



केन्द्रीय भण्डारण निगम
(भारत सरकार का उपक्रम)

CENTRAL WAREHOUSING CORPORATION
(A Govt. of India Undertaking)

जन-जन के लिए भण्डारण/Warehousing for Everyone



No. CWC CO-ED0TC/11/2023-Tender Cell-CO-Part (2)

Date: - 28.12.2023

Tender Cell Circular - 3

Sub.-: Fixation of Earnest Money Deposit (Bid Security), Performance Security and Security Depositreg.

Ref.:-

- CIRCULAR /01/2021-FINANCE; Dated:- 24.01.2022 on even subject
- Commercial Division, CO Circular No. CWC/CD/XII-ICP Attari/H&T/2017-18;dated 23.01.2019 (Circular No. 191)
- Purchase Division, CO Circular No. CWC/Pur/ARC/2004-05 dated 10.06.2004.
- CWC/Cash Management/2020-21; Dated:- 18.08.2021 having subject "Guidelines on E-Verification of Bank Guarantee (Received) from contractors through SFMS Platform", issued by Finance Division, CO.
- CWC/Cash Management/2020-21; Dated:- 20.08.2020 having subject "Guidelines for Acceptance and safe custody of Bank Guarantees received", issued by Finance Division, CO.

A. Earnest Money Deposit (Bid Security)

- The Earnest Money Deposit (EMD) also known as Bid Security is obtained from the bidders to safeguard the Corporation against a bidder's withdrawing or altering its bid during the bid validity period in the case of advertised or limited tender enquiry. The EMD is to be obtained from the bidders except who have been specifically exempted to submit the bid security. The bidders should be asked to furnish bid security along with their bids.
- In supersession of all existing circulars/ guidelines regarding the subject matter, the EMD should be fixed for the tender as per following guidelines: -**

a) Fixation of Earnest Money Deposit (bid security) amount:

S No.	Estimated Value of Contract	EMD Amount
1.	Tenders published over any platform, for procurement of Works/Goods/Services, where estimated value of procurement is up to Rs. 5 Lakh	Nil
2.	Tenders published over any platform, for procurement of Works/Goods/Services, where estimated value of procurement is above Rs. 5 lakh and up to Rs. 10 cr.	2% of the estimated value of procurement
3.	Tenders published over any platform, for procurement of Works/Goods/Services, where estimated value of procurement is above Rs. 10 cr and up to Rs. 50 cr.	Rs. 20 (twenty) lakh + 1% of the estimated value of the procurement in excess of Rs.10 Crore.
4.	Tenders published over any platform, for procurement of Works/Goods/Services, where estimated value of procurement is above Rs.50 (fifty) Crore	Rs. 60 (sixty) lakh + 0.5% of the estimated value of procurement in excess of Rs.50 Crore.

b) Estimated value of procurement for fixation of EMD for different nature of procurement/ tenders shall be considered as under:

S.No.	Type of Tender	Estimated Value of Procurement
1.	For Handling and Transportation Contract (Including H&T for CFS/ICDs) where contract period is more than one year.	Estimated value of procurement for One year.
2.	For Handling and Transportation Contract (Including H&T for CFS/ICDs) having contract period of one year or less.	Total Estimated value of procurement.
3.	For Annual Rate Contract having contract period of more than one year.	Estimated value of procurement for One year.
4.	Engineering Works Contract	Total Estimated value of works put on Tender.
5.	MIS Works/Service Contract	Total Estimated value put on Tender.
6.	Procurement of Goods /services not specified above	Total Estimated Value of Procurement

