



JAMMU AND KASHMIR MEDICAL SUPPLIES CORPORATION LTD.
(Public Sector Undertaking of Govt of Jammu & Kashmir)

Corporate Head Office: Near Friend Colony Plot No 58, Trikuta Nagar, Jammu

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C I R C U L A R

Sub: Force Majeure Clause (FMC)

Ref: Department of Expenditure, Ministry of Finance, Govt. of India OM No. F 18-4-2020-PPD dated 13-5-2020.

1. The Standard Procurement Procedure Manual of JKMSCL defines Force Majeure as follows:

- (i) Force Majeure means an event beyond the control of the successful bidder and not involving the successful bidder's fault or negligence and which is not foreseeable and not brought about at the instance of the party claiming to be affected by such event and which has caused the non-performance or delay in performance. Such events may include but are not restricted to, acts of the Tender Inviting Authority either in its sovereign or contractual capacity, wars or revolutions, hostility, acts of public enemy, civil commotion sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes excluding by its employees, lockouts excluding by its management and freight embargoes. Scarcity of raw material and power cut are not considered as force majeure.
- (ii) If a Force Majeure situation arises, the successful bidder shall promptly notify the Tender Inviting Authority in writing of such conditions and the cause thereof within, twenty-one days of occurrence of such event. The time for making supply may be extended by the Tender Inviting Authority at its discretion for such period as may be considered reasonable.


2. Furthermore, Department of Expenditure, Ministry of Finance, Govt. of India vide the above captioned reference has recognized that in view of the restrictions placed on the movement of goods, services and manpower on account of the lockdown situation prevailing overseas and in the country in terms of the guidelines issued by the MHA under the DM Act 2005 and the respective State and UT Government, it may not be possible for the parties to the contract to fulfil contractual obligations.

Therefore, after fulfilling due procedure and wherever applicable, parties to the contract may invoke FMC for all construction / works contracts, goods and services contracts and PPP contracts with Government Agencies and in such event, date for completion of


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contractual obligations which had to be completed on or after 20th February 2020 shall stand extended for a period not less than three months and not more than six months without imposition of any cost or penalty on the contractor. The period of extension (between three and six months) may be decided based on the specific circumstances of the case and the period for which performance was affected by the force majeure events.

3. It has been clarified that invocation of FMC would be held valid only in a situation where the parties to the contract were not in default of the contractual obligations as on 19th February, 2020. It is further clarified that invocation of FMC does not absolve all non-performances of a party to the contract, but only in respect of such non-performance as is attributable to a lockdown situation or restrictions imposed under any Act or executive order of the Government/s on account of COVID-19 global pandemic. It may be noted that, subject to above stated, all contractual obligations shall revive on completion of the period.
4. General Manager(P&S), on a case to case basis, after taking into cognisance the performance of a supplier on 19-02-2020 and in due consonance with the aforementioned guidelines, may grant appropriate extension to delivery period, to any supplier who requests for the same.


Managing Director
JKMSCL

Dated: 01 /07/2020.

No: JKMSCL/FA/2020-21/433-36

Copy for information to:

1. Financial/Advisor & CAO, JKMSCL.
2. General Manager (Adm)- JKMSCL.
3. General Manager (P&S, IT) -JKMSCL.
4. All concerned for information.