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GOVERNMENT OF ORISSA

FINANCE DEPARTMENT

RESOLUTION

The 14th November 2006

SUBJECT—Revised Criteria and Guidelines to be followed for Government Guarantees for loans by Public Sector Undertakings/Urban Local Bodies/Co-operative Institutions/Companies, etc.—Amendment of Guarantee Rules, Guarantee Sanction order format and agreement, etc., thereon—Limiting to principal only.

The State Government in Finance Department have prescribed in Resolution No. 52214-F., dated the 12th November 2002 and Resolution No. 11311-F., dated the 19th March 2004, the criteria and guidelines to be followed for Government Guarantee to avail loans by Public Sector Undertakings/Urban Local Bodies/Co-operative Institutions/Companies, etc. It has been observed that Public Sector Undertakings/Urban Local Bodies/Co-operative Institutions/Companies, etc. who availed loan have defaulted in servicing the loans and have not opened Escrow Account as per the Finance Department Resolution No. 11311-F., dated the 19th March 2004 for timely servicing of the loans guaranteed by Government of Orissa.

2. Due to default in servicing of loans guaranteed by Government of Orissa, the Banks/Financial Institutions are moving the Debts Recovery Tribunal for recovery of their dues including the accumulated interest and State Government (Being guarantor) are regularly receiving show cause notices for attachment of Government Account with the Reserve Bank of India for recovery of such dues. Instances have also come to the notice where the Debts Recovery Tribunal have passed orders for attaching the State Government Account with Reserve Bank of India and State Government are put to embarrassing situation and have been compelled to appeal in the higher forum to vacate the attachment orders of the Debts Recovery Tribunal. In the event of attachment of the State Government Account with Reserve Bank of India, the entire Government transactions come to a grinding halt causing immense hardship for the State Government employees and affecting adversely the implementation of various anti poverty programme and development schemes.

3. Standard format as at Annexure II and Agreement form as at Annexure III have been prescribed vide Paras. 8 and 9 of the Resolution, dated the 12th November 2002 and appended to the same for sanction of Government Guarantee and execution of agreement before availing loan by the borrowing organizations. However, in most of the cases, Departments of Government are sanctioning guarantees and executing agreements in formats other than the prescribed format, which are forwarded to them by the Banks/Financial Institutions. Agreements in such formats provide comfort to the Banks/Financial Institutions and do not adequately protect Government interest as intended vide Resolution, dated the 12th November 2002.

4. Further in Para. 5 of the said Resolution, Government have prescribed a ceiling limit regarding total outstanding Government Guarantees as on the 1st April of every year. It is however experienced that it is difficult to operationalise such ceiling limits in view of the existing practice of guaranteeing the principal as well as the interest thereon.

5. In view of the recent developments as indicated in the preceding paragraphs and with a view to limiting guarantee exposure of the State Government and ensuring effective monitoring such exposure, Government after careful consideration have decided that henceforth, the Government Guarantee shall be confined only to the Principal Amount borrowed by the Public Sector Undertakings/Urban Local Bodies/Co-operative Institutions/Companies, etc. and accordingly Guarantee Sanction order format at Annexure II and agreement form at Annexure III appended to the aforesaid Resolution, dated the 12th November 2002 have been revised and modified.

6. The revised Guarantee Sanction order format in Annexure II and Agreement form in Annexure III are enclosed which shall be used henceforth and under no circumstances guarantee shall be given in a format other than the format as at Annexure II and Annexure III. Similarly no guarantee proposal shall be considered unless prescribed ledgers and Accounts have been maintained and returns have been submitted regularly as stipulated in Para. 12 of the Finance Department Resolution, dated the 12th November 2002 and vide Para. 6 of the revised Annexure III referred to above.

7. In future Government Guarantee would be considered only when strict compliance has been ensured in terms of the provisions of Finance Department Resolution No. 11311-F., dated the 19th March 2004 regarding operationalisation of Escrow Account.

8. Other stipulations and guidelines contained on Finance Department Resolution No. 52214-F., dated the 12th November 2002 and Resolution No. 11311-F., dated the 19th March 2004 shall be followed *mutatis mutandis* along with the specific modifications incorporated in this resolution.

By order of the Governor

R. N. SENAPATI

Principal Secretary to Government

ANNEXURE II (Revised)

REVISED FORMAT FOR SANCTION OF GOVERNMENT GUARANTEE

To

The Managing Director/Chairman

SUBJECT—Sanction of State Government Guarantee in favour of
 (hereinafter referred to as borrower) as additional security to
 borrow Rs. from
 for the purpose of Project/Scheme.

