

No. A-1/2021-FSC-Part(5)
Government of India
Ministry of Power

Shram Shakti Bhawan, New Delhi
Dated: 16th November, 2021

ORDER

Subject: Public Procurement (Preference to Make in India) to provide for Purchase Preference (linked with local content) in respect of Power Sector.

Reference: Department for Promotion of Industry and Internal Trade (DPIIT) Notification No. P-45021/2/2017-PP (BE-II) dated 16.09.2020.

The Government of India, Department for Promotion of Industry and Internal Trade (DPIIT) issued Public Procurement (Preference to Make in India), Order 2017, for encouraging 'Make in India' and promoting manufacturing and production of goods and services in India with a view to enhancing income and employment. Subsequently, DPIIT vide order No. P-45021/2/2017-PP (BE-II) dated 4th June, 2020 and further vide order dated 16th September, 2020 have issued the revised Public Procurement (Preference to Make in India) Order 2017.

2. In light of the Public Procurement (Preference to Make in India) Order 2017, this Ministry had notified purchase preference (linked with local content) for Hydro and Transmission sectors vide Order No. 11/05/2018-Coord dated 20.12.2018, for Thermal sector vide Order dated 28.12.2018 and for Distribution sector vide Order dated 17.03.2020. Further, a combined order dated 04.04.2020 was also issued in supersession of all previous orders to indicate equipment/material/components for which there was sufficient local capacity and competition and also to indicate conditions for including suitably in the tenders to be issued by the procurers. In furtherance of Para 19 of the DPIIT Notification No. P-45021/2/2017-PP(BE-II) dated 04.06.2020, Ministry of Power (MoP) issued a revised comprehensive Order dated 28.07.2020 (Annexure-I amended by order dated 17.09.2020).

3. DPIIT Notification No. P-45021/2/2017-PP(BE-II) dated 16.09.2020 has further revised its order dated 04.06.2020. Therefore, in supersession of all the aforementioned orders including order No.10/1/2019-St.Th. (Part-II) dated 20.03.2020 issued by this Ministry, the following has been decided:

- i. For the purpose of this order, the definitions of various terms used in the order, and provisions relating to (i) Eligibility of 'Class-I local supplier'/'Class-II local supplier'/'Non-local suppliers' for different types of procurement, (ii) purchase preference (iii) exemption to small purchases and (iv) margin of purchase preference shall be the same as in DPIIT order dated 16.09.2020, referred to above and extracts of the same is given at **Appendix**.
- ii. In procurement of all goods and services or works in respect of which there is sufficient local capacity and local competition as in **Annexure-I**, only "Class-I local supplier" shall be eligible to bid irrespective of purchase value. "Class-I local supplier" is a supplier or service provider whose goods, services or works offered for procurement meets the Minimum Local Content (MLC) as prescribed in Annexure-I of this order. "Class-II local supplier" means a

supplier, as defined by DPIIT in its Order No. P-45021/2/2017-PP (BE-II) dated 16-09-2020.

- iii. In the procurement of all goods and services or works other than those listed in Annexure-I, only "Class-I local supplier" and "Class-II local supplier" as defined in the order of this Ministry herewith shall be eligible to bid in procurement undertaken by procuring entities, except when Global Tender Enquiry has been issued. In Global tender enquiries, "Non-local suppliers" shall also be eligible to bid along with "Class-I local suppliers" and "Class-II local suppliers". In procurement of all goods, services or works not covered by sub-para 3(ii) above, and with estimated value of purchases less than Rs. 200 crores, in accordance with Rule 161(iv) of GFR, 2017, Global Tender Enquiry(GTE) shall not be issued except with the approval of the competent authority as designated by Department of Expenditure.
- iv. For the purpose of this order, 'Works' means all works as per Rule 130 of GFR- 2017, and will also include 'turnkey works', Engineering, Procurement and Construction (EPC) contracts and service contracts including System Integrator (SI) contracts.

4. The list of items, in respect of which, local capacity with sufficient competition exists as per **Annexure-I**, will be reviewed at regular intervals with a view to increase number of items in this list and also to increase the MLC for each item, wherever it is less than 100%.

