

F. No. 283/22/2019-GRID SOLAR
भारत सरकार / Government of India
नवीन और नवीकरणीय ऊर्जा मंत्रालय/ Ministry of New & Renewable Energy

Block No. 14, C.G.O. Complex,
Lodhi Road, New Delhi – 110003
Dated: 09th February, 2021

ORDER

Sub: Public Procurement (Preference to Make in India) to provide for Purchase Preference (linked with local content) in respect of Renewable Energy (RE) Sector.

Ref: Department for Promotion of Industry and Internal Trade (DPIIT) Notification No.P-45021/2/2017-PP (BE-II) dated 4th June, 2020 and dated 16th September, 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. Further, DPIIT vide order's No.P-45021/2/2017-PP (BE-II) dated 4th June, 2020 and 16th September, 2020, have issued the revised Public Procurement (Preference to Make in India) Order 2017.

2. In the light of the Public Procurement (Preference to Make in India) Order 2017, this Ministry had issued O.M. No. 146/57/2018-P&C dated 11th December, 2018 covering certain products related to renewable energy sector under the Public Procurement (Preference to Make in India) Order and specifying the Minimum Percentage of local content required for such renewable energy products. Further, in pursuance of revised Public Procurement (Preference to Make in India) Order 2017, dated 04.09.2020, this Ministry had issued an Order No. 283/22/2019-GRID SOLAR dated 23.09.2020 on the above mentioned subject.

3. In furtherance of Para 19 of the DPIIT Notification No.P-45021/2/2017-PP(BE-II) dated 16.09.2020 and in supersession of all the aforementioned orders 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 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.
- iii. Only 'Class I local supplier' and 'Class-II local supplier', as defined under the DPIIT Notification No.P-45021/2/2017-PP(BE-II) dated 16.09.2020, 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 sub- para 3 (ii) above, and with estimated value of purchases less than Rs.200 Crore, 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.

- 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.

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

Chairperson	DG, NISE
Member	Dir(JKJ)
Member	Dir(Wind)
External Expert	Dir(Technical), IREDA
Convener	Dir(RG)

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 MNRE. The composition of the Committee is given below:

Chairperson	EA
Member	Dir(Wind)
Member	Dir(JKJ)
Convener	Dir(RG)

8. The complaint fee of Rs.2 Lakh or 1% of the value of the local item being procured (subject to maximum of Rs.5 Lakh), whichever is higher, shall be paid in the form of online transaction or Demand Draft, drawn in favour of IREDA. 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, 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 procurements made by all attached or subordinate offices or autonomous body under the Ministry of New & Renewable Energy, 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 Government of India. The aforesaid order shall also be applicable in respect of funding of capital equipment by IREDA, PFC and REC, for all RE projects, for which the bids are issued on or after 1st April, 2021.



11. Procuring entities as defined in the DPIIT's Order dated 16.09.2020 are advised to revise their tender documents fully complying 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.


12. All tenders for procurement by Central Government Agencies have to be certified for compliance of the PPP-MII Order by the concerned procurement officer of the Government Organization before uploading in the portal.

13. In pursuance of the provision of para 13 of the DPIIT Order, 2020, equipment used in the renewable energy sector which are manufactured under license from foreign manufacturers holding intellectual property rights and where there is a transfer of technology agreement, if any, are listed as under Annexure-II. However, **Annexure-II** will undergo regular review to check for those items in the list for which sufficient local manufacturing capacity and competition have got developed and which meet minimum local content of 50% now, so that these items become eligible for inclusion in Annexure-I of this order and the provisions as contained in para 3 above of this order start becoming applicable in respect of these items too.

14. In terms of para 13A of DPIIT's Order dated 16.09.2020, the procuring entities, while procuring Solar PV Cells beyond 250 MW per annum, shall prescribe in their respective tenders that foreign companies shall enter into a joint venture with an Indian company to participate in the tender.

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

16. This issues in line with the approval from Hon'ble MoS (IC) for NRE and Power.


09/02/21
(Mohd Azmal Mansoori)
Scientist-B
Email: azmal.mnre@gov.in

To:

1. All Ministries/ Departments of Government of India (As per list)
2. Secretary (Coordination), Cabinet Secretariat
3. PS to PM, Prime Minister's Office
4. Vice Chairman, NITI Aayog
5. Chief Secretaries of all States/UTs
6. Director General, Comptroller and Auditor General of India
7. Secretary, DPIIT, Chairman of Standing Committee for implementation of Public Procurement Order, 2017
8. Joint Secretary, DPIIT, Member-Convener of Standing Committee for implementation of Public Procurement Order, 2017
9. Chairperson, CEA
10. CMDs of CPSEs under MNRE & MoP
11. All Group Heads in MNRE

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

1. Definitions:

'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.

'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

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 sub- para 2 (a) above, and with estimated value of purchases less than Rs.200

Crore, 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.

3A. Purchase Preference

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 2(b) above 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 2(b) above 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:

i. 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.

ii. 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.

iii. 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.

