

## **ANNEXURE TO PP-LC POLICY 2021**

As per cl 4.4a *“In respect of all goods and services or works in respect of which the Nodal Ministry / Department under DPIIT’s Public Procurement Preference to Make in India) Order, 2017 has communicated that there is sufficient local capacity and local competition, only Class – I Local Supplier shall be eligible to bid irrespective of purchase value.”*

- a. This List may be referred at <https://dipp.gov.in/public-procurements> under the head “Declaration of Sufficient Local Capacity and Competition under clause 3(a) of PPP-MII Order 2017”. The archived list in the website is available at <https://dipp.gov.in/public-procurement-archives>
- b. For a ready reference of product categories and associated Ministry / Department, one may visit <https://dipp.gov.in/sites/default/files/Product%20List-Public%20Procurement%20Order%202017.pdf>
- c. In case the tendered item falls under the list in respect of which the Nodal Ministry / Department under DPIIT’s Public Procurement Preference to Make in India) Order, 2017 has communicated that there is sufficient local capacity and local competition, only Class – I Local Supplier shall be eligible to bid. The list may be referred at <https://dipp.gov.in/public-procurements> and <https://dipp.gov.in/public-procurement-archives> under the heading “Declaration of sufficient Local Capacity and Competition under Clause 3 (a) of PPP-MII Order 2017”.

## **Resolution of conflict between bidders opting for PP-LC and PPP-2012 preference**

In case a bidder opts for purchase preference based on PP-LC, the bidder shall not be entitled to claim purchase preference benefit available to MSE Bidders as applicable for MSE bidders under PPP-2012.

While evaluating a particular bid, bidder's option (to avail any one out of two applicable purchase preference policies, i.e., PP-LC-2017 or PPP-2012) will be considered, for price matching opportunities and distribution of quantities among bidders, the precedence shall be in the following order:-

- a. PPP-2012
- b. PP-LC

### **Scenarios**

**A) Scenarios -1 to 3 are applicable for all Global tenders, Domestic tenders (Rs. 1 Crore and above) and excluding tenders for items covered in Cl 4.4 a of the policy.**

#### **Scenario – 1**

L1 bidder is non MSE, non PP-LC bidder

L2 bidder is PP-LC (within 20%)

L3 bidder is MSE (within 15%) whether Class I or Class II (qualification in case of bidding against cl 4.4 a items shall apply as usual)

##### **(1) Non divisible item**

MSE bidder shall be given preference to match the L1 price. If bidder matches the L1 price, order shall be placed on him, otherwise, option for matching the L1 price shall be given to L2 bidder (PP-LC).

##### **(2) Divisible item**

If MSE and PP-LC bidders match the L1 price, 25% and 50% of the tendered quantity shall be ordered respectively on the MSE and PP-LC bidders and balance 25% of the tendered quantity shall be awarded to original L1 bidder.

#### **Scenario - 2**

L1 bidder is PP-LC

L2 bidder is MSE (within 15%) whether a Class I or Class II Bidder (qualification in case of bidding against cl 4.4 a items shall apply as usual)

##### **(1) Non divisible item**

MSE bidder shall be given preference to match the L1 price. If bidder matches the L1 price, order shall be placed on him, otherwise the order shall be placed on PP-LC bidder.

##### **(2) Divisible item**

If MSE matches the L1 price, 25% and 75% of the tendered quantity shall be ordered respectively on the MSE and PP-LC bidders.

### **Scenario - 3**

If L1 bidder is MSE, the entire order shall be awarded to him.

#### **B) For tenders floated for items covered under clause 4.4 a of the policy**

Benefit shall be given to MSE bidder (who qualifies to bid as per Cl 4.4 a of the PP-LC policy) in accordance with the PPP-2012

No. FP-22013/4/2019-FP-PNG-Part(1) ( E-28307)

भारत सरकार

Government of India

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

Ministry of Petroleum and Natural Gas  
(Flagship Program Section)

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शास्त्री भवन, नई दिल्ली

Shastri Bhawan, New Delhi

दिनांक: 6<sup>th</sup> अगस्त, 2020

To

1. Chairman, IOCL
2. C&MD, ONGC/OIL/BPCL/HPCL/GAIL/EIL/Balmer Lawrie
3. MD, CPCL/MRPL/NRL

Subject: Restrictions under Rule 144(xi) of the General Financial Rules (GFRs), 2017- Dept. of Expenditure OM No. 6/18/2019-PPD, dated 23<sup>rd</sup> July 2020 - regarding.

Sir,

I am directed to refer to OM No. DPE/7(4)/2017-Fin.(Part-I) dated 30.07.2020 received from Department of Public Enterprises on the subject mentioned above and to say that GFR, 2017 has been amended inserting Rule 144(xi) which empowers Department of Expenditure (DoE) to impose restrictions, including prior registration or screening on procurement from bidders from a country or countries on grounds of Defence of India and National Security. The amended rule provides that no Public Procurement shall be made in violation of such restrictions (Copies enclosed).