5. Purchase preference shall be given to local suppliers in accordance with **para 3A** of DPIIT Order dated 16.09.2020, and extracts of the same are given at **Appendix**.

6. Further, it has been decided to constitute a committee for independent verification of self-declarations and auditor's / accountant's certificates on random basis and in the case of complaints. The composition of the committee is given below:

Member (Planning), Central Electricity Authority (CEA)	Chairperson
Chief Engineer (PSETD), CEA	Member
Chief Engineer (HETD), CEA	Member
Chief Engineer (TETD), CEA	Member
Chief Engineer (DP&R), CEA	Member
As may be co-opted by CEA	External Expert
Chief Engineer (R&D), CEA	Convener

7. Further, it has also been decided to constitute a committee to examine the grievances in consultation with stakeholders and recommend appropriate actions to the Competent Authority in MoP. The composition of the Committee is given below:

Chairperson, CEA	Chairperson
Member (Hydro), CEA	Member

Member (Power System), CEA	Member
Member (Thermal), CEA	Convener

8. The complaint fee of Rs. 2 Lakhs or 1% of the value of the local item being procured (subject to maximum of Rs. 5 Lakhs), whichever is higher, shall be paid in the form of Demand Draft, drawn in favour of **PAO, CEA, New Delhi**. In case the complaint is found to be incorrect, the complaint fee shall be forfeited. In case, the complaint is upheld and found to be substantially correct, the deposited fee of the complainant would be refunded without any interest.

9. All other conditions, not stipulated in this order, shall be as laid down in the DPIIT's order No. P-45021/2/2017-PP (BE-II) dated 16.09.2020.

10. This order shall be applicable in respect of the procurement made by all attached or subordinate offices or autonomous bodies under the Government of India including Government Companies as defined in the Companies Act, and /or the States and Local Bodies making procurement under all Central Schemes/ Central Sector Schemes where the Scheme is fully or partially funded by the Government of India. The aforesaid orders shall also be applicable in respect of projects wherein funding of goods, services or works is by Power Finance Corporation (PFC) /Rural Electrification Corporation (REC) and any Financial Institution in which Government of India/ State Government share exists. This order shall be applicable to Tariff Based Competitive Bidding (TBCB) projects also. Procuring entities as defined in the DPIIT's Order dated 16.09.2020 are advised to revise their tender documents to fully comply with the said DPIIT's Order and the subsequent Orders that would be issued in this regard by DPIIT/ this Ministry from time to time.

11. All tenders for procurement by Central Government Agencies or the States and Local Bodies, as the case may be, have to be certified for compliance of the Public Procurement (Preference to Make in India) 'PPP-MII' Order by the concerned procurement officer of the Government Organization before uploading the same on the portal.

12. Exemption from meeting the stipulated local content is allowed as per clause 13 and 13A of PPP-MII Order dated 16.09.2020, if the manufacturer declares that the item is manufactured in India under a License from a foreign Manufacturer who holds Intellectual Property Rights (IPRs) and there is Transfer of Technology (ToT) with phasing to increase Minimum Local Content. For such items, if any CPSE under the administration of Ministry of Power requests exemption for any item, it shall be considered by Ministry of Power, on case to case basis.

13. In order to further encourage Make in India initiatives and promote manufacturing and production of goods and services in India, general guidelines as enclosed at **Annexure-II** may be adopted in an appropriate manner according to the circumstances by the procuring entities in their tendering process.

14. The procurers may specify the higher values of MLC than those specified in this Order in respect of goods, services or works covered in their tenders and award the weightage to the product of higher MLC for which they have to specify the criteria beforehand in their tender. The values given in Annexure-I are the minimum prescribed values for becoming a class-I local supplier for the products indicated therein.

