



भारतीय अन्तर्देशीय जलमार्ग प्राधिकरण (पोत परिवहन मंत्रालय, भारत सरकार)

मुख्यालय : ए-13, सेक्टर-1, नोएडा-201 301, (उ.प्र.)

INLAND WATERWAYS AUTHORITY OF INDIA

(Ministry of Shipping, Govt. of India)

Head Office : A-13, Sector-1, Noida-201 301 (U.P.)

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F. No. IWAI/Fin./Misc./2017-2020

Dated 03.09.2019

OFFICE MEMORANDUM

Subject: Public Procurement (Preference to Make in India) Order, 2017 (PPP-MII Order) Revision – reg.

Ministry of Shipping vide email dated 16.08.2019 have forwarded a copy of D.O letter No. P-45021/147/2019-PP(BE-II)/7682 dated 19.06.2019 of Hon'ble Minister, Ministry of Railway and Commerce & Industry addressed to Minister of State (IC) Shipping on the subject cited above for strict compliance in IWAI (copy enclosed).

2. In the above DO, attention has been drawn to the Public Procurement (Preference to Make in India) Order, 2017 (PPP-MII Order) issued by Department of Promotion of Industry and Internal Trade, as revised on 29.05.2019.
3. As emphasized, the Order aims to promote domestic value addition in public procurement. It provides for purchase preference to domestic manufacturers and service providers, who comply with local content requirements, in public procurement activities over entities merely importing to trade or assemble items. The Order is applicable on procurement of goods, services and works (including turnkey works) by a Central Ministry/Department, their attached/subordinate offices, autonomous bodies controlled by the Government of India and Government companies. It is also to be applied for all public procurement done under all Central and Centrally Sponsored Schemes.
4. Under this Order, 20% purchase preference has to be given to local suppliers who meet the minimum local content requirement. 19 Ministries/Departments have been designated as nodal agencies for notifying minimum local content for the relevant product categories.
5. The Central agencies undertake massive public procurement every year. However, the benefits of this procurement, at times, do not accrue to the domestic industry even where it is technically and financially competitive, mainly due to restrictive and discriminatory tender conditions being imposed against domestic players. The Order is meant to address these concerns and thereby spur employment and income in the country.

Copy to
all wings
civil
survey
etc.

to CE

6. A number of grievances regarding violation of provisions of the Order by various Central agencies have been received. Many Central agencies are including restrictive and discriminatory conditions against the local suppliers in the bid documents. Such conditions include incorporation of name of foreign brands, international standards such as USFDA/CE certification for medical devices, mandatory presence in Gartner Magic Quadrant in ICT sector, inappropriately high past experience and turnover requirements etc. Central Vigilance Commission has issued directions to all CVOs to look into tender practices violating this order.

7. Further, with a view to ensure rigorous enforcement of this order, it has been request to review the implementation of the order by the Department, Attached/Subordinate offices, autonomous bodies, CPSUs and SPVs and other agencies under control of MoS and direct them to report compliance that the provisions of PPP-MII Order are strictly being complied by them.

8. In this connection, as directed by the Hon'ble Chairperson, all Wing Heads are required to go through and review implementation in IWAI. Accordingly, a copy of above referred to documents are circulated to all Wing Heads with direction for review in their respective Wings and report compliance that the provisions of PPP-MII Order are strictly being complied by them.

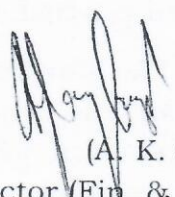
The report may cover compliances on, inter-alia, paras 4 to 10, 12, 13, and 14, and may be furnished para wise.

The orders placed in the last two years for procurement of Goods, Services and works, on foreign suppliers or local supplier with less than the required local contents as well as tender documents in such cases, may also be furnished by all Wing Heads.

Details of grievances regarding violation of provisions of the order in IWAI, if any, received from various bidders for tender practices violating this order may also been reported.

9. Above report may be submitted to Finance Wing latest by 09th of September, 2019 to enable to apprise the Hon'ble Chairperson and MoS, accordingly.

This is issued as per direction of the Hon'ble Chairperson, IWAI.


(A. K. Gupta)
Director (Fin. & Accts.)

Encl:- As Above

To

1. Secretary, IWAI, Noida
2. Chief Engineer (Tech)/ Chief Engineer (JMVP)/Hy. Chief/ Chief Engineer (Traffic), IWAI, Noida.

