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F 6/18/2019-PPD
Government of India
Ministry of Finance
Department of Expenditure

North Block, New Delhi
Dated: 24th April 2021

Special Instructions relating to relief operations for COVID-19 global pandemic

Attention is invited to the email of even date of Secretary (Department for Promotion of Industry and Internal Trade (DPIIT) enclosing a DO letter of Secretary, Department of Health and Family Welfare (DoHFW) no. S-12035/13/2-21-Proc-1/Oxygen/Imports dated 23rd April 2021 wherein he has stated that, in view of the recent surge in COVID-19 cases, the Empowered Group-II, in the meeting dated 21st April 2021, has recommended that "in view of urgent procurement requirements, similar exemptions" as in the special instructions issued by Department of Expenditure vide OM dated 27th March 2020 may be issued. Secretary (DPIIT), vide his above referred mail, has stated that EG-II constituted under National Disaster Management Act (NDMA) has recommended the proposal.

2. Attention is also invited to the DO letter of Secretary (DoHFW) no. S-12035/13/2-21-Proc-1/Oxygen/Imports dated 24th April 2021 addressed to Secretary (Department of Expenditure) informing that DoHFW, in the wake of the critical pandemic situation requires immediate procurement of certain items, including medical oxygen. This has to be imported through different vendors by direct quotation. It has been stated that the matter has already been referred by his DoHFW to EG-II constituted under NDMA for appropriate action vide his DO letter of even number dated 23rd April 2021.

3. The matter has been examined. In I.D.No.101/2/1/2020-CA. IV dated 26th March, 2020, the Cabinet Secretariat had asked the Department of Expenditure to facilitate the procurement and transportation of medical and other essential supplies for COVID-19 operations by issuing suitable guidelines or providing necessary relaxations, for certain departments. On examination of the requirements and assessment of the situation, Department of Expenditure, vide its OM No. F 6/18/2019-PPD dated 27th March 2020 had issued '**Special Instructions relating to relief operations for COVID-19 global pandemic.'**

4. On examination of the matters contained in the DO letter of Secretary (DoHFW) and upon consideration of the recommendation of EG-II constituted under NDMA, the following special instructions, are hereby issued under Rule 6(1) of the General Financial Rules 2017 to facilitate procurement.

Ministries/ Departments to which applicable

5. These instructions apply to the following Ministries/Departments for procurement and transportation of medical and other essential supplies for COVID-19 operations:

- (i) Department of Pharmaceuticals
- (ii) Ministry of Health & Family Welfare (including Department of Health Research)
- (iii) Defence Research and Development Organisation (DRDO), Ministry of Defence

Special instructions on procurement

6. The prevailing health emergency on account of the unprecedented surge in COVID-19 cases across the country, which are rising exponentially every day, requires immediate procurement of certain items in quantities which may not be available with a single supplier and/or within the time frame in which they are needed. There is also a possibility that some items may not be available in the country in sufficient quantities within the time frame in which they are needed. Certain items like medical oxygen and other medical supplies are currently in short supply and are effectively in a 'sellers' market'. There may also be variations in specifications within the same category of item supplied by various vendors and hence price differences may sometimes reflect differences in specifications or quality. With the limited operations of international flights and logistical problems being faced by transport companies on account of restrictions in movements and manpower issues, international procurement may have to be done through Indian missions. Being a national health emergency of unprecedented and historic scale, delays in procurement will result in loss of lives of citizens. Hence there is a paramount public interest in ensuring that the necessary supplies are procured in the fastest possible manner and financial procedures have to adapt accordingly.

7. Rule 166 of the GFR provides *inter alia* as follows:

Single source procurement. Procurement from a single source may be resorted to in the following circumstances:

- (i) "It is in the knowledge of the user department that only a particular firm is the manufacturer of the required goods
- (ii) *In a case of emergency, the required goods are necessarily to be purchased from a particular source and the reason for such decision is to be recorded and approval of competent authority obtained."*

This is in respect of procurement of goods.

8. Rule 204 of the GFR 2017 provides as follows:

"Procurement of Non-consulting services by nomination. Should it become necessary, in an exceptional of situation to procure a non-consulting service from a specifically chosen contractor, the Competent Authority in the Ministry or Department may do so

in consultation with the Financial Adviser. In such cases the detailed justification, the circumstances leading to such procurement by choice and the special interest or purpose it shall serve, shall form an integral part of the proposal."

This is in respect of procurement of non-consulting services, including air and other transportation services.

9. Rule 149 provides that procurement of goods and services through Government e-Marketplace (GeM) will be mandatory for items available on GeM. In the present situation, vendors under GeM, even if orders are placed, may not always be able to effect deliveries of supplies on time and desired locations, due to the rapidly changing situation on account of the critical pandemic situation which requires extreme flexibility in making available the critical lifesaving goods to the medical care facilities.

10. In view of the urgency involved, where time is of the essence and delay may result in loss of life, the following special instructions are issued for any emergent purchases and transportation of medical and other essential supplies related to COVID-19 operations: -

- (i) The provisions of Rule 149 will not be applicable to purchases made under Rule 166 or Rule 204 cited above.
- (ii) Procurement may be simultaneously undertaken under Rule 166 or Rule 204 from more than one source if the entire quantity required is not available, or is not immediately available, from one source. Such procurement may, if unavoidable, be at different rates.
- (iii) Procurement may be undertaken through Indian Missions. In case of procurement through Indian missions abroad, the concerned Ministry/Department shall provide the necessary details including quantity, specifications etc. Prices shall be fixed by the Indian Mission in consultation with the Ministry/Department.
- (iv) If the entire quantity required is not immediately available from any one method of procurement, procurement may also be resorted to simultaneously by multiple methods, namely, procurement under Rule 166 / 204 (as the case may be), procurement through GeM, and procurement through other procurement methods (including through Indian missions) and such procurement may, if unavoidable, be at different rates.
- (v) The instructions in this Department's OM No. F.12/17/2019-PPD dated 15.05.2020 amending Rule 161 (iv) of General Financial Rules 2017 (specifying that no Global Tender Enquiries (GTE) shall be invited for tenders up to Rs. 200 crores) shall stand relaxed and hence it shall be permissible to invite GTE where necessary.

11. The term "essential supplies" will include any items deemed by the Ministry/Department listed above, with the approval of the Secretary, to be essential supplies necessary for COVID 19 operations.

12. Secretaries, if they feel necessary, may constitute committees of officers to deal with and recommend and/or decide any of these matters.

13. These instructions will apply notwithstanding any provisions to the contrary in the Delegation of Financial Powers.

Validity of Special Instructions

14. These instructions, issued with the approval of Secretary (Expenditure), shall be in force for the period till 31st May 2021 or till superseded by another order, whichever is earlier.

(Sanjay Prasad)
Additional Secretary-PFC-II
Department of Expenditure
Tel: 23093382

To:

- i) The Secretary, Department of Pharmaceuticals
- ii) The Secretary, Ministry of Health & Family Welfare
- iii) The Secretary, Department of Defence Research and Development

Copy to:

- i) PMO
- ii) Additional Secretary, Cabinet Secretariat *