

POLICY

Updates



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Reduction in Percentage of Performance Security in DDUGJY, Saubhagya, Additional Infra, IPDS (including subsumed R-APDRP) Projects and Revision of Clause in Standard Bidding Document



The Rural Electrification Corporation (REC) communicated to all DISCOMS / PIAs of States, on 15th March 2021, to reduce percentage of performance security from earlier 5-10% to 3%, as well as for revision of relevant clause in standard bidding document, with immediate effect. Similarly, on 16th March 2021, the Power Finance Corporation (PFC) also wrote to all DISCOMS and Energy Secretaries in State Government to reduce this performance security in IPDS (including subsumed R-APDRP) projects and revision of relevant clause in standard

bidding document. This was directed by the Ministry of Power, Government of India, vide its letter dated 9th March 2021.

IEEMA had earlier represented to the Ministry of Power, REC and PFC, on 11th January 2021, to issue Orders to the State Power Utilities and the Government Departments in States, to implement this reduction in performance security, in line with the OM No. F.9/4/2020-PPD, dated 12th November 2020, issued by Department of Expenditure, Ministry of Finance, Government of India, for providing relief to the suppliers.

Request to Incorporate and Consistent use Price Variation Clauses in Existing as well as Future Contracts

IEEMA represented this matter to the Coal India Limited and The Singareni Collieries Company Ltd.

IEEMA mentioned that uniform price variation in contracts is a well-accepted and trusted principle, practiced over four decades by all large public sector procurement agencies like PGCIL, NTPC, Railways etc., as well as, for major projects in transmission and distribution tendered by State Utilities.

Prices of input raw material always move erratically depending upon the market fluctuations, geopolitical issues, government policies etc. The supplier quoting on the basis of firm price for a short-term contracts faces considerable difficulty while bidding since it has to predict the future variation in raw materials and quote accordingly. In such a scenario, the supplier either grossly over quotes to be on the safer side or gambles and under quotes in a highly competitive market.

In both the above cases there is a disadvantage in some respect to both the suppliers and purchasers. As against this,

if the purchaser provides price variation clause even for a shorter period, the supplier is not required to speculate on the prices of inputs and therefore bases its quotation on the ruling prices of inputs at the time of quoting. This eliminates not only the speculation and pseudo pricing, but also provide reasonably fair price variation to either purchaser or the supplier, as well as, it helps the supplier to maintain a proper delivery schedule.

For most of the electrical equipment used in power transmission and distribution, the total delivery period from the date of quotation varies from 3 months to 3 years. Therefore, all these contracts are ideally to be covered for procurement using price variation clause.

In view of the above, IEEMA requested the Coal India Limited and The Singareni Collieries Co. Ltd. to issue directives for incorporation and consistent use of Price Variation Clauses, in existing as well as future contracts, to safeguard the interests of both buyer and supplier.

Request to the State Government of Assam and Uttar Pradesh to Issue Orders for Reduction in Value of Performance Security from 5-10% to 3% in Existing and Future Government Tenders

In its representation, IEEMA brought to the notice of these State Governments, about the announcement of Aatmnirbhar Bharat 3.0 on 12th November 2020, that included reduction in value of performance security in Government tenders from existing 5-10% to 3% of the value of the contract, which is applicable for all kinds of procurement viz. Goods, Consultancy, Works, non-consulting Services, EPC etc. and are issued under Rule 6(1) of the GFRs 2017.

IEEMA mentioned that the Government of Rajasthan, the Government of Jammu

& Kashmir and the Government of Haryana had already issued their Orders in this regard.

IEEMA requested the State Governments of Assam and Uttar Pradesh to issue similar Orders to their Power Utilities and Government Departments for reduction in value of performance security from 5-10% to 3% in existing and future Government tenders.

Request to Implement Advisories of the Government of India, under Aatmnirbhar Bharat to Provide Relief to the Indian Electrical Industry

IEEMA represented to all State power utilities to implement all the benefits provided by the Department of Expenditure, Ministry of Finance, Government of India in their existing and future procurement tenders.