2. You are requested to note the amendments in the GFR, 2017 for compliance at your end.

भवदीय

Yours faithfully,

  
सुशील टी. विलियम्स

(Sushil T. Williams)

उप सचिव, भारत सरकार

(Deputy Secretary to the Govt. of India)

दूरभाष (Tel.): 23387467

Email: sushilt.williams@nic.in

संलग्न : यथोपरि

Encl: As above

No. DPE/7(4)/2017-Fin.(Part-I)  
Government of India  
Ministry of Heavy Industries & Public Enterprises  
Department of Public Enterprises

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Public Enterprises Bhawan  
Block No.14, CGO Complex  
New Delhi - 110003

Date: 30<sup>th</sup> July, 2020OFFICE MEMORANDUM

Subject: Restrictions under Rule 144(xi) of the General Financial Rules (GFRs), 2017-  
Dept. of Expenditure OM No.6/18/2019-PPD dated 23<sup>rd</sup> July, 2020 -  
regarding

The undersigned is directed to enclose Department of Expenditure's (DoE) OMs No. 6/18/2019-PPD dated 23<sup>rd</sup> July, 2020 & 24<sup>th</sup> July, 2020 imposing restrictions under Rule 144(xi) of the General Financial Rules (GFRs), 2017 on the grounds of Defence of India and National Security for information and compliance.

2. All the administrative Ministries/ Departments of CPSEs are requested to ensure compliance of the directions issued by DoE by CPSEs under their administrative control.
3. This issues with the approval of competent authority.

*K. Mishra*  
(Kalyani Mishra)  
Director  
Tel.24362061

Encl.: (DoE's OMs No. 6/18/2019-PPD dated 23<sup>rd</sup> July, 2020  
6/18/2019-PPD dated 23<sup>rd</sup> July, 2020 &  
6/18/2019-PPD dated 24<sup>th</sup> July, 2020)

To

- i) All the Secretaries to the Administrative Ministries/Departments of CPSEs
- ii) Chief Executives of CPSEs

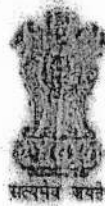
Copy for information to:

Secretary, D/o Expenditure, North Block, New Delhi

*JS(R)*  
*DS(BR)*  
*21/7*  
*PC*  
*WS(FP)*  
*80(FP)*

डा. टी. वी. सोमनाथन, आई.ए.एस.  
सचिव (व्यय)

Dr. T. V. Somanathan, I.A.S.  
Secretary (Expenditure)



भारत सरकार  
वित्त मंत्रालय  
व्यय विभाग  
Government of India  
Ministry of Finance  
Department of Expenditure  
मार्थ ब्लॉक, नई दिल्ली-110001  
North Block, New Delhi-110001  
Tel. : 23092028, 23092663  
Fax : 23092546  
E-mail : secyexp@nic.in  
Website : www.finance.nic.in

D.O.F.No.6/18/2019- PPD

28<sup>th</sup> July, 2020



Dear Shri Sailesh,

As you are aware the General Financial Rules (GFRs), 2017 have been amended inserting Rule 144 (xi) which empowers Department of Expenditure to impose restrictions, including prior registration or screening on procurement from bidders from a country or countries on grounds of Defence of India and National Security. The amended Rule provides that no public procurement shall be made in violation of such restrictions. Pursuant to the above, Order (Public Procurement No. 1) and Order (Public Procurement No. 2) were issued vide F.No.6/18/2019-PPD dated 23.7.2020. A clarification was issued in Order (Public Procurement No. 3).

2. Though the GFRs ordinarily do not apply to public sector enterprises, in this instance, as they relate to national security, the orders have consciously been made applicable to all Central Public Sector Enterprises as well. It is, therefore, requested that necessary instructions may be issued by your Department reiterating the applicability of orders stated in Paragraph 1 of this letter to all Central Public Sector Enterprises.

3. Copies of the Orders are attached for ease of reference.

With regards,

Encl. As above

Shri Sailesh, IAS  
Secretary,  
Department of Public Enterprises,  
160, Udyog Bhawan,  
New Delhi: 110011

Copy to: Cabinet Secretary - for information

Yours sincerely,

(T.V. Somanathan)

We may issue instructions today

8/29/20

F.No.6/18/2019-PPD  
Ministry of Finance  
Department of Expenditure  
Public Procurement Division

161, North Block,  
New Delhi  
24<sup>th</sup> July, 2020

Order (Public Procurement No. 3)

Subject: Clarification to Order (Public Procurement No.1) dated 23<sup>rd</sup> July 2020

Attention is invited to paragraph 3(b) of the Order (Public Procurement No.1), under the heading "Transitional provisions" which reads as follows:

- b) *If the tendering process has crossed the first exclusionary qualificatory stage:* If the qualified bidders include bidders from such countries, the entire process shall be scrapped and initiated *de novo*. The *de novo* process shall adhere to the conditions prescribed in this Order.

It is hereby clarified that for the purpose of paragraph 3 (b), "qualified bidders" means only those bidders who would otherwise have been qualified for award of the tender after considering all factors including price, if Order (Public Procurement No. 1) dated 23<sup>rd</sup> July 2020 had not been issued.

2. If bidders from such countries would not have qualified for award for reasons unconnected with the said Order (for example, because they do not meet tender criteria or their price bid is higher or because of the provisions of purchase preference under any other order or rule or any other reason) then there is no need to scrap the tender / start the process de novo.

3. The following examples are given to assist in implementation of the Order.

Example 1: Four bids are received in a tender. One of them is from a country which shares a land border with India. The bidder from such country is found to be qualified technically by meeting all prescribed criteria and is also the lowest bidder. In this case, the bidder is qualified for award of the tender, except for the provisions of the Order (Public Procurement No. 1) dated 23<sup>rd</sup> July. In this case, the tender should be scrapped and fresh tender initiated.

Example 2: The facts are as in Example 1, but the bidder from such country, though technically qualified is not the lowest because there are other technically qualified bidders whose price is lower. Hence the bidder from such country would not be