

154846/2021/HE & MT SECTION

No.P-45021/103/2020-PP(BE-II)(E-43518)
 Government of India
 Ministry of Commerce and Industry
 Department for Promotion of Industry and Internal Trade
 (Public Procurement Section)

Udyog Bhawan, New Delhi
 Dated December 02, 2021

OFFICE MEMORANDUM

Subject: Applicability of Public Procurement (Preference to make in India) PPP-MII Order, 2017 guidelines on Process Plant Machinery -regarding.

The undersigned is directed to refer to Ministry of Heavy Industries' O.M. No. 9/45/2017-Part.1-HE & MT dated 23.11.2021 and to communicate that subject matter has been examined and comments of this Department are as under:

- a. Minimum local content requirement for the items indicated in the Ministry of Heavy Industries' Notification No. 9/45/2017-HE&MT dated 08.06.2018 varies from 40% to 90%. However as per PPP-MII Order dated 16.09.2020, Minimum local content requirement for Class-I local supplier is 50%. Nodal Ministry have been authorized to notify only higher minimum local content requirement for any particular items.
- b. The notification dated 08.06.2018 uses the terminology "local supplier". The terminology "local suppliers" as such, is no longer in existence. As per the PPP-MII Order, 2017 dated 16.09.2020 suppliers have been classified into the following three categories: -

Category of Supplier	Requirement of minimum local content
Class-I Local suppliers-	More than 50% local content (LC)
Class-II Local suppliers	20%-50% LC
Non Local Suppliers	Less than 20% LC

2. Accordingly, Ministry of Heavy Industries is requested to review their O.M. dated 23.11.2021 and Notification dated 08.06.2018 and re-notify items as per PPP-MII Order, 2017 dated 16.09.2020 (copy attached.)

3. This issues with approval of the Competent Authority.

Encl: As above

To

1. Secretary, Ministry of Heavy Industries, Udyog Bhawan, New Delhi, Email: shioff@nic.in

Copyto:

1. Smt Nidhi Chibber, Additional Secretary, Ministry of Heavy Industries, Udyog Bhawan, New Delhi, Email:- as-heavy@gov.in

(Pritam Kumar)
 Under Secretary to Govt. of India
 Tel.: 23061306
 Email: pritam.k@gov.in

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 No discuss

M. K. Singh
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File no.9/45/2017- Part.1 -HE&MT
Government of India
Ministry of Heavy Industries
(HE&MT Section)

Udyog Bhawan, New Delhi – 110011
Dated 23.11.2021

OFFICE MEMORANDUM

Subject: Applicability of PPP-MII Order guidelines on Process Plant Machinery –reg.

The undersigned is directed to clarify that Public Procurement(Make in India)Order dated 16.09.2020 issued by DPIIT, is applicable mutatis mutandis to all procurement of Government of India in the Process Plant Machinery notified as per this Ministry's Order dated 8.06.2018(copy enclosed). If any product has to be exempted from this order, the procedure as prescribed in the above DPIIT Public Procurement(Make in India)Order dated 16.09.2020 shall be followed.

2. This issues with the approval of the Hon'ble Minister for Heavy Industries.



(Sanjiv Kumar Gupta)
Under Secretary to the Government of India

To,

1. All Ministries/ Department of the Govt. of India
2. Secretary General, PPMAI
3. Director General, CII
4. Secretary General, FICCI
5. NIC, MHI for uploading on the MHI website

Copy to ,

1. All Additional Secretaries/ Joint Secretaries/ Directors/ DSs of MHI
2. Under Secretary (Public Procurement), DPIIT with the request to upload the above order on Public Procurement Portal

125994/2020/HE & MT SECTION

No.9/45/2017-HE&MT
 Government of India
 Ministry of Heavy Industries & Public Enterprises
 Department of Heavy Industry

Udyog Bhawan, New Delhi
 Dated the 08th June , 2018.

NOTIFICATION

Subject: Public Procurement (Preference to Make in India) Order 2017- Notifying specified Capital Goods in furtherance of the Order.

Reference: Department of Industrial Policy & Promotion (DIPP) Notification No.P-45021/2/2017-B.E.II dated 15.06.2017.

The Government has issued Public Procurement (Preference to Make in India) Order 2017 vide the Department of Industrial Policy & Promotion (DIPP) Notification No.P-45021/2/2017-BE.II dated 15.06.2017 to encourage 'Make in India' and to promote manufacturing and production of goods and services in India with a view to enhancing income and employment.

2. In furtherance of the Public Procurement (Preference to Make in India) Order 2017 notified vide reference cited above, the Ministry of Heavy Industries & Public Enterprises (HI&PE) hereby notifies that preference shall be provided by all Government Procuring Entities to domestically manufactured Capital Goods as per the aforesaid Order.

3. Capital Goods notified under the Public Procurement (Preference to Make in India) Order 2017, are annexed.

4. The Notification comes into effect immediately and would be reviewed as and when Department feels appropriate to do so.

