

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN: NEW DELHI

F. No. FIN/22/1/2016-CDN (A&A)

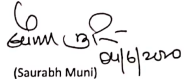
Dated the June, 2020

ENDORSEMENT

Sub: Force Majeure Clause and Instructions for the purchase of laptops/notebooks and similar devices for eligible officers – revised guidelines - reg.

Govt. of India, Ministry of Finance, Deptt. of Expenditure, Public Procurement Division has issued an O.M. No.F.18/4/2020-PPD dated 13.05.2020 regarding Force Majeure Clause. Also, Ministry of Finance, Deptt. of Expenditure has issued an O.M. No. 3(6)/2020-EII(A) dated 27.03.2020 regarding Instructions for the purchase of laptops/notebooks and similar devices for eligible officers – revised guidelines.

As approved by the Competent Authority, the O.M. No.F.18/4/2020-PPD dated 13.05.2020 and O.M. No. 3(6)/2020-EII(A) dated 27.03.2020 of Department of Expenditure is hereby posted on the ICAR website www.icar.org.in for information, guidance and necessary action.


(Saurabh Muni)

Finance and Accounts Officer

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**No. F. 18/4/2020-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division**

**North Block, New Delhi
New Delhi dated the 13th May, 2020**

OFFICE MEMORANDUM

Subject: Force Majeure Clause (FMC)

Attention is invited to Department of Expenditure's O.M. No. 18/4/2020-PPD dated 19th February, 2020 on the invocation of Force Majeure Clause (FMC). Vide the O.M., it was clarified that disruption of supply chains due to spread of Coronavirus will be covered under FMC which could be invoked, wherever considered appropriate, following the due procedure as stated in para 9.7.7. of the Manual on Procurement of Goods.

2. Subsequent to issuance of the above referred O.M., further disruptions have affected transportation, manufacturing and distribution of goods and services in the country. Limitations placed on the movement of men and material as per the guidelines issued by the Ministry of Home Affairs (MHA) under the Disaster Management Act, 2005 (DM Act 2005) and the respective State and UT governments from time to time have severely impaired the fulfilment of contractual obligations for supply of goods, works and consultancy services (including other services), and affected the volume of vehicular traffic.


3. Attention in this regard is invited to para 9.7.7 of the "Manual for Procurement of Goods 2017", Para 6.4.2 of the "Manual for Procurement of Works 2019" and para 8.14.1 of the "Manual for Procurement of Consultancy and other Services 2017" issued by the Department of Expenditure. The above referred three Manuals recognize extraordinary events or circumstances beyond human control leading to delays in or non-fulfilment of contractual obligations. In a situation of such events happening, and after following due procedure, parties to the contract are allowed flexibility to invoke FMC following prescribed due procedure.

4. It is recognised 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 Governments, it may not be possible for the parties to the contract to fulfil contractual obligations. In respect of Public-private Partnership (PPP) concession contracts, a period of the contract may have become unremunerative. 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 contractual obligations which had to be completed on or after 20th February 2020 shall stand extended for a period not less than

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three months and not more than six months without imposition of any cost or penalty on the contractor/concessionaire. Concession period in PPP contracts ending on or after 20th February 2020 shall be extended by not less than three and not more than six months. 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.

5. It is 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.


(Kotluru Narayana Reddy)
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To,
Secretaries of all Central Government Ministries/Departments

No.3(6)/2020-EII(A)
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 27th March 2020

Office Memorandum

Subject : Instruction for purchase of laptops/note books and similar devices for eligible officers – revised guidelines

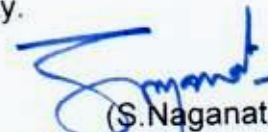
In partial modification of this Ministry's OM's bearing No. 08(64)/2017-EII(A) dated 20.02.2018 and 22.10.2018 on the above subject, it has been decided that laptop, note pad and similar devices may also be issued, on the grounds of functional necessity, to officers of the rank of Under Secretary/ Section Officers and equivalent rank subject to the condition that this shall be restricted to 25% of the sanctioned strength of these posts.

2. These powers shall be exercised by Secretaries of the Ministries/ Department and any other authorities who have been specifically delegated these powers by this Ministry from time to time, in consultation with FA of the Department. Other terms and conditions as detailed in this Ministry's OM dated 20.02.2018 shall remain the same. Although this Ministry's OM dated 20.02.2018 prescribes a maximum limit of Rs.80,000/- [excluding taxes] towards cost of the device including standard software, cost of the device may be kept to the minimum within the prescribed limit duly taking into consideration minimum technical requirements.

3. Requests have been received for issuance of laptop/note book or similar devices to Consultants engaged by Ministries/Departments. In this connection it is stated that Secretaries of the Ministries/Departments may take a decision in this regard purely on the basis of functional necessity, in consultation with FA, on case to case basis separately. The terms and conditions as given in this Ministry's OM dated 20.02.2018 relating to retention, return and re-issue will, however, not apply in this case. Ministries/Departments may accordingly decide the duration of issue, upkeep and return of these devices separately.

4. It is also stated that expenditure may be incurred for these purposes within the existing budget provisions and no additional budget allocation will be made on this ground.

5. This issues with the approval of the Competent Authority.


(S. Naganathan)

Deputy Secretary to Government of India

To

- (i) All Ministries and Departments of the Government of India
- (ii) All Financial Advisers

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Prime Minister's Office