4. Director, IWAI, Kolkata/Guwahati/Kochi/Vijayawada
5. Director (F&A)/Traffic/Marine/Hy. & P&C/NER/Tech./IT, IWAI, Noida
6. Officer-in-charge, IWAI, Allahabad/ Varanasi/ Sahibganj/ Bhubaneswar.
7. Dy. Director & RE/ Finance, IWAI, Noida.
8. Assistant Secretary (A&E)/ R&T, IWAI, Noida
9. Manager (PwC), IWAI, Noida.

Copy for information to:- PPS/PS/PA to Chairperson, Vice-Chairman & PD (JMVP), Member (Finance), Member (Technical), Member (Traffic), IWAI, Noida.

8/16/19

https://mail.gov.in/iwc_static/layout/shell.html?lang=en&3.0.1.2.0_15121607

4.

Subject: Public Procurement (Preference to Make in India) Order, 2017 (PPP-MII Order)
- Revision - Regarding
To: Chairman IWAI <chairman.iwai@nic.in>

Date: 08/16/19 05:02 PM

From: Ram Ratan Katiyar <ram.katiyar@nic.in>

Public Procurement.pdf (5.7MB)

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Respected Madam,

Please find enclosed herewith a copy of O.M. No. CD-11053/104/2019-Coord dated 13th August, 2019 on the above mentioned subject received from Coordination Section of this Ministry.

2. IWAI is requested kindly strictly compliance of the aforesaid order dated 29.05.2019 of Ministry of Commerce and Industry, Department of Promotion of Industry and Internal Trade (Public Procurement Section).

Regards

(katiyar)

Member (F) 16/8/19
Dir (Finance)

~~IA (F)~~
22/8/19

Consultant (F)

23/8/19 sections.

Pl. go through and review implementation in IWAI.
This can be collected thru a format from different

Ar
20/8/19
Chairperson, IWAI

1 No /copy
23/8/19

No.CD-11053/104/2019-Coord.

Government of India

Ministry of Shipping

....

Transport Bhawan,
1, Parliament Street,
New Delhi.

Dated: 13/8/2018

To

1. Head of all Major Ports
2. Heads of all Attached /Subordinate Orgs.
3. Heads of all PSUs. under Ministry of Shipping

Subject: Public Procurement(preference to Make in India) Order,
2017(PPP-MII Order)-Revision-Regarding.

Sir,

I am directed to forward herewith a copy of D.O. letter No.P-45021/147/2019-PP(BE-II)/7682 dated 19.06.2019 received from the Hon'ble Minister, Ministry of Railways and Commerce & Industry addressed to Minister of State(IC) Shipping on the subject cited above for strict compliance of the Order dated 29.05.2019.

Yours faithfully,


(Vanlalhuom)

Under Secretary to the Govt. of India

Tel. No.011-23313957

Copy for kind information to :

✓ Sr. Adviser(E)/ Adviser(Stat.)/ JS(A)/ JS(S)/ JS(P)/ JS(I)/ JS(SM)/ DA(Ports)

Pl convey to IMAI on RAMP for strict compliance

Dir(R) on leave

U/S (W/S)

20/8/18

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पीयूष गोयल
PIYUSH GOYAL



रेल और वाणिज्य एवं उद्योग मंत्री;
भारत सरकार
MINISTER OF
RAILWAYS AND COMMERCE & INDUSTRY;
GOVERNMENT OF INDIA

D.O.No. P-45021/147/2019-PP(BE-II)/7682

19 June, 2019

Dear Shri Mandaviya ji,

I would like to draw your attention to the Public Procurement (Preference to Make in India) Order, 2017 (PPP-MII Order) issued by Department for Promotion of Industry and Internal Trade, as revised on 29.5.2019. A copy of the Order is enclosed for ready reference.

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The order aims to promote domestic value addition in public procurement. The order provides for purchase preference to domestic manufacturers and service providers, who comply with local content requirements, in public procurement activities over entities merely importing to trade or assemble items. The Order is applicable on procurement of goods, services and works (including turnkey works) by a Central Ministry/ Department, their attached/subordinate offices, autonomous bodies controlled by the Government of India and Government companies. It is also to be applied for all public procurement done under all Central and Centrally Sponsored Schemes.

Under this order, 20% purchase preference has to be given to local suppliers who meet the minimum local content requirement. 19 Ministries/ Departments have been designated as nodal agencies for notifying minimum local content for the relevant product categories.

The Central agencies undertake massive public procurement every year. However, the benefits of this procurement, at times, do not accrue to the domestic industry even where it is technically and financially competitive, mainly due to restrictive and discriminatory tender conditions being imposed against domestic players. This Order is meant to address these concerns and thereby spur employment and income in the country.

