

GOVERNMENT OF ODISHA
FINANCE DEPARTMENT

No 27928 /F Dated 16/10/2020
FIN-COD-MISC-0008-2017

OFFICE MEMORANDUM

Sub: Preference to Local MSEs/Start-ups in Public Procurement

Finance Department vide Office Memorandum No 13290/F Dated 20.04.2013 issued Supplementary guidelines for procurement of goods from local MSEs. Later vide FDOM No 21926/F Dated 12.08.2015 the local MSEs are exempted from payment of EMD and on conclusion of the bidding process, if selected shall pay 25% of the value of performance security. Besides, Start-ups are also treated as par with MSEs and consequently exempted from payment of EMD and allowed concessional payment of Performance Security vide FDOM No 13681/F Dated 19.04.2018.

Now, in order to promote local MSEs (as defined in Odisha MSME Development Policy, 2016) / Start-ups (as defined under para-7 (vi) of Odisha Start-up Policy-2016) to enhance income and employment generation in the State, the State Government has pleased to issue the following supplementary instructions:

3. Purchase from exclusive list:

(i) List of goods and services reserved for exclusive purchase from Micro & Small Enterprises (MSEs)/Start-ups located within the State of Odisha will be notified by MSME Department from time-to-time in terms of relevant provisions of Odisha MSME Development Policy, 2016 and "Odisha Procurement Preference Policy for Micro and Small Enterprises"-2015 and other relevant Acts and Rules. State Government Departments and its attached offices / State PSUs/ Autonomous Bodies/ Local Bodies/Co-operatives etc. are required to procure the items indicated in the exclusive list from the local MSEs/Start-ups as per the procedure prescribed in these guidelines.

Provided that the buyers have the option of buying the items, included in the Exclusive List, from GeM in case they are not able to get the items in desired quality and quantity. **In such case permission for buying goods can be obtained from the next higher authority with sufficient justification.**

(ii) Director of Export Promotion and Marketing (EPM) may entered into contract with local MSEs/Start-ups in respect of goods included in the exclusive list as notified by MSME Department and purchase of such goods by State Government Departments and its attached offices / State PSUs/ Autonomous Bodies/ Local Bodies/Co-operatives etc. should be only from sources with whom such rate contracts have been entered into by placing order in accordance with the procedure outlined for this purpose by MSME Department.

Provided that the buyers have the option of buying the item from GeM for which Rate Contracts have been entered into, in case the buyer is not able to obtain the supply of goods in desired quality and quantity. **In such case the buyer shall obtain permission from the next higher authority with sufficient justification.**

4. Purchase preference system for MSEs and Local Start-ups :

The quantum and manner of purchase preference to local MSEs / Start-ups in public procurement should be as notified by MSME Department under respective Rules/Guidelines.

5. Purchase preference system under make in Odisha:

(i) The State Government may, by notification, provide for mandatory procurement of any goods or services from any category of bidders, or provide for preference to bidders on the ground of promotion of locally manufactured goods or locally provided services under Make in Odisha initiatives.

(ii) MSME Department shall act as nodal Department for issue of necessary order for special provisions for local Suppliers under "Make in Odisha" initiative in line with Public Procurement (Preference to Make in India) order, 2017 issued by Government of India.

6. Bid Security :

i) To safeguard against a bidder's withdrawing or altering its bid during the bid validity period in the case of advertised or two-bid tender enquiry, bid security (also known as earnest money) is to be obtained from the bidders except Micro and Small Enterprises as defined in Odisha MSME Development Policy, 2016 and start-ups as defined under para- 7(vi) of Odisha Start-up Policy, 2016. The bidders should be asked to furnish the bid security along with their bid. **Amount of bid security should generally be between two to five per cent of the estimated value of the goods or services to be procured.**

ii) The exact amount of bid security, as determined by the Department is to be indicated in the bidding document. The bid security may be obtained either in physical or electronic form in the shape of account payee demand draft, fixed deposit receipt, bank guarantee from any of the scheduled commercial banks in an acceptable form, safeguarding the purchaser's interest in all respects. The bid security is normally to remain valid for a period of forty-five days beyond the final bid validity period. The Model Bank Guarantee Format for furnishing EMD is at **Annexure-A**.

iii) Bid securities of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity period and latest by the 30th day after the award of the contract.

iv) Bid security should be refunded to the successful bidder on receipt of performance security.