3B. Applicability in tenders where contract is to be awarded to multiple bidders-

In tenders where contract is awarded to multiple bidders subject to matching of L1 rates or otherwise, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

a) In case there is sufficient local capacity and competition for the item to be procured, as notified by the nodal Ministry, only Class I local suppliers shall be eligible to bid. As such, the multiple suppliers, who would be awarded the contract, should be all and only Class I local suppliers'

b) In other cases, 'Class-II local suppliers' and 'Non local suppliers' may also participate in the bidding process along with 'Class I local suppliers' as per provisions of this Order.

c) If 'Class I local supplier' qualify for award of contract for at least 50% of the tendered quantity in any tender, the contract may be awarded to all the qualified bidders as per award criteria stipulated in the bid documents. However, in case 'Class I Local suppliers' do not qualify for award of contract for at least 50% if the tendered quantity, purchase preference should be given to the 'Class I local supplier' over 'Class II local suppliers'/ 'Non local suppliers' provided that their quoted rate falls within 20% margin of purchase preference of the highest quoted bidder considered for award of contract so as to ensure that the 'Class I Local suppliers' taken in totality are considered for award of contract for at least 50% of the tendered quantity.

d) First purchase preference has to be given to the lowest quoting 'Class I local supplier', whose quoted rates fall within 20% margin of purchase preference, subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. If the lowest quoting 'Class I local supplier', does not qualify for purchases preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to next higher 'Class I local supplier' falling within 20% margin of purchase preference, and so on.

e) To avoid any ambiguity during bid evaluation process, the procuring entities may stipulate its own tender specific criteria for award of contract amongst different bidders including the procedure for purchase preference to 'Class I local supplier' within the broad policy guidelines stipulated in sub-paras above.

4. Exemption of small purchases: Procurements where the estimated value to be procured is less than Rs.5 Lakh 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 'local content' requirement to categorize a supplier as 'Class-I local supplier' is minimum 50%. For 'Class-II local supplier', the 'local content' requirement is minimum 20%. Nodal Ministry/ Department may prescribe only a higher percentage of minimum local content requirement to categorize a supplier as 'Class-I local supplier' / 'Class-II local supplier'. For the items, for which Nodal Ministry/ Department has not prescribed higher minimum local content notification under the Order, it shall be 50% and 20 % for 'Class-I local supplier' / 'Class-II local supplier' respectively.

6. Margin of Purchase Preference: The margin of purchase preference shall be 20%.

7. 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 endeavor to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of 'Class-I local supplier' / "Class-II local Supplier' who would other 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) Reciprocity Clause

i. When a Nodal Ministry/Department identifies that Indian suppliers of an item are not allowed to participate and/or compete in procurement by any foreign government, due to restrictive tender conditions which have direct or indirect effect of barring Indian companies such as registration in the procuring country, execution of projects of specific value in the procuring country etc., it shall provide such details to all its procuring entities including CMDs/CEOs of PSEs/PSUs, State Government and other procurement agencies under their administrative control and GeM for appropriate reciprocal action.

ii. Entities of countries which have been identifies by the nodal Ministry/Department as not allowing Indian companies to participate in their Government procurement for any item related to that nodal Ministry shall not be allowed to participate in Government procurement in India for all items related to that nodal Ministry/Department, except for the list of items published by the Ministry/Department permitting their participation.

iii. The stipulation in (ii) above shall be part of all tenders invited by the Central Government procuring entities stated in (i) above. All purchases on GeM shall also necessarily have the above provisions for items identified by nodal Ministry/Department.

iv. State Governments should be encouraged to incorporate similar provisions in their respective tenders.



v. The term 'entity' of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time.

e) Specifying foreign certifications/ unreasonable technical specifications/ Brands/ models in the bid document is restrictive and discriminatory practice against local suppliers. If foreign certification is required to be stipulated because of non-availability of Indian Standards and/or for any other reason, the same shall be done only after written approval of Secretary of the Department concerned or any other Authority having been designated such power by the Secretary of the Department concerned.

f) "All administrative Ministries/Departments whose procurement exceeds Rs.1000 Crore per annum shall notify/update their procurement projections every year, including those of the PSEs/PSUs, for the next 5 years on their respective website."

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List of items of goods and services with sufficient local capacity and competition:

A. Small Hydro Power

1. Turbine
2. Generator
3. Penstock pipelines
4. Control panel
5. Governors
6. Cables
7. Valves
8. Transformers
9. Switchgears

B. Wind Power

1. Gear box,
2. Blades,
3. Rotor,
4. Generator,
5. Tower,
6. Hub,
7. Parts of controller,
8. Bearings,
9. Yaw mechanism components,
10. Nacelle

C. Off Grid/ Decentralised Solar Power

1. Solar street lights
2. Solar home lighting systems
3. Solar power packs
4. Micro grid
5. Solar water pumps
6. Inverters
7. Batteries