Sir,

I am directed to convey the sanction of Government Guarantee for an amount of
 Rs. (Rupees) only
 in favour of to avail a loan of Rs.
 (Rupees) from the (Bank/
 Financial Institution) @ % interest per annum which will be repaid within years
 for implementation of Project/Scheme on the following terms and
 conditions.

2. The Bank/Financial Institution have assessed and the
 viability and debt servicing ability of the Project/Scheme and agreed to sanction a loan of
 Rs. to borrower on furnishing of
 Government Guarantee as an additional security for repayment of outstanding principal amount
only.

3. The borrower has agreed to repay the loan (Principal + Interest) from out of the Escrow
 Account operated at Bank as per the Finance Department Resolution
 No. 11311-F., dated the 19th March 2004 and this guarantee is sanctioned as an additional
 security for repayment of outstanding principal amount of loan only and the guarantee
 commission @ % will be charged once/every year till final liquidation of the loan
 as per the Finance Department Resolution No. 52214-F., dated the 12th November 2002.

4. The detailed particulars of the previous loan along with the present loan, Escrow Account
 and the mode of repayment, etc. of the borrower is enclosed in the *pro forma* annexed
 herewith.

The Accountant-General (Audit), Orissa is being informed

This has been concurred in by Finance Department vide their U.O.R. No. ,
 dated

Sanctioning Authority

PRO FORMA FOR SANCTION OF GOVERNMENT GUARANTEE

1. Name of the Borrower :
2. Name of the Creditor :
(Financing Institution).
3. Amount of guarantee sanctioned :
(Principal only).
4. Purpose of Loan :
5. Period of Loan :
6. Rate of Interest :
7. Mode of repayment :
8. Other conditions attached to the loan, if any :
9. Name of the Escrow Bank :
10. Escrow Account Number :
11. Rate of guarantee fee :
12. Progressive total sum guaranteed :
(including the present one) till date.
13. Total amount of loan availed against the :
previous guarantee.
14. Amount outstanding against the :
availed loans shown above.

	Defaulted instalment amount as on	Balance not due as on	Total Balance as on
(1)	(2)	(3)	(4)
(a) Principal			2+3
(b) Interest			

15. Action taken to clear the defaulted :
Principal and Interest.

Sanctioning Authority

ANNEXURE III (Revised)

AGREEMENT

THIS AGREEMENT is made on day 200
 BETWEEN having his office at hereinafter
 referred to as "Principal Debtor" (which expression shall, unless excluded by or it be repugnant
 to the context, be deemed to include its successors and assignees) of the one part AND the
 GOVERNOR OF ORISSA hereinafter referred to as "Government" (which expression shall,
 unless excluded by or it be repugnant to the context or meaning thereof, be deemed to include
 his successors in Office and assignees) of the other part ;

WHEREAS the "Principal Debtor" have approached the Bank/Financial
 Institution (hereinafter referred to as the Creditor), for advancing a loan of Rs.
 to undertake Project/Scheme. AND WHEREAS
 the Creditor have carried out the required appraisal regarding viability and
 debt servicing liability of this Project/Scheme and agreed to advance a loan of
 Rs. to the Principal Debtor on furnishing of Government Guarantee as
 an additional security for repayment of principal amount of Rs.
(Rupees) only ;

AND WHEREAS the (the Principal Debtor)
 has opened an Escrow Account bearing No.
 at Bank as per the Finance Department Resolution No. 11311-F., dated
 the 19th March 2004 to ensure timely payment of dues (Principal + Interest) to the
 Creditor ;

AND WHEREAS the Principal Debtor has requested the Government to guarantee due
 repayment of the loan amount by the Principal Debtor to the Creditor amounting
 to Rs. (Rupees) agreed to
 be lent and advanced by the Creditor to the Principal Debtor as per the terms and conditions
 appearing in the Schedule to this agreement which the Government has agreed to do on the
 terms and conditions hereinafter appearing and sanctioned guarantee of Rs.
 (Rupees) in favour of the Principal Debtor
 in Department G. O. No., Dt.
 (Copy enclosed, hereinafter called the said guarantee).

