

No. NH 37015/01/2022-H (Comp No. 208778)
Government of India
Ministry of Road Transport & Highways
(Highways Section)
Transport Bhawan, 1, Parliament Street, New Delhi-110001

Dated: 18 May, 2022

To

1. Chairperson, NHAI, New Delhi.
2. ADG(Nodal Officer/Road Wing), MoRTH
3. Director General (BRO), New Delhi.
4. MD, NHIDCL

Subject: Seeking additional performance security for the bidders who have quoted abnormally low bid price.

Madam/Sir,

I am directed to say that Ministry of Finance, Department of Expenditure (DoE) vide office Memorandum F.9/4/2020-PPD dated 12.11.2020, had stated that since there is no provision in GFR 2017 or in the Manual of Procurement issued by the Ministry of Additional Security Deposit/ Bank Guarantee in case of Abnormally Low Bids (ALB), no such provision should be kept in the bid documents.

2. As per DoE clarification, vide O.M. No. F.20/19/2021-PPD dated 25.02.2021, no action was required to be taken in case of existing contracts or where bids have already been floated.

3. Issue of extending waiver of additional performance guarantee for next one year (upto 31.03.2023) to the existing contracts of National Highway sector was taken up with DoE. DoE, vide OM No. F. 7/2/2022-PPD dated 19.01.2022 (copy enclosed), has conveyed that considering prevailing adverse circumstances arising from the pandemic, and as a special case, waiver of additional performance guarantee may be permitted by MoRTH only in those contracts, where a substantial portion of the work (to be defined by MoRTH) has already been completed by the contractors.

4. Accordingly, it has been decided that "substantial portion of work" for the above said purpose of releasing Additional Performance Security to the existing contracts would be defined as achievement of Project Milestone-II calculated in proportion to the RoW handed over to the Contractor. This provision will be applicable upto 31.03.2023 or until further orders, whichever is earlier.

5. It is requested to take necessary action accordingly.

6. This issues with the approval of the competent authority.

Yours faithfully

Encl: as above



(Sushant Sudan)

Deputy Secretary to the Govt. of India

Copy for necessary action to:

- (i) All ADGs
- (ii) All Zonal CEs
- (iii) All ROs, MoRTH
- (iv) All Technical Officers of Ministry

Copy also to:

- (i) PS to Hon'ble Minister(RTH)
- (iii) APS to Hon'ble MOS (RTH)
- (ii) Sr. PPS to Secretary (RTH)
- (v) Sr. Technical Director, NIC, MoRTH for uploading on the website of the MoRTH with a request to create a web-link for the meeting.

1665812/2022-PPD (Hq (Highways))

No.F.7/2/2022-PPD
 Government of India
 Ministry of Finance
 Department of Expenditure
 Procurement Policy Division

264-C, North Block, New Delhi.
 19th January, 2022.

OFFICE MEMORANDUM

Subject: Additional Performance Guarantee for Abnormally Low Bid (ALB).

The undersigned is directed to refer to Secretary, Ministry of Road Transport and Highways (MoRTH) D.O. letter No. NH-35014/20/2020-H dated 03.01.2022 and to say as under:

- a. The procedure of dealing with Abnormally Low Bids (ALBs) was stipulated in para 7.5.5 of the Manual for Procurement of Goods, 2017, issued by this Department. It is stipulated that 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.
 - b. These instruction was reiterated by this Department vide this Department OM No. F. 12/17/2019-PPD dated 06.02.2020.
 - c. This Department, in the month of May 2018, while sending comments on BOT (Toll) Model Concession Agreement (MCA) for National Highway (NH) Projects didn't agree to para 9.5 of MCA regarding additional performance security and asked MoRTH to consider deleting the same.
 - d. Tenders may be vitiated, if across the board waiver is given to Additional Performance Guarantee taken for Abnormally Low Bid at this stage, as such guarantee is not uniform to all bidders and taken from only some bidders, to mitigate risk of non-performance.
 - e. However, considering prevailing adverse circumstances arising from the pandemic, and as a special case, waiver of additional performance guarantee may be permitted by MoRTH only in those contracts, where a substantial portion of the work (to be defined by MoRTH) has been already completed by the contractors.
2. This issues with the approval of Finance Secretary.

Ky
19.01.2022

Kanwalpreet
 Director (Procurement Policy)
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To

Shri Giridhar Aramane,
 Secretary,
 Ministry of Road Transport & Highways,
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