c) Exemption from EMD

S. No.	Type of Tender	Exemption to be given to
(a)	For Tenders/ Bids for procurement of Goods/Services not published on GeM	<p>Bidders who are exempted from submission of EMD as per Government of India guidelines are as follows:</p> <ol style="list-style-type: none"> Micro and Small Enterprises (MSEs) who are holding valid Udyam Registration and are manufacturer of the offered Product or Service and give specific confirmation to this effect at the time of bid submission and claim EMD exemption and whose credentials are validated online through Udyam Registration website of Ministry of MSME and also through supporting document uploaded during bidding process. Start-ups as recognized by Department for Promotion of Industry and Internal Trade (DPIIT), holding valid Startup Recognition Certificate. The turnover for any of the financial year (for which documents have been submitted) should not exceeded beyond limits prescribed in the certificate / Start Up scheme of DPIIT.
(b)	For Tenders/ Bids for procurement of Goods/ Services published on GeM	<p>Exemption from EMD shall be extended to bidders who are exempted from submission of EMD as per GeM's latest General Terms & Conditions (prevailing on date of inviting the tender). Currently, following are exempted:</p> <ol style="list-style-type: none"> Micro and Small Enterprises (MSEs) who are holding valid Udyam Registration and are manufacturer of the offered Product or Service and give specific confirmation to this effect at the time of bid submission and claim EMD exemption and whose credentials are validated online through Udyam Registration website of Ministry of MSME and also through supporting document uploaded during bidding process. Start-ups as recognized by Department for Promotion of Industry and

S. No.	Type of Tender	Exemption to be given to
		<p>Internal Trade (DPIIT), holding valid Startup Recognition Certificate. The turnover for any of the financial year (for which documents have been submitted) should not exceeded beyond limits prescribed in the certificate / Start Up scheme of DPIIT.</p> <p>3. KVIC, ACASH, WDO, Coir Board, TRIFED and Kendriya Bhandar.</p> <p>4. Sellers who have got their credentials verified through the process of Vendor Assessment by Vendor Assessment Agencies for the Primary Product / Primary Service for which Bid / RA has been invited.</p> <p>5. Sellers / Service Providers holding BIS License for the Primary Product Category whose credentials are validated through BIS database and through uploaded supporting documents.</p> <p>6. Central / State PSUs.</p> <p>7. Sellers / Service Provider having annual turnover of INR 500 Crore or more, at least in one of the past three completed financial year(s)</p>

Notes:

- i. In case of exempted bidder as per above table or for tenders having estimated value up to Rs. 5 lakhs, bidder should submit the Bid Security Declaration (As per format placed at Annexure – I) along with the bid.
 - ii. Tender not accompanied by requisite EMD or bid security declaration in case of exempted bidders/tenders valuing up to Rs. 5 Lakhs, shall be rejected summarily.
 - iii. The bidder shall sign the bid security declaration accepting that if they withdraw or modify their bid during the period of validity or if they are awarded the contract and they fail to sign the contract or to submit the performance security before the deadline defined in the bid document, they shall be de-barred from participating in any of the tenders /procurement process of CWC for a period of **two years**.
 - iv. The EMD can be forfeited as per the terms of the tender. If the successful bidder fails to furnish the prescribed performance guarantee within the prescribed period, the EMD shall be forfeited. In case of forfeiture of Earnest Money as per the conditions of the contract, the bidder shall be de-barred from participating in any of the tenders/procurement process of CWC for a period of two year.
 - v. The details of debarred bidders to be updated on the website of Corporation and on CPP portal through MIS Division, CO as per Format mentioned at **Annexure-2. MIS Division, CO shall ensure to update the same on the website of Corporation as well as on the CPP portal.**
 - vi. As per the existing guidelines, exemption from submission of Bid Security (EMD) is not available to any bidder for Works Contract.
- d) For fixing the EMD, Estimated Value of procurement shall be considered including GST (if applicable).**
- e) Refund of EMD**
- i. Earnest money of unsuccessful bidders shall be returned within 15 days after the award of contract or expiry of bid validity, whichever is earlier.
 - ii. In case of two packet or two stage bidding, EMD of unsuccessful/disqualified bidders during first stage i.e. technical evaluation should be returned within 15 days of declaration of result of first stage itself i.e. technical evaluation.
 - iii. Earnest money of successful bidder shall be returned within 15 days after receipt of Performance Security / ePBG, if not adjusted with Security Deposit or as per the Tender terms & conditions.

