



GUJARAT URJA VIKAS NIGAM LTD

(An ISO 9001:2015 Company) - CIN U40109GJ2004SGC045195

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Email: guvnl@guvnl.org

Ref. GUVNL / Tech-3 / DE-2(1) / 2334

Date: 01.12.2020

Important

By Fax

To,
The Managing Director
DGVCL, MGVCL, PGVCL, UGVCL, GSECL, GETCO
Corporate Office,
Surat, Vadodara, Rajkot, Mehsana

Sub: **RESTRICTION ON PUBLIC PROCUREMENT FROM BIDDERS OF CERTAIN COUNTRIES**

Ref: Letter from The Under Secretary, E&P Dept. Gandhinagar vide no. સકૃન-૧૦-૨૦૨૦-૫૯૯-૫ તા. ૨૭.૧૦.૨૦૨૦

Respected Sir,

We enclose herewith a letter dated 27.10.2020 received from E&P Dept. GoG, Gandhinagar, for appropriate action please.

Thanking you.

Yours faithfully

(P M Patel)

I/C Chief Engineer (Tech)

Encl. As above

Cfwd to:

- The MD, GUVNL, Vadodara

Copy to:

- The GM (Fin), GUVNL, Vadodara
- The CS (Legal), GUVNL, Vadodara

ACE (Proc.)

For implementation of

Copy to

CE (Tech)

For info & mca

ACE (Tech) / CE (Tech)

SE (R&M)

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ક્રમાંક:સકન-૧૦-૨૦૨૦-૫૯૯-બ
ઊર્જા અને પેટ્રોકેમિકલ્સ વિભાગ,
સચિવાલય, ગાંધીનગર.
તા. ૨૭/૧૦/૨૦૨૦

પ્રતિ, નંબર

- ૧ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત ઊર્જા વિકાસ નિગમ લિ.(GUVNL)
વિદ્યુત ભવન, રેસ કોર્સ, વડોદરા
<https://www.guvnl.com>
- ૩ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત એનર્જી ટ્રાન્સમિશન કો. (GETCO)
વિદ્યુત ભવન, રેસ કોર્સ, વડોદરા
<https://www.getco.gujarat.com>
- ૫ મેનેજીંગ ડીરેક્ટરશ્રી,
દક્ષિણ ગુજરાત વીજ કંપની લી. (DGVCL)
નાના વરાછા રોડ, વરાછા, સુરત
<https://www.dgvcl.com>
- ૭ મેનેજીંગ ડીરેક્ટરશ્રી,
પશ્ચિમ ગુજરાત વીજ કંપની લી.(PGVCL)
નાના માવા મેઇન રોડ, લક્ષ્મીનગર, રાજકોટ
<http://www.pgvcl.com>
- ૯ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત સ્ટેટ પેટ્રોલિયમ કોર્પોરેશન લી.
(GSPC) GSPC ભવન, ગાંધીનગર
<http://gspcgroup.com/GSPC>
- ૧૧ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત પાવર કોર્પોરેશન લી. (GPCL)
ઉદ્યોગ ભવન, ગાંધીનગર.
<https://gpcl.gujarat.gov.in>
- ૧૩ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત સ્ટેટ પેટ્રોનેટ લી.(GSPL)
ઇ-૧૮-, GIDC ઇલેક્ટ્રોનિક એસ્ટેટ, ગાંધીનગર.
<http://gspcgroup.com/GSPL>
- ૧૫ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત સ્ટેટ હાઇડ્રોઇલિક એન્ડ કેમિકલ્સ લી.
(GSFC), વડોદરા.
<https://www.gsfclimited.com/>
- ૧૭ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત આલ્કલીક એન્ડ કેમિકલ્સ લી.
(GACL), વડોદરા.
<https://www.gacl.com/>
- ૨ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત સ્ટેટ ઇલેક્ટ્રીસિટી કંપની લી. (GSECL)
વિદ્યુત ભવન, રેસ કોર્સ, વડોદરા
<https://www.gsecl.in>
- ૪ મેનેજીંગ ડીરેક્ટરશ્રી,
મધ્ય ગુજરાત વીજ કંપની લી. (MGVCL)
વિદ્યુત ભવન, રેસ કોર્સ, વડોદરા
<https://www.mgvcl.com>
- ૬ મેનેજીંગ ડીરેક્ટરશ્રી,
ઉત્તર ગુજરાત વીજ કંપની લી. (UGVCL)
વિરમનગર રોડ, મહેસાણા
<http://www.ugvcl.com>
- ૮ સચિવશ્રી,
ગુજરાત ઇલેક્ટ્રીસિટી રેગ્યુલેશન કમિશન (GERC)
છઠ્ઠો માળ, ગીફ્ટ-૧, ગીફ્ટ સીટી, ગાંધીનગર.
<https://www.gercin.org>
- ૧૦ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત ગેસ કંપની લી.(GGL)
રપરિમલ ગાર્ડન, શાંતિ સદન સોસાયટી
પાસે, અમદાવાદ
<http://gspcgroup.com/GGL>
- ૧૨ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત ઇન્ડસ્ટ્રીઝ પાવર કંપની લી.
(GIPCL) વડોદરા.
<http://www.gipcl.com/>
- ૧૪ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત સ્ટેટ એનર્જી જનરેશન લી.(GSEGL)
એ-૩/૭૮/, GIDC ઇલેક્ટ્રોનિક એસ્ટેટ,
ગાંધીનગર.
<http://gspcgroup.com/GSEGL>
- ૧૬ મેનેજીંગ ડીરેક્ટરશ્રી,
ગુજરાત નર્મદા વેલી હાઇડ્રોઇલિક એન્ડ કેમિકલ્સ
લી. (GNFC), વડોદરા.
<https://www.gnfc.in/>
- ૧૮ મુખ્ય વિદ્યુત નિરીક્ષક અને વિદ્યુત શુદ્ધ સમાહર્તાશ્રી
(CEI/CED), ઉદ્યોગ ભવન, ગાંધીનગર.
<https://ceiced.gujarat.gov.in/>