5. This Notification shall remain valid till the revised Notification is issued.

6. Procedure for calculating local content/domestic value addition

6.1 Bill of Material sourced from domestic manufacturers (Dom-Born) may be calculated based on one of the followings depending on data available. Each of these calculations should provide consistent result.

- a. Sum of the costs of all inputs which go into the product (including duties and taxes levied on procurement of inputs except those for which credit/set-off can be taken) and which have not been imported directly or through a domestic traders or an intermediary.
- b. B. Ex-Factory Price of product minus profit after tax minus sum of imported Bill of Material used (directly or indirectly) as inputs in producing the product (including duties and taxes levied on procurement of inputs except those for which credit/set off can be taken) minus

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warranty costs.

- c. Market price minus post-production freight, insurance and other handling costs minus profit after tax minus warranty costs minus sum of Imported Bill of Material used as inputs in producing the product (including duties and taxes levied on procurement of inputs except those for which credit/set-off can be taken) minus sales and marketing expenses.

6.2 Total Bill of Material (Total-BOM) may be calculated based on one of the following depending on data available. Each of these calculations should provide consistent result.

- Sum of the cost of all inputs which go into the product (including duties and taxes levied on procurement of inputs except those for which credit/set-off can be taken).
- Ex-Factory Price of product minus profit after tax, minus warranty costs.
- Market price minus post-production freight, insurance and other handling costs minus profit after tax, minus warranty costs minus sales and marketing expenses.

6.3 The percentage of domestic value-addition may be calculated based on information furnished as per the following formula:

$$\text{Percentage of domestic value-addition} = (\text{Dom-Bom} / \text{Total-BOM}) \times 100$$

It is recommended that each agency assessing should calculate the domestic local content/value addition using at least two of the above formulae so as to validate the assessments in this regard and ensure that the domestic value addition that is claimed is consistent.

7. Verification of local content/Domestic Value Addition

- The local supplier at the time of tender, bidding or solicitation shall provide self-certification that the item offered meets the minimum local content and shall give details of the location(s) at which the local value addition is made.
- In cases of procurement for a value in excess of Rs.10 crore, the local supplier shall 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.
- False declaration 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.

8. MHI&PE shall be the Nodal Ministry to monitor the implementation of the Notification.



(N.Sivanand)

Joint Secretary to Government of India

Tel: 23062367

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 DEPT. OF INDUSTRIES
 GOVT. OF INDIA
 NEW DELHI

154846/2021/HE & MT SECTION

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New Delhi, the Dated 30.05.2018

Copy to:

1. All Ministries/Departments of Government of India
2. Cabinet Secretariat
3. PMO
4. Niti Aayog
5. Comptroller and Auditor General of India
6. SS&FA, DHI
7. Joint Secretary (DIPP), Member-Convener of Standing Committee of Public Procurement Order 2017
8. Internal Distribution



(N.Sivanand)

Joint Secretary to Government of India

Tel: 23062367

भारत सरकार, नई दिल्ली
संयुक्त सचिव/Joint Secretary
भारत सरकार एवं लोक उद्योग विभाग
Ministry of Heavy Industries & Public Enterprises
भारत सरकार/Department of Heavy Industry
नई दिल्ली/Govt. of India
New Delhi

AnnexureSpecified Capital Goods

SN	Product	HSN Code	Minimum Local Content%	Imported Materials
A	STATIC EQUIPMENTS			
1	PRESSURE VESSELS	8419 8910		
a	Amonia Converter(special type of pressure vessels used in Fertilizer industry)	8419 8910	50	Shell Plates, Forgings
b	Urea Reactors (special type of pressure vessels used in Fertilizer industry)	8419 8910	50	Shell Plates, UG Liner Plates Forgings
c	Hydroprocessing Reactor (special type of pressure vessels used in Petrochemicals industry)	8419 8910	40	Shell forgings, Clad plates
d	Coke Drum (special type of pressure vessels used in Petrochemicals industry)	8419 8910	50	Forgings
2	HEAT EXCHANGERS	8419 5010		
a	Urea Stripper (special type of heat exchangers used in Fertilizer industry)	8419 50 10	40	UG Liner plates, UG Tubes/Bi-metallic tubes, Channel shell plates, T/S & Forgings(Indian Tube manufacturers are not qualified at present)
b	Carbamate Condenser(special type of heat exchangers used in Fertilizer industry)	8419 5010	40	Channel shell plates, UG Tubes, UG Liner plates, T/S & Forgings
c	High Pressure Heat Exchangers	8419 5010	45	Tubes, plates of exotic material like incoloy, Forgings
3	BOILERS	8402 1910		

