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Revision of Entire Para 1800 of Instructions to Tenderers For e-Tenders And General Conditions Of Tender (Indigenous Purchases) Version 14

(Ref.: Department for Promotion of Industry and Internal Trade, in partial modification [Paras 2, 3, 5, 10 & 13] of Order No.P-450211212017-B.E.-II dated 15.6.2017 as amended by Order No.P-45021/212017-B.E.-II dated 28.05.2018, Order No.P-45021/2/2017-B.E.-II dated 29.05.2019, Order No.P-45021/2/2017- B.E.-II dated 04.06.2020 and Order No.P-45021/2/2017-B.E.-II dated 16.09.2020 hereby issues the revised 'Public Procurement (Preference to Make in India), Order 2017" dated 19.07.2024 effective with immediate effect.)

1800 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:

This Order is issued pursuant to Rule 153 (iii) of the General Financial Rules 2017.

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.

***Explanatory'* nofes *for calculation* of *local* content given above:**

a) Imported items sourced locally from resellers/distributors shall be excluded from calculation of local content.

b) The license fees/royalties paid/ technical charges paid out of India shall be excluded from local content calculation.

c) Procurement/Supply of repackaged/refurbished/rebranded imported products as understood commonly shall be treated as reselling of imported products and shall be excluded from calculation of local content. The definition of repackaged/refurbished/rebranded imported products is as follows;

'Refurbishing' means repair or reconditioning of an imported product does not amount to manufacture because no new goods come into existence.

'Repackaging' means repacking of imported goods from bulk packs to **smaller** packs would not **ordinarily** amount to manufacture of a new item.

'Rebranding' means relabeling or renaming or change in symbol or logo/makes or corporate image of a company/organisation/ firm for an imported product would amount to rebranding.

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d) To ensure that imported items sourced locally from resellers/distributors are excluded from calculation of local content, procuring entities to obtain from bidders, the cost of such locally-sourced imported items (Inclusive of taxes) along with break-up on licence/royalties paid/technical expertise cost etc. sourced from outside India. For items sold by the bidder as reseller, OEM certificate for country of origin to be submitted.

e) For contracts involving supply of multiple items, weighted average of all items to be taken while calculating the local content.

'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.

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

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

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

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

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

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

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

Special treatment for items covered under PLI Scheme:

The manufacturers manufacturing an item under PLI scheme shall be treated as deemed Class II local supplier for that item unless they have minimum local content equal to or higher than that notified for Class-I local supplier for that item, provided the manufacturer has received incentive from the concerned PLI Ministry for the Item. The above shall be applicable for the specific time period only, as notified by concerned PLI Ministry.

1801 Eligibility of 'Class-I local supplier'I '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 procurement undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries, 'Non-local suppliers' shall also be eligible to bid along with 'Class-I local suppliers' and 'Class-II local suppliers'. In procurement of all goods, services or works, not covered by Sub-Para 1801(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.

1802 Mandatory sourcing of items, with sufficient local capacity and competition, from Class-I local suppliers in SI/EPC/Turnkey Contracts/Service Tenders.

a) The items, notified as having sufficient local capacity and competition, shall mandatorily be sourced from Class-I local suppliers in SI/EPC/Turnkey Contracts/ Services tenders. This provision will be applicable only for those items which have been notified by the Nodal Ministry as Class I i.e. having sufficient local capacity and competition, with specific HSN codes."

b) Notwithstanding above, if in any project, It is considered that it is not practically feasible to source such items from Class I local suppliers, it may take relaxation from such stipulation with the approval of Secretary of the administrative Ministry/ Department concerned or with the approval of the Competent Authority specified by the Administrative Ministry/Department, on case-specific basis.

1803 A) <u>Purchase Preference:</u>

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 procurement undertaken by procuring entities in the manner specified here under.

In the procurement of goods or works, which are covered by Para 1802(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:

a) 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.

b) 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 procurement of goods or works, which are covered by Para 1802(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-! 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. !n 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.

B) <u>Applicability in tenders where contract is to be awarded to multiple bidders:</u>

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 suppliers’ 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% of 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 purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to the 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.

1804 Exemption of small purchases:

Notwithstanding anything contained in Para 1801, procurement 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.

<u>A) Exemption in sourcing of spares and consumables of closed systems</u>:

Procurement of spare parts, consumables for closed systems and Maintenance/ Service contracts with Original Equipment Manufacturer/Original Equipment Supplier/Original Part Manufacturer shall be exempted from this Order.

1805 Minimum local content:

The 'local content' requirement to categorise a supplier as 'Class-I local supplier' is minimum 50%. For 'Class-II local supplier', the 'local content' requirement is minimum 20%. The 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.

1806 Margin of Purchase Preference: The margin of purchase preference shall be 20%.

1807 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.

1808 <u>Government E-marketplace</u>:

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.