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G.R. cell

Manish Shah
Dy. Secretary (Industries)



No. : SPO-102020-UOR-10-CH
Industries and Mines Department,
Govt. of Gujarat,
Block No.5, 3rd Floor,
Saradar Bhawan, Sachivalaya,
Gandhinagar - 382010.
Phone No. 079(232) 56466/55544
Dt. 15 OCT 2020

To,
Additional Chief Secretary/Principal Secretary/Secretary
All Departments,
Sachivalaya, Gandhinagar

SUBJECT: RESTRICTION ON PUBLIC PROCUREMENT FROM
BIDDERS OF CERTAIN COUNTRIES

Sir/Madam,

This is with reference to the presentation discussed during the Committee of Secretaries meeting on 26 August 2020 on the amendment made by the Ministry of Finance in the General Financial Rules, 2017 issued vide OM No. 6/18/2019-PPD dated 23 July 2020. The amendment requires mandatory imposition of restrictions on bidders from countries which share a land border with India i.e. Bangladesh, Bhutan, Nepal, China, Myanmar, and Pakistan. Since Government of India has extended lines of credit to Bangladesh, Nepal, and Myanmar, these countries are exempted from this new order.

Following are the key features of the said Order which may be reviewed:

- Any bidder country which shares a land border with India will be eligible to bid only if it is registered with the Competent Authority. The Competent Authority is a Registration Committee constituted by DPIIT.
- Registration granted by the Competent Authority shall also be valid for procurement by States Governments and their agencies/public enterprises, etc.

MB, GSPC
MB, GSPC

for compliance p.
DS- Inform all
concerned.
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599-B
20/10/20

ACS(EPO)

25/10/20

MB, GSPC
MB, ANPC

MB, GSPC

MB, GSECH

MB, GETCO

MB, All

Discoms

MB, GSPC

MB, GSPC

૧૯ નિયામકશ્રી,
નિયામકશ્રી પેટ્રોલિયમની કચેરી(DOP)
ઉદ્યોગ ભવન,ગાંધીનગર ,
<http://www.dopgujarat.in>

૨૦ નિયામકશ્રી,
ગુજરાત ઊર્જા વિકાસ સંસ્થા(GEDA)
ઉદ્યોગ ભવન,ગાંધીનગર ,
<https://geda.gujarat.gov.in/>

વિષય: “Restriction on Public Procurement from Bidders of certain countries”

શ્રીમાન,

ઉપર્યુક્ત વિષય પરત્વેના ઉદ્યોગ અને ખાણ વિભાગના તા.૧૫/૧૦/૨૦૨૦ ના પત્રને બિડાણ સહ મોકલી આપતા જણાવવાનું કે,આ સાથે સામેલ નાણા મંત્રાલય, ભારત સરકારના તા.૨૩/૦૭/૨૦૨૦ ના ઓફીસ મેમોરેન્ડમથી બહાર પડાયેલ સૂચનાઓ પરત્વે જરૂરી કાર્યવાહી કરવા વિનંતી છે.