15. This issues with the approval of Hon'ble Minister for Power and New & Renewable Energy.



(S. Majumdar)

Under Secretary to the Government of India
Tele No. 011- 23356938

To:

1. Secretary to Government of India (All Ministries/ Departments of Government of India) (As per list)
2. Secretary (Coordination), Cabinet Secretariat
3. CEO, NITI Aayog
4. Chief Secretaries of all States/ UTs
5. Comptroller and Auditor General of India
6. Secretary, DPIIT, Chairman of Standing Committee for implementation of Public Procurement Order, 2017
7. Director General, Bureau of Indian Standards (BIS)
8. Joint Secretary, DPIIT, Member-Convener of Standing Committee for implementation of Public Procurement Order, 2017
9. Chairperson, CEA
10. CMDs of CPSEs, CMD NLC, Chairman of DVC/ BBMB/ EESL, DGs of BEE/ CPRI/ NPTI
11. All Additional Secretaries/ JSs/ EA/ CE, Ministry of Power

Copy to:

Director (Technical), NIC with a request to publish the Order on the website of Ministry of Power

Extracts of important provisions contained in DPIIT Order No. P-45021/2/2017-PP (BE-II) dated 16-09-2020

1. **Definitions** (*Para 2 of DPIIT order*):

'Local content' means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.

'Class-I local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for 'Class-I local supplier' under this Order.

'Class-II local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for 'Class-II local supplier' but less than that prescribed for "Class-I Local supplier" under this Order.

'Non-Local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than that prescribed for 'Class-II local supplier' under this Order.

'L1' means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.

'Margin of purchase preference' means the maximum extent to which the price quoted by a 'Class-I local supplier' may be above the L1 for the purpose of purchase preference.

'Nodal Ministry' means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services or works.

'Procuring entity' means a Ministry or department or attached or subordinate office of, or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.

'Works' means all works as per Rule 130 of GFR- 2017, and will also include 'turnkey works'.

2. **Eligibility of 'Class-I local supplier'/ 'Class-II local supplier'/ 'Non-local suppliers' for different types of procurement** (*Para 3 of DPIIT order*)

(a) In procurement of all goods, services or works in respect of which the Nodal Ministry / Department has communicated that there is sufficient local capacity and local competition, only 'Class-I local supplier', as defined under the Order, shall be eligible to bid irrespective of purchase value.

(b) Only 'Class-I local supplier' and 'Class-II local supplier', as defined under the Order, shall be eligible to bid in procurements undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries, 'Non-local suppliers' shall also be eligible to bid along with 'Class-I local suppliers' and 'Class-II local suppliers'. In procurement of all goods, services or works, not covered by 3(a)above, and with estimated value of purchases less than Rs 200 crores, in accordance with Rule 161(iv) of GFR, 2017 Global tender enquiry shall not

be issued except with the approval of competent authority as designated by Department of Expenditure.

(c) For the purpose of this Order, works includes Engineering, Procurement and Construction (EPC) contracts and services include System Integrator (SI) contracts.

3. Purchase Preference (Para 3A of DPIIT order)

(a) Subject to the provisions of this Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to 'Class-I local supplier' in procurements undertaken by procuring entities in the manner specified here under.

(b) In the procurements of goods or works, which are covered by para 3(b) of DPIIT Order No. P-45021/2/2017-PP(BE-II) dated 16-09-2021 and which are divisible in nature, the " Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract for full quantity will be awarded to L1.
- ii. If L1 bid is not a 'Class-I local supplier', 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the L1 price for the remaining 50% quantity subject to the Class-I local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the L1 price. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price or accepts less than the offered quantity, the next higher 'Class-I local supplier' within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.

(c) In the procurements of goods or works, which are covered by para 3(b) of DPIIT Order No. P-45021/2/2017-PP(BE-II) dated 16-09-2021 and which are not divisible in nature, and in procurement of services where the bid is evaluated on price alone, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- iii. Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract will be awarded to L1,
- iv. If L1 is not 'Class-I local supplier', the lowest bidder among the 'Class-I local supplier', will be invited to match the L1 price subject to Class-I local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such 'Class-I local supplier' subject to matching the L1 price.
- v. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price, the 'Class-I local supplier' with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the 'Class-I local supplier' within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder.

(d) "Class-II local supplier" will not get purchase preference in any procurement, undertaken by procuring entities.