

No.F.1/9/2021-PPD
Government of India
Ministry of Finance
Department of Expenditure
Procurement Policy Division

264C, North Block, New Delhi.
29th October, 2021.

OFFICE MEMORANDUM

Subject: Insertion of Rule 227A in General Financial Rules (GFRs) 2017- Arbitration Awards.

The Cabinet Committee on Economic Affairs (CCEA) on 30.08.2016 and 20.11.2019 had considered the proposals of the NITI Aayog and approved measures for improved liquidity in construction sector. NITI Aayog vide their D.O. No. N-14070/14/2020-PPPAU dated 07.10.2021 has asked this Department to incorporate decisions of CCEA regarding arbitration awards under GFRs. In this context, a new Rule 227A, as under, is hereby inserted into GFRs 2017:

Rule 227A Arbitration Awards

- (i) In cases where the Ministry/ Department has challenged an arbitral award and, as a result, the amount of the arbitral award has not been paid, 75% of the arbitral award (which may include interest up to date of the award) shall be paid by the Ministry/ Department to the contractor/ concessionaire against a Bank Guarantee (BG). The BG shall only be for the said 75% of the arbitral award as above and not for the interest which may become payable to the Ministry/ Department should the subsequent court order require refund of the said amount.
- (ii) The payment may be made into a designated Escrow Account with the stipulation that the proceeds will be used first, for payment of lenders' dues, second, for completion of the project and then for completion of other projects of the same Ministry/ Department as mutually agreed/ decided. Any balance remaining in the escrow account subsequent to settlement of lenders' dues and completion of projects of the Ministry/ Department may be allowed to be used by the contractor/ concessionaire with the prior approval of the lead banker and the Ministry/ Department. If otherwise eligible and subject to contractual provisions, retention money and other amounts withheld may also be released against BG.

2. This OM is also available on website of Department of Expenditure; www.doe.gov.in --> Notification --> Circular --> Procurement Policy OM. Hindi version of this OM will follow.

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29.10.2021*

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To

- (i) Secretaries to all the Central Government Ministries/Departments
- (ii) Financial Advisors of all Central Government Ministries/Departments.