154846/2021/HE & MT SECTION

125994/2020/HE & MT SECTION

	RG Boilers/Synloop Boilers (special type of boilers used in Fertilizer industry)	8402 1910	45	Shell plates, Tubes, Refractory
B ROTATING EQUIPMENTS				
1	PUMPS: CENTRIFUGAL	8413 9120	95%	Special seals/High alloys/parts
2	COMPRESSORS	8421 2900	90%	Special seals/High alloys/parts/intercoolers
C INSTRUMENTATION AND AUTOMATION				
1	INSTRUMENTS FOR PRESSURE	9026 2000	90%	Sensors
2	INSTRUMENTS FOR TEMPERATURE	9026 2000	90%	Sensors
3	INSTRUMENTS FOR FLOW	9026 1010	70%	Special Technology Ultrasonic/ Mass Flow Sensors
4	INSTRUMENTS FOR LEVEL	9026 1090	75%	Radar/ Guided/ Ultrasonic sensors
5	PROCESS ANALYSER SYSTEM	9027 1000	65%	Online Analysers and Accessories
6	CONTINUOUS EMISSION MONITORING SYSTEM	9027 1000	65%	Online Analysers and Accessories
7	AMBIENT AIR QUALITY MONITORING SYSTEM	9027 1000	65%	Online Analysers
8	DISTRIBUTED CONTROL SYSTEMS	9032 8990	70%/80%	Electronic Cards
D PIPE LINE VALVES				
1	CONTROL VALVES	7318 1600	85%	Smart Positioners and Accessories
2	STEAM CONDITIONING VALVES/TURBINE BYPASS VALVE	8481 8010 / 8481 8090	80%	Special Actuators/Smart Positioners
3	VALVES FOR HIGH TEMPERATURE AND PRESSURE (GATE, GLOBE, BALL, BUTTERFLY)	8481 8010 / 8481 8090	≈ 80%	Special Actuators & High Alloys

No. P-45021/2/2017-PP (BE-II)
Government of India
Ministry of Commerce and Industry
Department for Promotion of Industry and Internal Trade
(Public Procurement Section)

Udyog Bhawan, New Delhi
Dated: 16th September, 2020

To

All Central Ministries/Departments/CPSUs/All concerned

ORDER

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

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

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

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

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

Now therefore the following Order is issued:

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

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

'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.

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

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

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

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

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

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

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

3. 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 3(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 3(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 3(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.

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- (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 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 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:** Notwithstanding anything contained in paragraph 3, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.
5. **Minimum local content:** The '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. **Requirement for specification in advance:** The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.
8. **Government E-marketplace:** In respect of procurement through the Government E-marketplace (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.
9. **Verification of local content:**
 - a. The '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.
 - b. 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 practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
 - c. Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.
 - d. Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor's/ accountant's certificates on random basis and in the case of complaints.
 - e. Nodal Ministries and procuring entities may prescribe fees for such complaints.
 - f. False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.

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- g. A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph 9h below.
- h. The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:
- i. The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry /Department or in some other manner;
 - ii. on a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s);
 - iii. in respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in the such a manner that ongoing procurements are not disrupted.

10. Specifications in Tenders and other procurement solicitations:

- a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.
- b. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of '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.
- 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 Governments and other procurement agencies under their administrative control and GeM for appropriate reciprocal action.

- ii. 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.
 - 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."

10A. Action for non-compliance of the Provisions of the Order: In case restrictive or discriminatory conditions against domestic suppliers are included in bid documents, an inquiry shall be conducted by the Administrative Department undertaking the procurement (including procurement by any entity under its administrative control) to fix responsibility for the same. Thereafter, appropriate action, administrative or otherwise, shall be taken against erring officials of procurement entities under relevant provisions. Intimation on all such actions shall be sent to the Standing Committee.

11. Assessment of supply base by Nodal Ministries: The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing the higher minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.

12. Increase in minimum local content: The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.

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13. **Manufacture under license/ technology collaboration agreements with phased indigenization:** While notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement / transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase in local content.

13A. 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.

14. **Powers to grant exemption and to reduce minimum local content:** The administrative Department undertaking the procurement (including procurement by any entity under its administrative control), with the approval of their Minister-in-charge, may by written order, for reasons to be recorded in writing,

- a. reduce the minimum local content below the prescribed level; or
- b. reduce the margin of purchase preference below 20%; or
- c. exempt any particular item or supplying entities from the operation of this Order or any part of the Order.

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

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

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

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

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

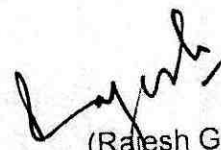
17. **Functions of the Standing Committee:** The Standing Committee shall meet as often as necessary, but not less than once in six months. The Committee

- a. shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.
- b. shall annually assess and periodically monitor compliance with this Order
- c. shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content
- d. may require furnishing of details or returns regarding compliance with this Order and related matters
- e. 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
- f. may examine cases covered by paragraph 13 above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization
- g. may consider any other issue relating to this Order which may arise.

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

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

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



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Director

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