3. The EMD should be accepted through online mode i.e. NEFT/RTGS or any other digital mode allowed in the respective tendering system i.e. GeM / e-tendering portal etc and in no case, Cheque/DD shall be accepted.

B. Performance Security

1. Percentage of Performance Security

S No.	Contract Value	Performance Security percentage
1.	Procurement of Works/ Services, where contract value is up to Rs. 5 Lakh	Nil
2.	Procurement of Works/ Services, where contract value is above Rs. 5 Lakh	5% of the value of the contract.

Note: -

- (i) The Contract Value shall be considered **Including GST (if applicable)**.
- (ii) The Value of Contract for the purpose of Performance Security shall be considered Annually for Annual Rate Contracts where contract period is more than one year. However, total contract value shall be considered in case of all other contracts.
- (iii) In case, the percentage of Performance Security is to be increased (maximum 10%) for complex scope of work/ delivery schedule, in interest of Corporation, specific approval from MD is to be taken.
- (iv) In case, additional Performance Security is required for some specific cases (for example in case of abnormally low bids, supply of Goods etc), specific approval from MD is to be taken.

2. Performance Security shall normally be not required in case where scope includes only supply of goods even if the procurement is more than the threshold value specified above.
3. Performance Security shall only be in the form of Bank Guarantee. The validity of the BG shall be beyond 60 days from the date of completion of services and the claim expiry in case of BGs shall be 06 months beyond the expiry date of the BG.

C. Security Deposit

1. In case of **Contracts for works where defect liability period /maintenance warranty period exists as per contract requirement**, Security deposit equivalent to 5% of contract value shall be taken in addition to Performance Security.
2. In case of Contract for supply of Goods, where Scope of Supply includes defect liability /maintenance/ warranty as per contract requirement, Security Deposit @5% of Contract Value shall be taken.
3. In case of the supply of Goods where manufacturer/OEM, gives the warranty on Goods, the manufacturer/OEM warranty certificate shall be obtained in lieu of Security Deposit.
4. Security Deposit will be withheld @10% of each running account /final bill or any other periodic/ interim payment bill, until full value of Security Deposit is recovered as per terms of contract. The earnest money instead of being released shall form part of the security deposit.
5. The Security Deposit may also be accepted through electronic mode (NEFT/RTGS) in the bank account of CWC or in the form of Bank Guarantee.

6. The Security Deposit of the contractor shall be refunded after the expiry of stipulated defect liability/maintenance/warranty period as per Special condition of Contract.
7. The security deposit can be released after deducting the expenditure, if any incurred by CWC towards maintenance/defect removal works etc on behalf of contractor/supplier, after the issue of the certificate by concerned officer in charge.

Notes:

