

No. NH-35014/20/2020-H-(Part-II) (E-196330)
Government of India
Ministry of Road Transport and Highways
(Highways Section)
Transport Bhawan, 1, Parliament Street, New Delhi-110001.

Dated: 28th February, 2022

Office Memorandum

Subject: Reinstatement of provision of Earnest Money Deposit (EMD) in bids for highway projects - reg.

The undersigned is directed to refer to this Ministry's Office Memorandum of even number dated 22.02.2022 (copy enclosed) on the above subject vide which decision of the competent authority to revert to the provisions of GFR, 2017 in the bid documents, which existed before issue of Department of Expenditure Office Memorandum No.9/4/2020-PPD dated 12.11.2020 regarding bid security, has been conveyed.

2. W.r.t the aforesaid MoRTH O.M. dated 22.02.2022, clarification has been sought regarding status of MoRTH letter no. RW/NH-37010/4/2010-EAP(Printing) Vol IV dated 07.10.2019 vide which clause 2.20 of the model RFP of EPC project was modified to make provision for signing of '*Bid securing declaration form*' only by the bidder.
3. In this regard, it is stated that the provision of Bid Security is stipulated in Rule 170 (i) of General Financial Rule 2017. Further, there is an alternative provision of Bid Securing Declaration in place of Bid Security, as per Rule 170 (iii) of the GFR.
4. It is clarified that notwithstanding the provisions contained in the MoRTH aforesaid letter dated 07.10.2019, the latest instructions contained in the MoRTH O.M. dated 22.02.2022 are applicable to all modes, including EPC.
5. All the implementing agencies of the MoRTH are requested to take necessary action accordingly.
6. This issues with the approval of the competent authority.

Encl: As above



(Sushant Sudan)

Deputy Secretary to the Govt. of India

To

- (i) AS&FA, MoRTH
- (ii) Chairman, NHAI
- (iii) MD, NHIDCL
- (iv) ADG (Road Wing/Nodal Officer), MoRTH
- (v) All CEs/ROs of MoRTH

Copy to:

- (i) PS to Hon'ble Minister (RT&H)
- (ii) Sr. PPS to Secretary (RT&H)

(iii) Sr. PPS to AS(H)

(iv) Sr. Technical Director, NIC - for uploading on the website of the MoRTH

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Government of India
Ministry of Road Transport and Highways
(Highways Section)
Transport Bhawan, 1, Parliament Street, New Delhi-110001.

Dated: 22nd February, 2022

Office Memorandum

Subject: Reinstatement of provision of Earnest Money Deposit (EMD) in bids for highway projects. - reg.

The undersigned is directed to say that Department of Expenditure vide O.M. No. 9/4/2020-PPD dated 12.11.2020 (copy enclosed) *inter alia* provided that

(i) 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 provisions for Bid Security Declaration should be kept in the Bid Documents

(ii) Wherever, there are compelling circumstances to ask for Bid security, the same should be done only with the approval of the next higher authority i.e. the authority competent to finalise the particular tender or the secretary of the Ministry/ Department, whichever is lower.

(iii) These instructions were applicable for all the tenders issued till 31.12.2021.

2. All the implementing agencies of the MoRTH were directed to strictly comply with the aforesaid DoE's instructions vide this Ministry's OM G-20016/11/202-TF-II dated 17.11.2020 (copy enclosed).

3. In this regard, it is stated that the effect of COVID pandemic in Highway sector has neutralized. In such improved scenario, it is noted that now there is trend in recent bids for submitting very low bids for important highway construction as well as consultancy contracts. Since there is no EMD Deposit, bidders are quoting abnormally low prices for the bid and after winning the bid, they start searching for sub-contractor. This tendency will have an adverse impact on quality and timely completion of important highway projects.

4. In view of the above, it has been decided with the approval of Hon'ble Minister (RT&H) to revert to the provisions of GFR, 2017 relating to bid security, which existed before issue of aforesaid DoE O.M. dated 12.11.2020.

5. All the implementing agencies of the MoRTH are requested to take necessary action accordingly.



(Sushant Sudan)

Deputy Secretary to the Govt. of India

Encl: As above

To

1. AS&FA, MoRTH
2. Chairperson, NHAI
3. MD, NHIDCL
4. ADG Zone-I, MoRTH

Copy to: Deputy Secretary (Procurement Policy Division), Department of Expenditure, Lok Nayak Bhavan, New Delhi w.r.t O.M. No. 9/4/2020-PPD dated 12.11.2020 on Bid Security/ Earnest Money Deposit.

Copy also to:

1. PS to Hon'ble Minister (RT&H)
2. Sr. PPS to Secretary (RT&H)
3. Sr. PPS to AS(H)
4. NIC, MoRTH- for uploading the above guidelines in MoRTH's website.