બિડાણ: ઉપર મુજબ

આપનો વિશ્વાસુ

(જયેશ બેષી)

ઉપ સચિવ

ઊર્જા અને પેટ્રોકેમિકલ્સ વિભાગ

નકલ રવાના:

૧. રોકેશન અધિકારીશ્રી ક,ક૧,બ૧,૯ શાખા-ઊર્જા અને પેટ્રોકેમિકલ્સ વિભાગ, ગાંધીનગર
..... જરૂરી કાર્યવાહી અર્થે..

- The definition of “bidder from a country which shares a land border with India” is as follows:
 - In case of a *company or LLP*, the beneficial owner is the natural person(s), who has ownership of or entitlement to more than 25% of shares or capital or profits of the company.
 - In case of a *partnership firm*, the beneficial owner is the natural person(s) who has ownership of entitlement to more than 15% of capital or profits of the partnership.
 - In case of an *unincorporated association or body of individuals*, the beneficial owner is the natural person(s), who has ownership of or entitlement to more than 15% of the property or capital or profits of such association or body of individuals.
 - In case of a *trust*, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with 15% or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
- Apart from State Ministries/Departments, attached and subordinate bodies, this Order shall also be applicable to:
 - To all Autonomous Bodies
 - To public sector banks and public sector financial institutions
 - Subject to any orders from the Department of Public Enterprises, to all Central Public Sector Enterprises
 - To procurement in public private partnership projects receiving financial support from the Government or public sector enterprises/undertakings
 - Union Territories, National Capital Territory of Delhi and all agencies/undertakings thereof
- However, this order is not applicable to:
 - Cases where Letter of Award (LoA)/ Letter of Intent (LoI) has been issued before this order i.e. 23 July 2020
 - Other special cases (medical supplies for COVID-19 – upto 31 December 2020, Bona fide GeM procurements, and projects which receive international funding with the approval of DEA)

if the tendering process has crossed the first qualification stage and the qualified bidders include bidders from such countries, the entire process shall be scrapped and initiated de novo. The process for initiating de novo has been further explained in the detailed Order.

With the above background, it is required that departments may align its procurement processes with the said Order and put in place a mechanism to implement the same in all future procurement of your department and HODs/Boards/Corporations/Autonomous Bodies/PSUs of under your department. The copy of the said office memorandum dated 23 July 2020 is enclosed with this letter for your evaluation and taking necessary action.

Yours sincerely,



(Manish Shah)

Deputy Secretary to
Government of Gujarat

Encl:

Ministry of Finance, Department of Expenditure (Public Procurement Division)'s Office Memorandum no:6/18/2019-PPD dated 23rd July,2020 with relevant enclosures

Copy to:

- (1) Deputy Secretary(Establishment), Industries and Mines Department, Sachivalaya, Gandhinagar (For Necessary actions)
- (2) All Heads of the Department under Industries and Mines Department (For Necessary actions)

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

161, North Block,
New Delhi
23rd July, 2020

Order (Public Procurement No. 1)

Subject: Restrictions under Rule 144 (xi) of the General Financial Rules (GFRs), 2017

Attention is invited to this office OM no. 6/18/2019-PPD dated 23rd July 2020 inserting Rule 144 (xi) in GFRs 2017. In this regard, the following is hereby ordered under Rule 144 (xi) on the grounds stated therein:

Requirement of registration

1. Any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in **Annex I**.
2. This Order shall not apply to (i) cases where orders have been placed or contract has been concluded or letter/notice of award/ acceptance (LoA) has been issued on or before the date of this order; and (ii) cases falling under **Annex II**.

