



PMC Cell – MM

Oil and Natural Gas Corporation Ltd
Corporate Materials Management
2nd Floor, Tower-A, Deen Dayal Urja Bhawan,
5, Nelson Mandela Marg, Vasant Kunj, New Delhi -110 070
Tel – (011) 2675 2004 Fax – (011) 2612 9091

Circular No. 56 /2020

No: MAT/PMC/13(49)/2020

Dated: 26.11.2020

Sub: Reduction in value of Performance Security and Bid Security/Earnest Money in the tenders.

Department of Public Enterprises vide Office Memorandum dated 19.11.2020 has forwarded the O.M.s issued by Department of Expenditure, on the following matter, for compliance by CPSEs (Copies attached):

- (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.

Accordingly, EPC in its meeting (16/2020) held on 25.11.2020 decided as under:

A) Performance Security/Security Deposit:

- (i) Performance Security to be reduced from existing 12.2% to 3% 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.

Accordingly, the contractor/supplier of such contracts will be informed regarding reduced performance security @3% being applicable. Following process will be followed where contractors have already submitted performance security:

- a) In case, contractor/supplier has submitted performance security/security deposit in the form of Demand Draft/Cashier cheque/ Electronic Fund transfer, partial return of the same can be done by way of bank transfer.
 - b) In case, contractor/supplier has submitted performance security/security deposit in the form of bank guarantee, the partial security deposit can be returned by way of accepting the amendment to PBG by reducing its value to the tune of PBG amount to be returned OR contractor/supplier can submit the new security deposit of revised value and on receipt of acceptable new security deposit of reduced amount, earlier PBG can be returned, as deemed fit.
- (ii) For all tenders/contracts issued/concluded till 31.12.2021, the reduced Security Deposit/Performance Security @3% shall be applicable in place of existing amount stipulated under para 16.6.2 and 8.1.2.2.4 IMM Manual.

- (iii) 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.
- (iv) In tenders to be invited/already invited whenever performance security @12.2% is stipulated in tender document, same shall be modified as @3%.
- 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.
- (v) Additional Performance bank guarantee towards fulfillment of conditions pertaining to Local contents in accordance with the value mentioned in the certificate of LC, as per PP-LC policy, shall continue to be sought as per existing provisions.
- (vi) Wherever, security deposit/performance security for warranty period is applicable, same shall be continued in existing contracts without any reduction.
- (vii) 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 authority one level higher than CPA. Specific reasons justifying the exception shall be recorded.

B) Bid Security/ Earnest Money Deposit:

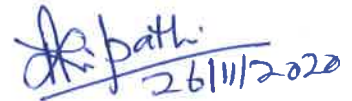
For all tenders issued/to be opened till 31.12.2021, notwithstanding any provision mentioned in IMM Manual/Tender booklets, No Bid security/Earnest money deposit will be sought from any bidder.

All the bidders shall be required to sign a Bid securing declaration accepting that if they withdraw or modify their Bids during the period of validity, or if they are awarded the contract and they fail to sign the contract, or to submit a performance security before the deadline defined in the NIT, they will be suspended for the period of **two years**. This suspension of two year shall be automatic without conducting any enquiry.

Wherever, there are compelling circumstances to ask for Bid Security, the same should be done only with the approval of authority one level above CPA.

All the above conditions for reduction in Performance Security and EMD will be applicable to contracts awarded to Indian as well as Foreign Contractors. Suitable modifications in the existing provision of tender documents in this regard shall be made by work centers.

Above guidelines should be meticulously followed by all concerned.

 26/11/2020

(A. P. Tripathi)

ED-Chief MM Services

Distribution: (Through ONGC's intranet website 'ongcreports.net').

All concerned may download the circular from the site. Hard copies are not distributed separately.

Copy to:

1. EO to CMD, ONGC, New Delhi.
2. CEA to Director (F)/ Director (Offshore)/ Director (Exploration)/ Director (HR)/ Director (T&FS)/Director (Onshore), New Delhi.
3. CVO, ONGC, New Delhi.

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)

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).