A number of grievances regarding violation of provisions of the order by various Central agencies have been received. Many Central agencies are including restrictive and discriminatory conditions against the local suppliers in the bid documents. Such conditions include incorporation of name of foreign brands, international standards such as USFDA/ CE certification for medical devices, mandatory presence in Gartner Magic Quadrant in ICT sector, inappropriately

As desired by hon. MoS (I/C) Shipping.

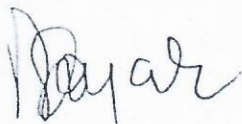
All organisations SOCC

high, past experience and turnover requirements etc. Central Vigilance Commission has issued directions to all CVOs to look into tender practices violating this order.

With a view to ensure rigorous enforcement of this order, may I request you to please review the implementation of the order by the Departments, Attached/Subordinate offices, autonomous bodies, CPSUs and SPVs and other agencies under your control and direct them to report compliance that the provisions of PPP-MII Order are strictly being complied by them.

With warm regards,

Sincerely,



Piyush Goyal

Shri Mansukh L. Mandaviya

Hon'ble Minister of State (I/C) of the Ministry of Shipping; and
Minister of State in the Ministry of Chemicals and Fertilizers
Transport Bhawan, Sansad Marg,
New Delhi-110001

Government of India
Ministry of Commerce and Industry
Department for Promotion of Industry and Internal Trade
(Public Procurement Section)

Udyog Bhawan, New Delhi
Dated: 29th May, 2019

To

All Central Ministries/Departments/CPSUs/All concerned

ORDER

Subject: Public Procurement (Preference to Make in India), Order 2017 – Revision; regarding.

Department for Promotion of Industry and Internal Trade, in partial modification [Paras 3(a) and 14 modified and Para 10A added] of Order No.P-45021/2/2017-B.E.-II dated 15.6.2017 as amended by Order No.P-45021/2/2017-B.E.-II dated 28.05.2018, hereby issues the revised 'Public Procurement (Preference to Make in India), Order 2017' with immediate effect:-

Whereas it is the policy of the Government of India to encourage 'Make in India' and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, and

Whereas procurement by the Government is substantial in amount and can contribute towards this policy objective, and

Whereas local content can be increased through partnerships, cooperation with local companies, establishing production units in India or Joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them,

Now therefore the following Order is issued :

1. This Order is issued pursuant to Rule 153 (iii) of the General Financial Rules 2017.
2. Definitions: For the purposes of this 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.

'Local supplier' means a supplier or service provider whose product or service offered for procurement meets the minimum local content as prescribed under this Order or by the competent Ministries / Departments in pursuance of this order.

'L 1' 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 local supplier may be above the L 1 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

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'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'.

3. **Requirement of Purchase Preference :** 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 local suppliers in all procurements undertaken by procuring entities in the manner specified hereunder

- a. In procurement of all goods, services or works in respect of which the estimated value of procurement is less than INR 50 Lakhs, only local suppliers shall be eligible to bid. However, 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 local suppliers shall be eligible to bid irrespective of purchase value.

Provided that for any particular item, the Nodal Ministry / Department may also prescribe an upper threshold limit, below which procurement shall be made only from local suppliers.

Further provided that in any particular case of procurement, if the procuring authority is of the view that the goods, services or works of required quality / specifications etc. may not be available in the country, or sufficient capacity or competition does not exist domestically, and it is necessary to undertake global competitive bidding, the procuring authority may allow the same after recording reasons. In such cases, the provisions of sub-paragraph b or c, as the case may be, shall apply;

- b. In the procurements of goods or works which are not covered by paragraph 3a and which are divisible in nature, the following procedure shall be followed;
- Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract for full quantity will be awarded to L1.
 - If L1 bid is not from a local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the local suppliers, will be invited to match the L1 price for the remaining 50% quantity subject to the local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such local supplier subject to matching the L1 price. In case such lowest eligible local supplier fails to match the L1 price or accepts less than the offered quantity, the next higher 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 local suppliers, then such balance quantity may also be ordered on the L1 bidder.
- c. In procurements of goods or works not covered by sub-paragraph 3a and which are not divisible, and in procurement of services where the bid is evaluated on price alone, the following procedure shall be followed -
- Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract will be awarded to L1.