1809 <u>Verification of local content</u>:

i) The 'Class-I local supplier'/ 'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the item offered meets the local content requirement for 'Class-I local supplier'/ 'Class-II local supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.

ii) In cases of procurement for a value in excess of Rs. 10 crores, the 'Class-I local supplier'/ 'Class-II 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 practising cost accountant or practising chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.

iii) The bidder shall give self-certification for local content in the quoted item (goods/works/services) at the time of tendering. However, at the time of execution of the project, for all contracts above INR 10 Crore, the contractor/ supplier shall be required to give local content certification duly certified by cosh chartered accountant in practice. For cases where it is not possible to provide certification by Cost/Chartered Accountant at the time of execution of project, the supplier shall be permitted to provide the certificate for local content from Cost/ Chartered Accountant after completion of the contract, within the time limit acceptable to the procuring entity. In case the contractor/ supplier does not meet the stipulated local content requirement and the category of the supplier changes from Class-I to Class-II/ Non-local or from Class-II to Non-local, a penalty up to 10% of the contract value may be imposed. However, contracts once awarded shall not be terminated on this account.

iv) 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.

v) 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.

vi) Nodal Ministries and procuring entities may prescribe fees for such complaints.

vii) 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.

viii) 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 Para 1809(ix) below.

ix) The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:

a) 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;

b) On a periodical basis such cases are consolidated and a centralised list or decentralised lists of such suppliers with the period of debarment is maintained and displayed on website(s);

c) 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 such a manner that ongoing procurement is not disrupted.

1810 <u>A) Specifications in Tenders and other procurement solicitations:</u>

i) 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.

ii) 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 'Class-I local supplier'/ 'Class-II local supplier' who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.

iii) 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.

iv) Reciprocity Clause:

a) When a Nodal Ministry/Department identifier 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 Governments and other procurement agencies under their administrative control and GeM for appropriate reciprocal action.

b) Entities of countries which have been identified 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.

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

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

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

v) 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.

vi) "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."

B) 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.

1811 <u>Assessment of supply base by Nodal Ministries</u>:

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 the higher minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.

1812 <u>Increase in minimum local content</u>:

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.

i) 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.

1813 In procurement of all goods, services or works in respect of which there is substantial quantity of public procurement and for which the nodal ministry has not notified that there is sufficient local capacity and local competition, the concerned nodal ministry shall notify an upper threshold value of procurement beyond which foreign companies shall enter into a joint venture with an Indian company to participate in the tender. Procuring entities, while procuring such items beyond the notified threshold value, shall prescribe in their respective tenders that foreign companies may enter into a joint venture with an Indian company to participate in the tender. The procuring Ministries/Departments shall also make special provisions for exempting such joint ventures from meeting the stipulated minimum local content requirement, which shall be increased in a phased manner.

1814 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,

i) reduce the minimum local content below the prescribed level; or
ii) reduce the margin of purchase preference below 20%; or
iii) exempt any particular item or supplying entities from the operation of this Order or any part of the Order.

The Administrative Department, while seeking exemption under this para, shall certify that such an item(s) has not been notified by the Nodal Ministry/ Department concerned under Para 1803 (a) 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.

1815 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.

1816 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.

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

i) shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.

ii) shall annually assess and periodically monitor compliance with this Order.

iii) shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content.

iv) may require furnishing of details or returns regarding compliance with this Order and related matters.

v) 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.

vi) may examine cases covered by Para 1813 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.

vii) may consider any other issue relating to this Order which may arise.

1817 **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.

1818 **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.

1819 **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.

1820 **Restrictions under Rule 144 (xi) of the General Financial Rules (GFRs)' 2017:**

(i) Any bidder from a country which shares a land border with India will be eligible to bid only if the bidder is registered with the Competent Authority, specified in **Annexure-7.**

(ii) "Bidder" (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.

(iii) Bidder from a country which shares a land border with India" for the purpose of MII policy 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) "Beneficial owner" for the purpose of P**ara 1820 (iii)** above will be as under:

(a) 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:

(1) "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;

(2) "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;

(b) 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;

(c) 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;

(d) 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;

(e) 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) "Agent" for the purpose of MII policy is a person employed to do any act for another, or to represent another in dealings with third persons.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.

(vi) Bidder must submit the following certificate as per **Annexure-8** along with bid in the tender for compliance of OM of DoE (Ministry of Finance) dated 23.07.2020 which is re-iterated below:

"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 the bidder is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that the bidder fulfils all requirements in this regard and is eligible to be considered.

[Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"

If such a certificate given by a bidder whose bid is accepted is found to be false, this would be grounds for immediate termination and further legal action in accordance with law.

Non-submission of this Certificate may lead to rejection of offer.

(vii) **Validity of registration by Competent Authority:** 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.

(viii) Notwithstanding above, the terms & conditions mentioned in **Clause 1810 above** 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.

1821 PREFERENCE TO DOMESTICALLY MANUFACTURED ELECTRONIC PRODUCTS:

Purchaser reserves the right for providing preference to domestically manufactured electronic products in terms of Department of Electronics and Information Technology (DeitY) Notification No. 33(3)/2013-1/PHW dated 23.12.2013 read with further Notifications issued from time to time. The Electronic products for which preference will be provided to domestic manufacturers shall be the products notified by Department of Electronics and Information Technology (DeitY) and Department of Telecommunications (DOT). As such, wherever purchase preference for the electronic products is to be given or applicable, the same will be specifically mentioned in Special conditions of tender and the guidelines issued by the Government of India in the said notification will be a part of the tender documents.

1822 WITHDRAWAL OF OFFER:

If the bidder, whose bid has been found to be the lowest evaluated bid withdraws or whose bid has been accepted, fails to sign the procurement contract as may be required, or fails to provide the security as may be required for the performance of the contract or otherwise withdraws from the procurement process, the Procuring Entity shall re-tender the case. **(This is as per the Office Memorandum No.F.1/1/2021-PPD dated 21.04.2022 issued by Procurement Policy Division of Department of Expenditure, Ministry of Finance).**

Digitally Signed by Lalit Kumar
Date: 25-11-2024 10:11:52
Reason: Approved