

No. 4(4)/D(Acq)/20
Government of India
Ministry of Defence
(Acquisition Wing Secretariat)

South Block, New Delhi-110011

Dated: 12 June, 2020

OFFICE ORDER

Subject: Force Majeure (FM) in capital acquisition contracts due to COVID-19 measures.

In view of the Lockdowns due to COVID-19 preventive measures, MoF vide OM No. F.18/4/2020-PPD dtd 19 Feb 2020 and 13 May 2020 has clarified that supply chain disruption due to spread of COVID-19 (Corona virus) in the country will be covered in the Force Majeure Clause (FMC) of public procurement contracts as the situation needs to be considered as a case of natural calamity.

2. Since the Industries will not be able to start production at 100% level immediately after the lockdown is lifted, the start date for the purpose of determining the period of relaxation in supply period by the Indian Vendors due to Force Majeure (FM) shall be the date of start of national lockdown i.e. 25th March 2020 vide MHA Order No. 40-3/2020-DM-I(A) dated 24th March 2020. The end date of the period of relaxation shall be the date one month beyond three months period i.e. 25th March 2020 to 24th July 2020.

3. Accordingly the following has been decided on the subject matter in respect of FMC of capital acquisition contracts (of the Services and Coast Guard) with Indian Contractors/ Sellers/ Vendors:-

(i) Force Majeure shall be applicable for a period of four months i.e. 25th March 2020 to 24th July 2020.

(ii) Duration of this Force Majeure will be excluded while calculating the delay in delivery of contracted equipment/service and imposition of LD charges.

(iii) Interim and Final Delivery Period of the stage(s) of the contract that affected by lockdown, will stand extended by four months without imposition of any LD Charges. However, the Vendor is free to deliver the item well within the extended DP on account of FM.


12/06/20

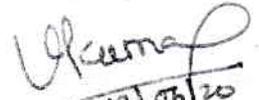
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(iv) No separate contract specific amendments are required to be made to give effect to this order.

(v) The vendors to be intimated about the above mentioned amendment to the concerned capital acquisition contracts on account of Force Majeure (FM).

4. Foreign Vendors may approach the SHQs/MoD, which will consider the cases on the basis of situation prevailing in their country.

5. This issues with the concurrence of Secretary (Defence Finance) conveyed vide MoD(Fin) Note No. 16/AFA(ND) dated 02 June 2020 and the approval of Hon'ble RM.



(V.K. Adhana)

Director (Acq)

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