Transitional cases

3. Tenders where no contract has been concluded or no LoA has been issued so far shall be handled in the following manner: -
 - a) *In tenders which are yet to be opened, or where evaluation of technical bid or the first exclusionary qualificatory stage (i.e. the first stage at which the qualifications of tenderers are evaluated and unqualified bidders are excluded) has not been completed:* No contracts shall be placed on bidders from such countries. Tenders received from bidders from such countries shall be dealt with as if they are non-compliant with the tender conditions and the tender shall be processed accordingly.
 - b) *If the tendering process has crossed the first exclusionary qualificatory stage:* If the qualified bidders include bidders from such countries, the

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

161, North Block,
New Delhi
23rd July, 2020

Office Memorandum

Subject: Insertion of Rule 144 (xi) in the General Financial Rules (GFRs), 2017

Rule 144 of the General Financial Rules 2017 entitled 'Fundamental principles of public buying', has been amended by inserting sub-rule (xi) as under:

Notwithstanding anything contained in these Rules, Department of Expenditure may, by order in writing, impose restrictions, including prior registration and/or screening, on procurement from bidders from a country or countries, or a class of countries, on grounds of defence of India, or matters directly or indirectly related thereto including national security; no procurement shall be made in violation of such restrictions.

(Sanjay Prasad)

Joint Secretary (PPD)

Email ID: js_pfc2.doe@gov.in

Telephone: 011-23093882

- To,
- (1) Secretaries of All Ministries/ Departments of Government of India
 - (2) Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi

entire process shall be scrapped and initiated *de novo*. The *de novo* process shall adhere to the conditions prescribed in this Order.

- c) As far as practicable, and in cases of doubt about whether a bidder falls under paragraph 1, a certificate shall be obtained from the bidder whose bid is proposed to be considered or accepted, in terms of paras 8, 9 and 10 read with para 1 of this Order.

Incorporation in tender conditions

4. In tenders to be issued after the date of this order, the provisions of paragraph 1 and of other relevant provisions of this Order shall be incorporated in the tender conditions.

Applicability

5. Apart from Ministries / Departments, attached and subordinate bodies, notwithstanding anything contained in Rule 1 of the GFRs 2017, this Order shall also be applicable
- a. to all Autonomous Bodies;
 - b. to public sector banks and public sector financial institutions; and
 - c. subject to any orders of the Department of Public Enterprises, to all Central Public Sector Enterprises; and
 - d. to procurement in Public Private Partnership projects receiving financial support from the Government or public sector enterprises/ undertakings.
 - e. Union Territories, National Capital Territory of Delhi and all agencies/ undertakings thereof

Definitions

6. "Bidder" for the purpose of this Order (including the term 'tenderer', 'consultant' 'vendor' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.
7. "Tender" for the purpose of this Order will include other forms of procurement, except where the context requires otherwise.
8. "Bidder from a country which shares a land border with India" for the purpose of this Order means

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- a) An entity incorporated, established or registered in such a country; or
- b) A subsidiary of an entity incorporated, established or registered in such a country; or
- c) An entity substantially controlled through entities incorporated, established or registered in such a country; or
- d) An entity whose *beneficial owner* is situated in such a country; or
- e) An Indian (or other) agent of such an entity; or
- f) A natural person who is a citizen of such a country; or
- g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above

9. "Beneficial owner" for the purpose of paragraph 8 above will be as under:

- (i) In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person(s), has a controlling ownership interest or who exercises control through other means.

Explanation—

- a. "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;
- b. "Control" shall include the right to appoint the majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;

- (ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership or entitlement to more than fifteen percent of capital or profits of the partnership;

- (iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;

- (iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;

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(v) In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

10. "Agent" for the purpose of this Order is a person employed to do any act for another, or to represent another in dealings with third persons.

Sub-contracting in works contracts

11. In works contracts, including turnkey contracts, contractors shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. The definition of "contractor from a country which shares a land border with India" shall be as in paragraph 8 above. This shall not apply to sub-contracts already awarded on or before the date of this Order.

Certificate regarding compliance

12. A certificate shall be taken from bidders in the tender documents regarding their compliance with this Order. If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate termination and further legal action in accordance with law.

Validity of registration

13. In respect of tenders, registration should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly registered at the time of acceptance / placement of order, registration shall not be a relevant consideration during contract execution.

Government E-Marketplace

14. The Government E-Marketplace shall, as soon as possible, require all vendors/ bidders registered with GeM to give a certificate regarding compliance with this Order, and after the date fixed by it, shall remove non-compliant entities from GeM unless/ until they are registered in accordance with this Order.

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Model Clauses/ Certificates

15. Model Clauses and Model Certificates which may be inserted in tenders / obtained from Bidders are enclosed as Annex III. While adhering to the substance of the Order, procuring entities are free to appropriately modify the wording of these clauses based on their past experience, local needs etc. without making any reference to this Department.

