

**GOVERNMENT OF TELANGANA
FINANCE (TFR) DEPARTMENT**

Memo.No.896215-A/185/A1/TFR/2020

Dated: 29-12-2020.

Sub: COVID-19 Pandemic – Certain reliefs considered in works contracts in line with the reliefs considered by Government of India – Instructions – Issued.

- Ref:**
1. O.M.No.F.18/4/2020-PPD, dated 19-2-2020 and dated 13-5-2020 of Ministry of Finance, Government of India on Force Majeure Clause (FMC)
 2. Representation from the Builders' Association of India, Telangana, dt.10.06.2020 addressed to the Principal Secretary to Government, I&CAD Department.
 3. Recommendations of the Board of Chief Engineers vide meeting dated 31.10.2020.
 4. O.M.No.F.9/4/2020-PPD, dated 12-11-2020 of Ministry of Finance, Government of India on reduced performance security.
 5. The SLSC recommendations vide meeting dt.22-12-2020.

The Department of Expenditure, Procurement Policy Division Office, Ministry of Finance, Government of India vide references 1st & 4th cited have considered and clarified the following:

- (a) The disruption of the supply chains due to spread of corona virus in China or any other country would be considered as circumstances beyond human control and would be termed as a natural calamity and "force majeure clause" (FMC) may be invoked, wherever considered appropriate, following the due procedure.
- (b) Where an application is made by a contractor who is not in default of any contractual obligations or FMC is invoked by the contractor and the requirement of the FMC fulfilled, the contractee Government Department may return the value of performance security to the contractor/ supplier as is proportional to the supplies made/ contract work completed to the total contract value.

2. In the reference 3rd read above, the Builder's Association of India (BAI), Telangana, have represented to the Government of Telangana seeking certain reliefs to improve liquidity in consideration of financial difficulties faced during the lock-down.

3. The reliefs sought for by the BAI were deliberated in the Board of Chief Engineers (BOCE) meeting and the recommendations of BOCE were referred to the Government in the reference 4th cited.



4. In the reference 5th cited, the Government of India have reduced the performance security from existing 5% - 10% to 3% of the value of contract for all existing contracts.

5. The subject matter was also deliberated by the State Level Standing Committee (SLSC) in its meeting dt.22-12-2020 and the SLSC recommended to continue the existing EMD@2.5% of all ongoing works and to reduce FSD (retention money) to 0.5% on the value of work done and to release balance FSD. In effect, the EMD and retention money available with the Dept would be 3% by the time of completion of work.

6. After careful consideration of the reliefs given by the Government of India and recommendations of BoCE and SLSC on the subject matter and in partial modification of the existing codal provisions and preliminary specifications to TSSS, the following reliefs to the work Agencies/ Contractors are ordered duly taking into account the payments system in the State.

I. In respect of all ongoing works:

The FSD amounts shall be withheld from work bills @ 0.5% on the value of work done and the FSD in excess of 0.5% will be released as follows:

- (i) The Retention money Bank Guarantees towards FSD will be returned to the agencies.
- (ii) In respect of works for which bills are pending, DDOs will be permitted to modify such bills enabling release of retention money along with the bills.
- (iii) In respect of works for which no bills are pending, FSD in excess of 0.5% of value of work will be released in the next bill.

II. In respect of works which are in Defects Liability Period (DLP):

- (i) In respect of the works for which final bills are **pending**, bill may be permitted to be revised proposing retention @ 0.5% of the value of work done with due maintenance of EMD till the end of DLP.
- (ii) In respect of the works for which final bills are already **paid** and DLP is not completed, the retention money @ 2% of the value of work done will be paid on H.Rs.

III. The FSD withheld @ 0.5% on value of work as above shall be in cash and will be retained along with EMD till the end of DLP.

7. These reliefs are applicable to all works executing departments, Government Undertakings, Corporations, Societies and other Institutions which are governed by rules and procedures of State Government and to all existing contracts as on date and for the entire duration of such contracts.



8. However, these reliefs are not applicable in the contracts under dispute wherein arbitration/ court proceedings have already been started or are contemplated.

9. In case of works where there are compelling circumstances to insist upon EMD and FSD in excess of 3% as stipulated above the same can be done with the approval of next higher authority to the authority competent to finalize the particular tender.

10. As the Government Finances are also affected due to COVID-19 Pandemic, the reliefs extended herein entailing cash out flow would be allowed subject to ways and means position.

K. RAMAKRISHNA RAO
PRINCIPAL SECRETARY TO GOVERNMENT