- ii. If L1 is not from a local supplier, the lowest bidder among the local suppliers, will be invited to match the L1 price subject to local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such local supplier subject to matching the L1 price.
 - iii. In case such lowest eligible local supplier fails to match the L1 price, the 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 local suppliers within the margin of purchase preference matches the L1 price, then the contract may be awarded to the L1 bidder.
4. **Exemption of small purchases:** Notwithstanding anything contained in paragraph 3, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.
5. **Minimum local content:** The minimum local content shall ordinarily be 50%. The Nodal Ministry may prescribe a higher or lower percentage in respect of any particular item and may also prescribe the manner of calculation of local content.
6. **Margin of Purchase Preference:** The margin of purchase preference shall be 20%.
7. **Requirement for specification in advance:** The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.
8. **Government E-marketplace:** In respect of procurement through the Government E-marketplace (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.
9. **Verification of local content:**
 - a. The local supplier at the time of tender, bidding or solicitation shall be required to provide self-certification that the item offered meets the minimum local content and shall give details of the location(s) at which the local value addition is made.
 - b. In cases of procurement for a value in excess of Rs. 10 crores, the local supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
 - c. Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.
 - d. Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor's/ accountant's certificates on random basis and in the case of complaints.

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- e. Nodal Ministries and procuring entities may prescribe fees for such complaints.
 - f. False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.
 - g. A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph 9h below.
 - h. The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:
 - i. The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry /Department or in some other manner;
 - ii. on a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s);
 - iii. in respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in the such a manner that ongoing procurements are not disrupted.
10. Specifications in Tenders and other procurement solicitations:
- a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.
 - b. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of local suppliers who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.
 - c. Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs 'a' and 'b' above.
 - d. If a Nodal Ministry is satisfied that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, it may, if it deems appropriate, restrict or exclude bidders from that country from eligibility for procurement of that item and/ or other items relating to that Nodal Ministry. A copy of every instruction or decision taken in this regard shall be sent to the Chairman of the Standing Committee.

- e. For the purpose of sub-paragraph 10 d above, a supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in that country, or ii) a majority of its shareholding or effective control of the entity is exercised from that country; or (iii) more than 50% of the value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect to India."

- 10A. **Action for non-compliance of the Provisions of the Order:** In case restrictive or discriminatory conditions against domestic suppliers are included in bid documents, an inquiry shall be conducted by the Administrative Department undertaking the procurement (including procurement by any entity under its administrative control) to fix responsibility for the same. Thereafter, appropriate action, administrative or otherwise, shall be taken against erring officials of procurement entities under relevant provisions. Intimation on all such actions shall be sent to the Standing Committee.
11. **Assessment of supply base by Nodal Ministries:** The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.
12. **Increase in minimum local content:** The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.
13. **Manufacture under license/ technology collaboration agreements with phased indigenization:** While notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement / transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase in local content.
14. **Powers to grant exemption and to reduce minimum local content:** The administrative Department undertaking the procurement (including procurement by any entity under its administrative control), with the approval of their Minister-in-charge, may by written order, for reasons to be recorded in writing,
- a. reduce the minimum local content below the prescribed level; or
 - b. reduce the margin of purchase preference below 20%; or
 - c. exempt any particular item or supplying entities or class or classes of items or procuring or supplying entities from the operation of this Order or any part of the Order.

A copy of every such order shall be provided to the Standing Committee and concerned Nodal Ministry / Department. The Nodal Ministry / Department concerned will continue to have the power to vary its notification on Minimum Local Content.

15. **Directions to Government companies:** In respect of Government companies and other procuring entities not governed by the General Financial Rules, the administrative Ministry or Department shall issue policy directions requiring compliance with this Order.

16. **Standing Committee:** A standing committee is hereby constituted with the following membership:

Secretary, Department for Promotion of Industry and Internal Trade—Chairman
Secretary, Commerce—Member
Secretary, Ministry of Electronics and Information Technology—Member
Joint Secretary (Public Procurement), Department of Expenditure—Member
Joint Secretary (DPIIT)—Member-Convenor

The Secretary of the Department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issues under its consideration.

17. **Functions of the Standing Committee:** The Standing Committee shall meet as often as necessary, but not less than once in six months. The Committee

- shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.
- shall annually assess and periodically monitor compliance with this Order
- shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content
- may require furnishing of details or returns regarding compliance with this Order and related matters
- may, during the annual review or otherwise, assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures
- may examine cases covered by paragraph 13 above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization
- may consider any other issue relating to this Order which may arise.

18. **Removal of difficulties:** Ministries /Departments and the Boards of Directors of Government companies may issue such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of this Order.

19. **Ministries having existing policies:** Where any Ministry or Department has its own policy for preference to local content approved by the Cabinet after 1st January 2015, such policies will prevail over the provisions of this Order. All other existing orders on preference to local content shall be reviewed by the Nodal Ministries and revised as needed to conform to this Order, within two months of the issue of this Order.

20. **Transitional provision:** This Order shall not apply to any tender or procurement for which notice inviting tender or other form of procurement solicitation has been issued before the issue of this Order.

Arun Mahendru
24/5/2019
(Arun Mahendru Bahaj)
Senior Development Officer
Tel: 2306 2635