1. The BG should be in line to the guidelines stipulated vide reference letter dated 18.08.2021 referred above issued by Finance Division, CO New Delhi. According to these guidelines, Bank Guarantee received from Contractor shall be verified electronically through Structured Financial Messaging System (SFMS). Original Bank Guarantee after such confirmation will be handed over to cashier for safe custody as per prevalent practice and procedure.
2. The release of the BG is to be ensured in line of the guidelines of reference letter dated 20.08.2020 as in S/n (v) above issued by Finance Division, CO New Delhi.
3. The bank guarantee obtained in lieu of Performance security/Security Deposit, as the case may be, shall be released as per tender terms & conditions only.
4. The operating division shall review the validity of BG periodically and shall ensure the encashment/extension of BG, as per contract but before expiry of the same.
5. The latest circulars of Finance division released in relation to dealing of Bank Guarantee shall be strictly followed.
6. For the purpose of clarity, relevant definitions are given as below:
 - **"Procurement" or "public procurement" (or 'Purchase' in certain contacts)** means acquisition by way of purchase, lease, license or otherwise, either through Corporation own fund or any other source of funds (e.g. grant, loans, gifts, private investment etc.) of goods, works or services or any combination thereof, including award of Public Private Partnership projects, by a procuring entity, whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition of goods, works or services without consideration, and the term "procure" or "procured" shall be construed accordingly;
 - **"Works"** refer to any activity, sufficient in itself to fulfil an economic or technical function, involving construction, fabrication, repair, overhaul, renovation, decoration, installation, erection, excavation, dredging, and so on, which make use of a combination of one or more of engineering design, architectural design, material and technology, labour, machinery and equipment. Supply of some materials or certain services may be incidental or consequential to and part of such works. The term "Works" includes (i) civil works for the purposes of roads, railway, airports, shipping-ports, bridges, buildings, irrigation systems, water supply, sewerage facilities, dams, tunnels and earthworks; and so on, and (ii) mechanical and electrical works involving fabrication, installation, erection, repair and maintenance of a mechanical or electrical nature relating to machinery and plants.
 - **"Goods"** includes all articles, material, commodity, livestock, furniture, fixtures, raw material, spares, instruments, machinery, equipment, industrial plant, vehicles, aircrafts, ships, medicines, railway rolling stock, assemblies, sub-assemblies, accessories, a group of machineries comprising an integrated production process or such other categories of goods or intangible products like software, technology transfer, licenses, patents or other intellectual properties purchased or otherwise acquired for the use of Corporation but excludes books, publications, periodicals, etc., for a library. The term 'goods' also includes works and services which are incidental or consequential to the supply of such goods, such as, transportation, insurance, installation, commissioning, training and maintenance;

- "Service" is defined by exception as any subject matter of procurement other than goods or works, except those incidental or consequential to the service, and includes physical, maintenance, professional, intellectual, training, consultancy and advisory services or any other service classified or declared as such by a procuring entity but does not include appointment of an individual made under any law, rules, regulations, or order issued in this behalf. It includes 'Consultancy Services' and 'Other (Non-consultancy) Services';

Other Important Notes

- (i) Necessary clauses in the tender document may be incorporated to include the above mentioned terms & conditions.
- (ii) The guidelines of Performance Security/ Security Deposit or EMD presently stipulated in approved Model Tender documents will be amended as and when the concerned Division issues necessary instructions.

This issues with the approval of Managing Director for strict compliance.

Enclosed: Annexure-I & II.

**(Sachin Gupta)
Manager (Tender Cell)
For Chief Engineer**

To:-

1. All HoDs, CO, CWC.
2. All RMs, CWC.

Copy to:-

1. PS to MD/ Sr. PA to DIR (Fin)/ PPS to DIR (Pers.) CWC for information please.
2. GM (System), CWC, CO New Delhi for uploading on Website of the corporation in Circular Tab- Tender Cell and Notice board of E-office.
3. DGM (Vigilance), CWC, CO New Delhi for information please.

(On Letter Head of Bidder)

Whereas.....(name of agency) have submitted bid against (tender/ bid reference no.)..... Published by CWC for (Name of Work)

I/we hereby submit following declaration in lieu of submitting Earnest Money Deposit.

1. If after the opening of tender, I/we withdraw or modify my/our bid during the period of validity of tender (including extended validity of tender) specified in the tender documents I/we shall be suspended for **two years** and shall not be eligible to bid for Central Warehousing Corporation tenders from date of issue of suspension order,

Or

2. If, after the award of work, I/we fail to sign the contract, or to submit performance guarantee before the deadline defined in the tender documents, I/we shall be suspended for **two years** and shall not be eligible to bid for Central Warehousing Corporation tenders from date of issue of suspension order.

Date:

(Authorized Signatory)

Sub.:- Details to be provided for updating debarred/ blacklisted bidders on website of Corporation...reg.

S. No.	Name of the bidder	Address of the bidder	Tender/ Bid reference number	Period of debarment / blacklisting		Remarks/ Supporting document, if any
				From Date	To Date	
1						
2						

Submitted to:
GGM (MIS)
MIS Division
CO, New Delhi