7. Performance Security :

(i) To ensure due performance of the contract, Performance Security is to be obtained from the successful bidder awarded the contract. In case of contracts for goods, the need for the Performance Security depends on the market conditions and commercial practice for the particular kind of goods. **Performance security should be for an amount of five to ten per cent of the value of the contract.**

(i) Performance security may be furnished either in physical or electronic form in the shape of an account payee demand draft, fixed deposit receipt from a commercial bank, bank guarantee from a commercial bank for safeguarding the purchaser's interest in all respects. The Model Bank Guarantee Format for Performance Security is at **Annexure-B**.

(iii) Micro and Small Enterprises as defined in Odisha MSME Development Policy, 2016 and start-ups as defined under para- 7(vi) of Odisha Start-up Policy, 2016 are allowed concessional payment of performance security @ 25% of performance security prescribed for normal bidders.

(iv) Performance security should remain valid for a period of sixty days beyond the date of completion of all contractual obligations of the supplier including warranty obligations.

8. Relaxation of prior turnover and prior experience criteria in bidding document: The condition of prior turnover and prior experience may be relaxed/waived for local MSEs / Start-ups subject to meeting of quality & technical specifications and making suitable provisions in the bidding document as per the guidelines issued by MSME Department from time to time.

9. Removal of doubts: Where a doubt arises as to the interpretation of any provisions of these Guidelines, the matter may be referred to Finance Department for clarification.

Detailed guidelines for providing preference to local MSEs/Start-ups in public procurement shall be issued by MSME Department.

These instructions shall be deemed to be a part of Odisha General Financial Rule.

By order of Governor,


(Ashok Kumar Meena)

Principal Secretary to Government

Memo No 27929 /F Dated 16/10/2020

Copy forwarded to the Secretary to Governor / P.S to Chief Minister / P.S to Minister, Finance & Excise / OSD to Chief Secretary for kind information of Governor/ Chief Minister / Minister Finance & Excise /Chief Secretary.

AP Lt
16/10/2020

Deputy Secretary to Government

Memo No 27930 /F Dated 16/10/2020

Copy forwarded to all Departments / Secretary OLA / Accountant General (G&SSA), Odisha, Bhubaneswar/ Accountant General (E&RSA), Odisha, Bhubaneswar / Deputy Accountant General (Works), Odisha, Puri/ Advocate General, Odisha, Cuttack /all Heads of Department/ All Revenue Divisional Commissioners / All Collectors / All Financial Advisors/ All Assistant Financial Advisors/ Director, Madhusudan Das Regional Academy of Financial Management, Chandrasekharpur, Bhubaneswar/ Director, Gopabandhu Academy of Administration, Bhubaneswar/ Principal, short Hand and Type Writing Institute, Bhubaneswar/ all Treasury Officers/ All Special Treasury Officers/ All Sub-Treasury Officers/ All Universities/ All P.S. Us/ All U.L.Bs for information.

AP Lt
16/10/2020

Deputy Secretary to Government

Memo No 27931 /F Dated 16/10/2020

Copy forwarded to P.S. to Principal Secretary / P.S. to all Special Secretaries / P.S. to all Additional Secretaries for kind information of Principal Secretary / Special Secretaries/ Additional Secretaries.

AP Lt
16/10/2020

Deputy Secretary to Government

Memo No 27932 /F Dated 16/10/2020

Copy forwarded to all Officers / all Branches of Finance Department for information and necessary action.