(Sanjay Prasad)
Joint Secretary (PPD)
Email ID: j.s.pfc2.doe@gov.in
Telephone: 011-23093882

To

- (1) Secretaries of All Ministries/ Departments of Government of India for information and necessary action. They are also requested to inform these provisions to all procuring entities.
- (2) Secretary, Department of Public Enterprises with a request to immediately reiterate these orders in respect of Public Enterprises.
- (3) Secretary DPIIT with a request to initiate action as provided under Annex I
- (4) Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi

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Annex I: Competent Authority and Procedure for Registration

- A. The Competent Authority for the purpose of registration under this Order shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT)*.
- B. The Registration Committee shall have the following members*:
- i. An officer, not below the rank of Joint Secretary, designated for this purpose by DPIIT, who shall be the Chairman;
 - ii. Officers (ordinarily not below the rank of Joint Secretary) representing the Ministry of Home Affairs, Ministry of External Affairs, and of those Departments whose sectors are covered by applications under consideration;
 - iii. Any other officer whose presence is deemed necessary by the Chairman of the Committee.
- C. DPIIT shall lay down the method of application, format etc. for such bidders as stated in para 1 of this Order.
- D. On receipt of an application seeking registration from a bidder from a country covered by para 1 of this Order, the Competent Authority shall first seek political and security clearances from the Ministry of External Affairs and Ministry of Home Affairs, as per guidelines issued from time to time. Registration shall not be given unless political and security clearance have both been received.
- E. The Ministry of External Affairs and Ministry of Home Affairs may issue guidelines for internal use regarding the procedure for scrutiny of such applications by them.
- F. The decision of the Competent Authority to register such bidder may be for all kinds of tenders or for a specified type(s) of goods or services, and may be for a specified or unspecified duration of time, as deemed fit. The decision of the Competent Authority shall be final.
- G. Registration shall not be granted unless the representatives of the Ministries of Home Affairs and External Affairs on the Committee concur*.
- H. Registration granted by the Competent Authority of the Government of India shall be valid not only for procurement by Central Government and its agencies/ public enterprises etc. but also for procurement by State Governments and their agencies/ public enterprises etc. No fresh registration at the State level shall be required.

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- I. The Competent Authority is empowered to cancel the registration already granted if it determines that there is sufficient cause. Such cancellation by itself, however, will not affect the execution of contracts already awarded. Pending cancellation, it may also suspend the registration of a bidder, and the bidder shall not be eligible to bid in any further tenders during the period of suspension.
- J. For national security reasons, the Competent Authority shall not be required to give reasons for rejection / cancellation of registration of a bidder.
- K. In transitional cases falling under para 3 of this Order, where it is felt that it will not be practicable to exclude bidders from a country which shares a land border with India, a reference seeking permission to consider such bidders shall be made by the procuring entity to the Competent Authority, giving full information and detailed reasons. The Competent Authority shall decide whether such bidders may be considered, and if so shall follow the procedure laid down in the above paras.
- L. Periodic reports on the acceptance/ refusal of registration during the preceding period may be required to be sent to the Cabinet Secretariat. Details will be issued separately in due course by DPIIT.

[*Note.

- i. In respect of application of this Order to procurement by/ under State Governments, all functions assigned to DPIIT shall be carried out by the State Government concerned through a specific department or authority designated by it. The composition of the Registration Committee shall be as decided by the State Government and paragraph G above shall not apply. However, the requirement of **political and security clearance as per para D** shall remain and no registration shall be granted without such clearance.
- ii. Registration granted by State Governments shall be valid only for procurement by the State Government and its agencies/ public enterprises etc. and shall not be valid for procurement in other states or by the Government of India and their agencies/ public enterprises etc.]

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Annex II: Special Cases

- A. Till 31st December 2020, procurement of medical supplies directly related to containment of the Covid-19 pandemic shall be exempt from the provisions of this Order.
- B. *Bona fide* procurements made through GeM without knowing the country of the bidder till the date fixed by GeM for this purpose, shall not be invalidated by this Order.
- C. *Bona fide* small procurements, made without knowing the country of the bidder, shall not be invalidated by this Order.
- D. In projects which receive international funding with the approval of the Department of Economic Affairs (DEA), Ministry of Finance, the procurement guidelines applicable to the project shall normally be followed, notwithstanding anything contained in this Order and without reference to the Competent Authority. Exceptions to this shall be decided in consultation with DEA.
- E. This Order shall not apply to procurement by Indian missions and by offices of government agencies/ undertakings located outside India.