NOW THIS DEED WITNESSES AND it is hereby agreed by and between the parties
 hereto as follows :—

1. The Principal Debtor agrees to pay to the Government a guarantee fee at the rate
 of % per annum on the maximum amount of guarantee sanctioned till liquidation
 of the loan as prescribed in Finance Department Resolution No. 52214-F., dated the 12th
 November 2002.

2. In case of default in due payment of fees by the Principal Debtor to the Government as aforesaid, without prejudice to any other rights and remedies available to the Government, it shall have the right and be entitled to recover from the Principal Debtor the amount due and payable by the Principal Debtor as a public demand under the Orissa Public Demands Recovery Act, 1962.

3. In case the Principal Debtor defaults in making repayment of principal and/or payment of interest on due dates out of the accumulations in the Escrow Account and the Government being the guarantor is liable to pay the outstanding only the principal amount of the loan to the Creditor under the terms of the guarantee after the creditor has exhausted all efforts in recovering the dues from the Principal Debtor. The amount so paid (Principal) by the Government to the Creditor shall be treated as loan to the Principal Debtor and shall be recoverable from the Principal Debtor carrying interest at a rate not less than that charged by the Creditor. Such interest shall be calculated from the date of sanction made by Government to the Creditor. Other terms like period of repayment will be suitably fixed by Government :

Provided that in case the Principal Debtor does not pay the amount according to terms and conditions stipulated, it shall be opened to the Government to recover the entire amount (Paid by Government to the Creditor on behalf of Principal Debtor) from the Principal Debtor, without prejudice to any other remedies available, as a public demand under the Orissa Public Demands Recovery Act, 1962.

4. Notwithstanding any thing contained hereinbefore the liability of the Government under this agreement is restricted to Rs. (Rupees)
(Principal amount) only. The agreement will remain in full force until year(s) from the date of execution. Unless suit or action to enforce claim or claims under this agreement is made/ filed against Government before the said date all the rights under this agreement shall cease and Government shall be discharged from all liabilities thereunder.

5. This agreement is to be returned to Government within fifteen days from the date its ceases to be in force. If the agreement is not received back by the Government within the date above mentioned, it shall be deemed to be automatically cancelled.

6. Within nine months from the end of the Accounting Year of the Principal Debtor, the Principal Debtor shall send every year during the subsistence of the said guarantee to the Government in Finance Department and to the Accountant-General, Orissa, return/statement certified to be true by a qualified Auditor approved by Government giving full and complete information of his/its assets and liabilities, profit and loss, etc. If however, the accounts could not be audited within the period aforesaid, the Principal Debtor shall furnish unaudited accounts. As soon as the accounts are audited, the same should be furnished within one month of receipt of such audited accounts.

7. The Principal Debtor shall, at all times hereafter during the subsistence of the guarantee, produce the records, accounts, stores and stocks etc. to Government and Accountant-General, Orissa for audit and inspection, as and when required by the Government or the Accountant-General, Orissa.

8. In consideration of the aforesaid, the Principal Debtor hereby agrees that in order to secure Government in respect of financial obligations undertaken in the deed of guarantee executed by the Government, the Principal Debtor shall furnish to the Government such security as the Government may require including mortgage on its/his entire assets both movable and immovable subject to then existing charge, if any, thereon.

9. If at any time during the subsistence of the said guarantee Government feel that the activity of the Principal Debtor or the Creditor is detrimental to the interest of the Government, the Government shall have the option after giving 30 days notice to the Creditor and the Principal Debtor to revoke the guarantee as to the future transactions covered thereby.

IN WITNESS WHEREOF the Principal Debtor has set his/its hand and affixed his/its common seal in the manner as provided by law and the Secretary to Government Department has for and on behalf of the Governor of Orissa set his hand and affixed the seal of his office thereunto the day and year first above written on the Schedule attached herewith.

SCHEDULE .

1. Amount of Loan
2. Term of Loan
3. Rate of Interest
4. Repayment term
5. Securities offered
6. Name of the Escrow Bank
7. Escrow Account No.

Signed and sealed and delivered by Shri Managing
 Director, etc. above named pursuant to Resolution
 No. dated of the Board of Directors
 (General Body) of the in the presence
 of witnesses.

NAME AND FULL ADDRESS OF WITNESSES

1.

2.

SECRETARY TO GOVERNMENT OF ORISSA
 DEPARTMENT

Signed by the officer acting in the premises for on behalf of the Governor of Orissa in presence
 of witnesses.

NAME AND FULL ADDRESS OF WITNESSES

1.

2.