AP Lt
16/10/2020

Deputy Secretary to Government

Memo No 27933 /F Dated 16/10/2020

Copy forwarded to the Head, Portal Group, Lokseva Bhawan, Bhubaneswar, Odisha for information and necessary action. It is requested to hoist this Office Memorandum in the website of Finance Department ([www.odisha.gov.in / finance](http://www.odisha.gov.in/finance)).

Asy
16/10/2020

Deputy Secretary to Government

ANNEXURE-A

[See Para-6]

**** Model Bank Guarantee Format for furnishing EMD**

Whereas (hereinafter called the "tenderer") has submitted their offer dated..... for the supply of (hereinafter called the "tender") against the purchaser's tender enquiry No.....

KNOW ALL MEN by these presents that WE..... of having our registered office at..... are bound unto (hereinafter called the "Purchaser) in the sum of for which payment will and truly to be made to the said Purchaser, the Bank binds itself, its successors and assigns by these presents.

Sealed with the Common Seal of the said Bank this..... day of20.....

THE CONDITIONS OF THIS OBLIGATION ARE:

- (1) If the tenderer withdraws or amends, impairs or derogates from the tender in any respect within the period of validity of this tender.
- (2) If the tenderer having been notified of the acceptance of his tender by the Purchaser during the period of its validity:-
 - a) If the tenderer fails to furnish the Performance Security for the due performance of the contract.
 - b) Fails or refuses to accept/execute the contract.

WE undertake to pay the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser will note that the amount claimed by it is due to it owing to the occurrence of one or both the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force upto and including 45 days after the period of tender validity and any demand in respect thereof should reach the Bank not later than the above date.

Our..... branch at.....* (Name & Address of the* branch) is liable to pay the guaranteed amount depending on the filing of claim and any part thereof under this Bank Guarantee only and only if you serve upon us at our* branch a written claim or demand and received by us at our* branch on or before Dt.....otherwise bank shall be discharged of all liabilities under this guarantee thereafter.

.....
(Signature of the authorized officer of the Bank)

.....
Name and designation of the officer

.....
Seal, name & address of the Bank and address of the Branch

** Preferably at the headquarters of the authority competent to sanction the expenditure for purchase of goods or at the concerned district headquarters or the State head quarters.*

***Annexure-I and Para-21 of FD Office Memorandum No. Code-27/2011-4939/F dated 13.12.2012*

ANNEXURE-B

[See Para-7]

**** Model Bank Guarantee Format for Performance Security**

To

The Governor of Odisha.

WHEREAS..... (name and address of the supplier) (hereinafter called "the supplier") has undertaken, in pursuance of contract no..... dated to supply (description of goods and services) (herein after called "the contract").

AND WHEREAS it has been stipulated by you in the said contract that the supplier shall furnish you with a bank guarantee by a scheduled commercial bank recognized by you for the sum specified therein as security for compliance with its obligations in accordance with the contract;

AND WHEREAS we have agreed to give the supplier such a bank guarantee;

NOW THEREFORE we hereby affirm that we are guarantors and responsible to you, on behalf of the supplier, up to a total of (amount of the guarantee in words and figures), and we undertake to pay you, upon your first written demand declaring the supplier to be in default under the contract and without cavil or argument, any sum or sums within the limits of (amount of guarantee) as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the supplier before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the contract to be performed thereunder or of any of the contract documents which may be made between you and the supplier shall in any way release us from any liability under this guarantee and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid until the day of, 20.....

Our..... branch at* (Name & Address of the* branch) is liable to pay the guaranteed amount depending on the filing of claim and any part thereof under this Bank Guarantee only and only if you serve upon us at our* branch a written claim or demand and received by us at our* branch on or before Dt.....otherwise bank shall be discharged of all liabilities under this guarantee thereafter.

.....
(Signature of the authorized officer of the Bank)

.....
Name and designation of the officer

.....
Seal, name & address of the Bank and address of the Branch

** Preferably at the headquarters of the authority competent to sanction the expenditure for purchase of goods or at the concerned district headquarters or the State headquarters.*

**** Annexure-II and Para-21 of FD Office Memorandum No. Code-27/2011-4939/F dated 13.12.2012**