भारत सरकार / Government of India

नवीन और नवीकरणीय ऊर्जा मंत्रालय/ Ministry of New & Renewable Energy

ग्रिड सौर ऊर्जा प्रभाग / Grid Solar Power Division

Block No.14, C.G.O. Complex,
Lodhi Road, New Delhi – 110003.

Date: 16th December, 2021

To:

1. **Managing Director, Solar Energy Corporation of India (SECI)**, Plate-B, 6th Floor, Tower 2, NBCC Office Block, East Kidwai Nagar, New Delhi-110023.
2. **The Chairman & Managing Director, NTPC Ltd., NTPC Bhawan**, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi- 110003.
3. **The Chairman & Managing Director, NHPC Limited**, N.H.P.C Office Complex, Sector-33, Faridabad, Haryana.

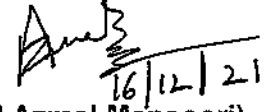
Sub: Restoration of Bank Guarantees-reg.

Madam/ Sir,

In supersession of this Ministry's letter of even no. dated 22.12.2020, the undersigned is directed to convey to MNRE's RE Implementing Agencies (SECI/ NTPC/ NHPC) that an Earnest Money Deposit (EMD) of 2% of the estimated project cost and Performance Bank Guarantee (PBG) of 4% of estimated project cost (in case of site specified by the procurer) & 5% of estimated project cost (in case of site selected by the generator), is to be kept in all RE tenders.

2. This issues with the approval of Hon'ble Minister (NRE & Power).

Yours faithfully,



(Mohd Azmal Mansoori)

Scientist-B

Email: azmal.mnre@gov.in

Copy to:

1. **Addl. Chief Secretaries / Pr. Secretaries / Secretaries of Power / Energy / Renewable Energy Departments of State Governments/ UT Govts/ Administrations and Renewable Energy (RE) Organisations under State Governments/ UT Govts/ Administrations** (with a request to consider issuing similar instructions)
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No.F.9/4/2020-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

264-C, North Block, New Delhi.
30th December, 2021.

OFFICE MEMORANDUM

Subject: Performance Security.

The undersigned is directed to refer to this Department's OM of even number dated 12.11.2020 (copy enclosed) regarding the subject cited above and to say that it has been decided to extend the validity of the said OM dated 12.11.2020 regarding "Performance Security" till 31.03.2023.

2. This OM is also available on the website of Department of Expenditure; www.doe.gov.in -> Notification -> Circular --> Procurement Policy OM.

Encl. : As above.


Kanwalpreet
Director (Procurement Policy)
Tel.: 23093811
Email: kanwal.irss@gov.in

To

Secretaries of All Central Government Ministries/ Departments

Copy to: Secretary, Department of Public Enterprises (DPE) – with a request to issue same instructions to all 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.

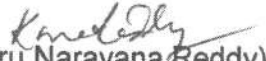
5. In all contracts where Performance Security has been reduced to 3% in view of above stipulations, the reduced percentage of Performance Security shall continue for the entire duration of the contract and there should be no subsequent increase of Performance Security even beyond 31.12.2021.

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).

F. No. DPE/7(4)/2017-Fin.
Government of India
Ministry of Finance
Department of Public Enterprises

Block No. 14, CGO Complex,
Lodi Road, New Delhi-110003
10th January, 2022

To,

Chief Executives of all CPSEs

Subject:- Extension of validity of Department of Expenditure O.M. dated
12.11.2020 regarding Performance Security - regarding

Sir/Madam,

The undersigned is directed to forward herewith a copy of Department of Expenditure O.M. No. 9/4/2020-PPD dated 30th December, 2021 (copy enclosed) on the subject mentioned above for information and compliance.

Encl : As stated


(Dr. Nitin Aggrawal)
Joint Director
Tel : 2436-0258

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

264-C, North Block, New Delhi.
30th December, 2021.

OFFICE MEMORANDUM

Subject: Performance Security.

The undersigned is directed to refer to this Department's OM of even number dated 12.11.2020 (copy enclosed) regarding the subject cited above and to say that it has been decided to extend the validity of the said OM dated 12.11.2020 regarding "Performance Security" till 31.03.2023.

2. This OM is also available on the website of Department of Expenditure; www.doe.gov.in -> Notification -> Circular --> Procurement Policy OM.

Encl. : As above.

Ky
30.12.2021
Kanwalpreet
Director (Procurement Policy)
Tel.: 23093811
Email: kanwal.irss@gov.in

To

Secretaries of All Central Government Ministries/ Departments

Copy to: Secretary, Department of Public Enterprises (DPE) – with a request to issue same instructions to all 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.

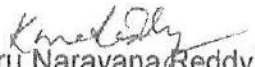
5. In all contracts where Performance Security has been reduced to 3% in view of above stipulations, the reduced percentage of Performance Security shall continue for the entire duration of the contract and there should be no subsequent increase of Performance Security even beyond 31.12.2021.

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).

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)
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