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Annex III

Model Clause /Certificate to be inserted in tenders etc.

(While adhering to the substance of the Order, procuring entities and GeM are free to appropriately modify the wording of the clause/ certificate based on their past experience, local needs etc.)

Model Clauses for Tenders

- I. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.
- II. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- III. "Bidder from a country which shares a land border with India" for the purpose of this Order means: -
 - a. An entity incorporated, established or registered in such a country; or
 - b. A subsidiary of an entity incorporated, established or registered in such a country; or
 - c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
 - d. An entity whose *beneficial owner* is situated in such a country; or
 - e. An Indian (or other) agent of such an entity; or
 - f. A natural person who is a citizen of such a country; or
 - g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- IV. The *beneficial owner* for the purpose of (iii) above will be as under:
 1. In case of a company or Limited Liability Partnership; the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation—

 - a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company;

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- b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
 3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
 4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
- V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
- VI. *[To be inserted in tenders for Works contracts, including Turnkey contracts]* The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.

Model Certificate for Tenders (for transitional cases as stated in para 3 of this Order)

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I hereby certify that this bidder is not from such a country and is eligible to be considered."

Model Certificate for Tenders

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that this bidder is not from such a country or, if from such a country, has been registered with the

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Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"

Model Certificate for Tenders for Works involving possibility of sub-contracting

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority and will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"

Model Certificate for GeM:

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that this vendor/ bidder is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that this vendor/ bidder fulfills all requirements in this regard and is eligible to be considered for procurement on GeM. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"

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

161, North Block
New Delhi
23rd July, 2020

Order (Public Procurement No. 2)

Subject: Exclusion from restrictions under Rule 144 (xl) of the General Financial Rules (GFRs), 2017 –regarding.

In Order (Public Procurement No. 1) dated 23rd July 2020, orders have been issued requiring registration of bidders from a country sharing a land border with India in order to be eligible to bid in public procurement.

2. Notwithstanding anything contained therein, it is hereby clarified that the said Order will not apply to bidders from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects.

3. Updated lists of countries to which lines of credit have been extended or in which development projects are undertaken are given in the website of the Ministry of External Affairs.

(Sanjay Prasad)
Joint Secretary (PPD)
Email ID: js.pfc2.doe@gov.in
Telephone: 011-23093802

To,

- (1) Secretaries of All Ministries/ Departments of Government of India for information and necessary action. They are also requested to inform these provisions to all procuring entities.
- (2) Secretary, Department of Public Enterprises with a request to immediately reiterate these orders in respect of Public Enterprises.
- (3) Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi

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

161, North Block,
New Delhi
24th July, 2020

Order (Public Procurement No. 3)

Subject: Clarification to Order (Public Procurement No.1) dated 23rd 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 23rd 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 23rd 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

qualified for award of the tender irrespective of the Order (Public Procurement No. 1) dated 23rd July 2020. In such a case, there is no need to scrap the tender.

Example 3: The facts are as in Example 1, but the bidder from a country which shares a land border with India, though technically qualified, is not eligible for award due to the application of price preference as per other orders/ rules. In such a case, there is no need to scrap the tender.

Example 4: Three bids are received in a tender. One of them is a bidder from a country sharing a land border with India. The bidder from such a country does not meet the technical requirements and hence is not qualified. There is no need to scrap the tender.

(Santosh Prasad)
Joint Secretary (PPD)
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To,

- (1) Secretaries of All Ministries/ Departments of Government of India for information and necessary action. They are also requested to inform the clarification to all procuring entities.
- (2) Secretary, Department of Public Enterprises with a request to immediately circulate this clarification among Public Enterprises.
- (3) Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi

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The following information was obtained from a review of the records of the Department of the Interior, Bureau of Land Management, for the period 1960 through 1969. The information was obtained from the files of the Bureau of Land Management, and is being furnished to you for your information. The information is being furnished to you for your information, and is not to be used for any other purpose.

The following information was obtained from a review of the records of the Department of the Interior, Bureau of Land Management, for the period 1960 through 1969. The information was obtained from the files of the Bureau of Land Management, and is being furnished to you for your information. The information is being furnished to you for your information, and is not to be used for any other purpose.

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