8. Other solar PV balance of system components for Off Grid/Decentralized solar power projects.

D. Grid connected Solar Power Projects

1. Solar modules
2. Solar inverters

E. Biomass Gasifier

1. Biomass gasifier reactor
2. Feed hopper
3. Ash removal system
4. Ash pump
5. Cyclone
6. Hot gas filter
7. Gas blower
8. Gas piping
9. Control panel
10. Platforms and ladders
11. Water seals
12. Gas burner for start up
13. Automatic gas burner

F. Biomass Cogeneration

1. Boiler and its auxiliaries including ESP
2. Turbines/ generator & its auxiliaries
3. Electrical evacuation and distribution system
4. Bagasse/biomass fuel storage and handling equipment
5. Ash handling systems
6. Cooling tower or air cooled condensers and its auxiliaries
7. Water treatment plant
8. Control system
9. Interface piping
10. EOT crane



11. ETP

G. Municipal Solid Waste (MSW) Projects

1. Boiler
2. Flue gas cleaning system
3. Grab crane system
4. Waste processing system
5. Leachate treatment plant
6. Chimney
7. Water/air condenser
8. Turbine-generator,
9. Water treatment plant
10. Ash treatment plant
11. Control and instrumentation system

H. Waste to Energy (biogas/ bio-CNG)

1. Feed mixer
2. Tank
3. Mixing agitator
4. Feeding pump
5. Digester tank
6. Stirring agitator
7. Double membrane balloon
8. Liquid & gas piping systems
9. Biogas purification system
10. B-CNG booster compressor
11. B-CNG filling header
12. Cylinder casket
13. CNG dispenser
14. Power generator



ANNEXURE-II

The items manufactured under license from foreign manufacturers holding intellectual property rights and where there is a transfer of technology.

- Presently there is no entry for this Annexure.

Ans

General guidelines to be adopted selectively in an appropriate manner by the procuring entities in their tender documents.

1. The bidder shall have to be an entity registered in India in accordance with law.
2. The bids shall be in the language as prescribed by the tenderer/procurer.
3. The bids shall be in Indian National Rupees (INR) only in respect of local content only.
4. Indian subsidiaries of foreign bidders shall meet the qualifying criteria in terms of capability, competency, financial position, past performance etc.
5. The bidder shall follow Indian laws, regulations and standards.
6. To be eligible for participation in the bid, foreign bidders shall compulsorily set up their manufacturing units on a long term basis in India as may be specified by the tenderer/procurer.
7. Similar or better technology than the technology offered in respect of material, equipment and process involved shall be transferred to India. Along with the transfer of technology, adequate training in the respective field shall also be provided.
8. Country of origin of the equipment/material shall be provided in the bid.
9. For supply of equipment / material from the country of origin other than India, the bidder shall submit performance certificate in support of satisfactory operation in India or a country other than the country of origin having climatic and operational conditions including ambient temperature similar to that of India for more than --- years (to be specified by the procurer).
10. The technologies/ products offered shall be environmentally friendly, consuming less energy, and safe, energy efficient, durable and long lasting under the prescribed operational conditions.
11. The supplier shall ensure supply of spares, materials and technological support for the entire life of the project.
12. The manufacturers/ supplier shall list out the products and components producing Toxic E-waste and other waste as may be specified. It shall have an Extended Producers Responsibility (EPR) so that after the completion of the lifecycle, the materials are safely recycled / disposed of by the Manufacturer/ supplier and for this, the Manufacturer/supplier along with procurer has to establish recycling / disposal unit or as may be specified.
13. Domestic Content requirement (based on the cost of the product) shall be in accordance with the conditions laid down in respective Order(s) of the sectors on Public Procurement (Preference to Make in India) to provide for purchase preference (linked with local content).



14. The equipment/ material sourced from foreign companies may be tested in accredited labs in India before acceptance wherever such facilities are available.
15. The Tender fee and the Bank Guarantee (BG) shall be in Indian Rupees only.
16. The bidder shall have to furnish a certificate regarding cyber security/safety of the equipment/process to be supplied/services to be rendered as safe to connect.
17. Applicable safety requirements shall be met. Regular safety audit shall be carried out by the manufacturer/ supplier.
18. Statutory laws/regulations including the labour and environmental laws shall be strictly complied with during supply, storage, erection, commissioning and operation process. A regular compliance report shall be submitted to the procurer/appropriate Authorities.
19. Formation of new joint venture in India shall be permitted only with the Indian companies.
20. Tendering by the agent shall not be accepted.
21. The original test report in the language prescribed by the procurer shall generally be accepted. Preferably the translated test report shall not be accepted. However, the notarized translation of test reports shall be accepted.
22. Certification/compliance as per the Indian Standards/ International Standards/ Indian Regulations/ specified Standards shall be mandatory, where ever applicable.
23. Quality assurance of the product shall be carried out by the procurer or an independent third party agency appointed by the procurer. Manufacturing Quality Plan as approved by the procurer shall be followed by the manufacturer/supplier.
24. Wherever required, the foreign supplier shall establish fully functional service centers in India and shall keep spares/material locally for future needs of utilities.
25. Arbitration proceedings shall be instituted in India only and all disputes shall be settled as per applicable Indian Laws.

