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

Room No.512, Lok Nayak Bhavan,
New Delhi dated the 19th February, 2020.

OFFICE MEMORANDUM

Subject: Force Majeure Clause (FMC)

Attention is invited to para 9.7.7 of the "Manual for Procurement of Goods, 2017" issued by this Department, which is reproduced as under:

> *A Force Majeure (FM) means extraordinary events or circumstance beyond human control such as an event described as an act of God (like a* ***natural calamity****) or events such as a war, strike, riots, crimes (but not including negligence or wrong-doing, predictable/ seasonal rain and any other events specifically excluded in the clause). An FM clause in the contract frees both parties from contractual liability or obligation when prevented by such events from fulfilling their obligations under the contract. An FM clause does not excuse a party's non-performance entirely, but only suspends it for the duration of the FM. The firm has to give notice of FM as soon as it occurs and it cannot be claimed ex-post facto. There may be a FM situation affecting the purchase organisation only. In such a situation, the purchase organisation is to communicate with the supplier along similar lines as above for further necessary action. If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of FM for a period exceeding 90 (Ninety) days, either party may at its option terminate the contract without any financial repercussion on either side.*

2. A doubt has arisen if the disruption of the supply chains due to spread of corona virus in China or any other country will be covered in the Force Majeure Clause (FMC). In this regard it is clarified that it should be considered as a case of natural calamity and FMC may be invoked, wherever considered appropriate, following the due procedure as above.

(Kotluru Narayana Reddy)
Deputy Secretary to the Govt. of India
Tel.No.24621305
Email: kn.reddy@gov.in

To,

Secretaries of all Central Government Ministries/ Departments