These benefits included the following:

- Reduction in Value of Performance Security on Government Tenders from existing 5-10% to 3% of the Value in Existing and Future Contracts
- Replacement of Bid Security / Earnest Money Deposit (EMD) with Bid Security Declaration in Existing and Future Contracts
- Return of Performance Securities Proportional to Supplies Made / Works Contracts

Concluded in Existing and Future Contracts

IEEMA mentioned that the said measures would provide significant relief to the contractors and suppliers, easing their liquidity and working capital needs and help them tied over the difficult situation created by the pandemic and subsequent crisis.



Guidelines for a competitive bidding process for procurement of round the clock power from mixed sources amended

The Ministry of Power, Government of India, amended the guidelines for the tariff-based competitive bidding process for procurement of round-the-clock (RTC) power from renewable energy (RE) sources, complemented with power from any other power sources. The guidelines were released in July 2020 to facilitate the bundling of renewable energy with other non-renewable sources of energy to address the intermittent nature of renewable energy. The key features of the amendments include:

- Threshold for sharing the amount realised from non-scheduled power: The power generators and procurers are required to follow a forecasting and scheduling process for sale of power. If the power is not procured by the procurer as per the schedule, the procurer must compensate the generators. Also, the generators may sell the non-scheduled power to a third-party and adjust the amount realised against the compensation. The power generators are required to share certain part of the amount realised, from the third-party sale of nonscheduled powers (powers offered but not scheduled), with the procurer.
- For renewable power, the amendments increase the threshold of the shareable amount from 90% of the net realisation to 95% of the net realization: For non-renewable power, the threshold has been increased from 50% of the net realisation (excluding variable charges) to 95% of the net realisation (excluding variable charges).
- Period for decision on force majeure: The amendments reduce the decision-making period of the procurer from 30 days to 15 days to decide on the force



majeure claims of power generators. Force majeure claims refer to the claims for relief (such as excuse from performance obligations) in wake of uncontrollable events such as earthquakes, and floods.

MCA increases the threshold for capital and turnover for Small Companies

The Ministry of Corporate Affairs increased the threshold for capital and turnover to be classified as a Small Company under the Companies Act, 2013. The threshold for paid up capital has been increased from fifty lakh rupees to two crore rupees. The threshold for turnover has been increased from two crore rupees to twenty crore rupees. These changes, which were announced in the 2021-22 budget speech, will take effect from April 1, 2021. More than two lakh companies are expected to be reclassified as a small company due to the higher threshold. These companies are expected to benefit from lower disclosure requirements, and lesser fees and fines.

MCA amends rules for One Person Companies

The Ministry of Corporate Affairs amended the rules for One Person Companies (OPCs) to relax provisions

governing incorporation of OPCs and their conversion into other kinds of companies. As per the Companies (Incorporation) Rules, 2014 (under the Companies Act, 2013), only an Indian citizen who is resident in India is eligible to incorporate an OPC.

A person is considered to be a resident in India if they have stayed in India for at least 182 days in the preceding calendar year. The new rules lower this requirement from 182 days to 120 days.

The new rules also provide that all Indian citizens, whether resident in India or otherwise, can incorporate an OPC. The 2014 rules provide that an OPC can convert into any other kind of company only after two years of its incorporation, unless: (i) its paid-up capital exceeds fifty lakh rupees, or (ii) its average annual turnover is more than two crore rupees.

The new rules do not mandate an OPC to convert to a public or private company if it exceeds the threshold on paid up capital and annual turnover. An OPC may convert to a public or private company at any time if it meets the requirements of paid-up capital and number of directors for a public or private company.

The new rules also allow a private company to convert to an OPC even if its share capital and annual turnover exceeds fifty lakh rupees and two crore rupees respectively. The new rules, which were announced in the 2021-22 budget speech, will take effect from April 1, 2021.



Certificate of Origin Service of IEEMA

IEEMA issues “**Certificate of Origin (Non-Preferential)**”, required by exporters at the time of exporting their products out of the country.

The Ministry of Commerce and Industry, Government of India approved IEEMA Delhi as an authorized agency to issue this certificate in the year 2003, vide DGFT Public Notice no. 64/2002-07, dated 19th February 2003. IEEMA's name and contact details appear under Appendix 2 E of Handbook of Procedures (Vol.I) of the Foreign Trade Policy.

On receipt of applications from exporters, IEEMA issues these certificates instantly with zero wait time.

Members desirous to obtain the certificates from IEEMA need to send filled-in format of Certification of Origin, along-with copies of invoice and packing list(s) for each consignment, to the below mentioned address. Applicants may get the certificates either in person or through courier.

A nominal certificate fee of INR 118 (INR one hundred eighteen only - inclusive of GST) is charged per certificate. Applicants need to add INR 50 (INR fifty only) as courier charges. Payment may be made by cash / cheque / DD in favour of “**IEEMA**” payable at “**Delhi**”.

Exporters are requested to send their requisitions and queries to:

Mr. Sudeep Sarkar
Director



Indian Electrical & Electronics Manufacturers' Association (IEEMA)
Rishyamook Building, First Floor, 85A, Panchkuian Road, New Delhi – 110 001
Ph: 011- 23363013-14 / 23746634, Fax: 011- 23363015
Email: sudeep.sarkar@ieema.org

Cabinet approves a new disinvestment policy for public sector enterprises

The Union Cabinet approved a new policy for disinvestment of Public Sector Enterprises (PSEs), which will govern the ownership and control of PSEs by the central government. Under the policy, the government seeks to minimise the presence of PSEs across sectors and create new investment space for the private sector.

The policy categorises all sectors into strategic and non-strategic based on the criteria of national security, availability of important minerals and energy, financial services, and critical infrastructure. Strategic sectors are: (i) atomic energy, defense, and space, (ii) transport and telecommunication, (iii) power, petroleum, coal, and other minerals, and (iv) banking, insurance, and financial services.

The policy envisions a bare minimum presence of existing PSEs in the strategic sectors as the government aims to retain control through holding companies (i.e. a company owning the shares of the company running the business). All other existing PSEs in the strategic sectors will be either privatised, closed, merged with another PSE or made its subsidiary.

All existing PSEs in sectors other than strategic sectors will be privatised, if feasible, or closed. The new policy is applicable to central PSEs and public sector banks and insurance companies. It is not applicable to certain PSEs including those working as not-for-profit companies, providing support to vulnerable groups, performing any developmental or regulatory role, or maintaining critical data having bearing on national security.



The Major Port Authorities Bill, 2020 passed by Parliament

The Major Port Authorities Bill, 2020 was passed by Parliament. The Bill replaces the Major Port Trusts Act, 1963. It provides for regulation, operation and planning of major ports in India and provide greater autonomy to these ports.

Major ports include Chennai, Cochin, Jawaharlal Nehru Port, Kandla, Kolkata, Mumbai, New Mangalore, Mormugao, Paradip, V.O. Chidambaranar, and Vishakhapatnam.

The Bill constitutes the Board of Major Port Authority for each of these ports for administration, control, and management of these ports. Key features of the Bill include:

- **Board of Major Port Authority:** Under the 1963 Act, all major ports were managed by the respective Board of Port Trusts with members appointed by the central government. The Bill constitutes a Board of Major Port Authority for each major port to replace existing Port Trusts.

- **Fixing of rates:** The 1963 Act established the Tariff Authority for Major Ports, to fix the scale of rates for assets and services available at ports. Under the Bill, the Board of Major Port Authority or committees appointed by the Board may determine rates for: (i) services performed at ports, (ii) access to and usage of the port assets, and (iii) different classes of goods, services and vessels, among others.
- **Adjudicatory Board:** The Bill provides for an Adjudicatory Board to replace the existing Tariff Authority for Major Ports. Functions of the Adjudicatory Board include: (i) functions of the existing Tariff Authority, and (ii) adjudicating on disputes or claims related to rights and obligations of the major ports.
- **Penalties:** Under the 1963 Act, there are various penalties for contravening provisions of the Act. For instance, the penalty for setting up any structures on the harbours without permission could extend up to Rs 10,000. The Bill provides for a penalty of up to one lakh rupees for violation of the provisions of the Bill.