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1. GENERAL:

These general terms & conditions shall apply to all the Tender Enquiries, notice inviting tenders, request for quotations concerning the supply of goods and / or rendering of services to Bharat Heavy Electricals Ltd., CFFP, Haridwar (hereinafter referred to as BHEL or the Purchaser).

2. QUOTATION:

The quotation should preferably be from the Principal Bidder. However tender specific authorized registered dealer/agent can also submit the bid on their behalf. An agent cannot quote on behalf of more than one principal in the same Tender Enquiry The quotation must be duly signed and stamped at each page. All the documents asked for in the Tender Enquiry must be attached and duly signed

3. SUBMISSION OF TENDER

3.1 IN CASE OF PAPER BID:

3.1.1 In Case of Paper Bid: Bid/Quotation must be enclosed in sealed cover on which tender enquiry number and the due date MUST BE written and be invariably sent under REGISTERED POST / SPEED POST / COURIER/Dropped in the Tender Box: addressed as follows: -
Quotation against Enquiry No. _______________ ***Dated:*** ___________
Due on: __________________________________
To,
THE HEAD OF PURCHASE DEPARTMENT, Central Foundry Forge Plant,
Bharat Heavy Electricals Limited, HARIDWAR-249403 (Uttarakhand), INDIA.

3.1.2 In case of Three/Two Part Bid, technical bid containing technical offer, duly signed; and un-priced copy of the Price Bid should be kept in one envelope. Price Bid containing only the price should be kept in a separate envelope. All envelopes indicating Part-1 or Part-2 or Part-3 as the case may be to be put in a bigger envelope. Please note that un-priced bid should be the exact replica of price bid without prices but with applicable taxes and duties.

3.1.3 The bid/quotation must be posted before due date, keeping allowance for postal transit time. Alternatively, the tenders duly sealed and super-scribed as above may be deposited in the Tender Box. Quotations sent by any mode but not received in time will be ignored. Tender received through authorized E-mail is also acceptable. However, in time submission of tender in tender box shall be the responsibility of the bidder, sent through any mode. **Documents submitted with the offer/bid shall be signed and stamped in each page by authorized representative of the bidder.** In case the submitted documents are not signed and stamped, the offer is liable to be rejected.

3.2 IN CASE OF E-TENDER:

3.2.1 Offer to be submitted only on e-procurement portal. Hard copy of offer is not required to be submitted to CFFP-BHEL. Any offers received in Hard copy (for e-Tender Enquiries) shall not be considered and shall be ignored by CFFP.

3.2.2 Responsibility for submission of tender in time solely lies with vendor. Vendors are requested to submit offers well in advance of due date and time to avoid last minute rush and system related issues/ problems.

3.2.3 Foreign template (for offer submission) to be selected only by Foreign Vendor on whom order is to be placed. **Offers submitted by Indian/ Indigenous vendors in foreign template shall not be accepted.**

3.3 Any additional documents submitted by supplier/bidder, during processing of registration application / tender or after placement of order shall not be accepted unless it is submitted with forwarding letter and duly signed and stamped as mentioned above in clause 3.1.3.

3.4 The bids of the bidders who are on the banned list and also the bids of the bidders, who engage the services of the banned firms, shall be rejected. The cutting/overwriting in the bid/offer must be duly attested by the signatories to the bid. The list of firms banned by BHEL is available on BHEL web site www.bhel.com.

3.5 Being PMD vendor, if you are not quoting against this tender enquiry, please send your regret letter positively for our reference with valid reasons for not participating in the tender enquiry. ***Repeated lack of response on the part of bidder may lead to deletion of such PMD Vendor from BHEL's approved vendor list.***

3.6 The bidders will submit Integrity Pact, duly signed by its authorized signatory, along with their bids wherever it has been asked in tender enquiry. Offer of bidders not submitting signed copy of integrity pact will be ignored.

3.7 In case of open tender, the unregistered bidder shall submit inter alia duly filled-in Supplier Registration Form (SRF) online at https://supplier.bhel.in . A certificate of the same to be attached with the submitted offer.

3.8 BHEL reserves the right to procure enquired material from more than one source/ vendor/ seller. Details will be specified in respective tender enquires. Offer of vendors not accepting part quantity may be ignored.

3.9 BHEL may also reduce the Order Quantity for offering it to Micro & Small Enterprise (MSE) Indian Vendors as per applicable Government of India rules as detailed in the Clause 26.0.

3.10 The Order quantity may also be reduced for offering it to Indian vendors under Public Procurement (Preference to make in India) order 2017. For this procurement, Public Procurement Order (preference to Make in India), order 2017 Dt. 15/6/2017 and 28/5/2018 and subsequent orders issued by the respective nodal ministry shall be applicable even if issued after issue of the NIT but before the finalization of contract against the NIT. In the event of nodal ministry prescribing higher or lower percentage of purchase preference and/or local content in respect of this procurement, same shall be applicable.

3.11 Bidder should be careful in submission of documents in line with tender conditions. In case, contradictory documents/statements/terms are given at two different places, the statement/terms in the best interest of BHEL/CFFP or the one complying to tender condition shall be considered as correct.

4. TENDER OPENING:

4.1 PAPER BID: Tender opening is schedules to start in the Tender Room at 2:00 PM, on due date. Therefore bid/ quotations must reach this office/ tender box latest by 1:45 PM on the due date. Only participating bidders are allowed to attend the Tender Opening. **Tenders received after the specified time of their "Submission" will be treated as late tenders and shall not be considered under any circumstances.**
The bidders or their authorized representatives may be allowed to attend tender opening/ price bid opening for on that particular day with specific letter mentioning tender enquiry details in the Authorization letter. General authorization letter is not accepted.

4.2 E-TENDER: Tender submitted on e-tender/ e-procurement will be opened as per the schedule mentioned in the e-tender.

5. SPECIFICATIONS, DRAWINGS AND STANDARD:

5.1 Bidders must give their detailed specification in the quotation along with relevant technical literature/catalogue etc. against the tender enquiry.

5.2 The bid should be accompanied with relevant copies of catalogues, drawings, specifications as required in tender enquiry. If these documents are not furnished, the offer is liable to be rejected.

5.3 Wherever national/international (N/IN) standards are referred, the latest N/IN standards are to be followed. Mention year & date of standard revision that shall be followed for the supply.

5.4 All Drawings and Standards provided with tender documents are proprietary of BHEL. It must not be used in anyway detrimental to the interest of the company.

6. PRICE SCHEDULE:

6.1 Kindly quote your prices in figures and words both (In Case of Paper Bid). In case of any discrepancy in value, the prices quoted in words shall be considered for evaluation and establishing L1 status (In Paper Bid Only).

6.2 Prices quoted should not be more than the prices quoted to any other BHEL units/offices/divisions. Vendor to submit copy of latest Purchase Order placed by any unit of BHEL for similar items in the technical bid. In case no order has been placed for such items, specific confirmation that no order has been placed for such items should be provided.

6.3 Prices should be quoted on F.O.R. destination basis including packing freight, transit insurance, any other taxes / duties applicable.

6.4 Foreign bidders can quote on CIF or C&F or F.O.R destination basis. Foreign bidders need to quote the prices based on any sea port in Nhavasheva, Mumbai in Euro/USD/JPY/UK Pound. The name of the currency should be clearly indicated in the bids.

6.5 The offers quoted on other than F.O.R destination basis (for Indian bidders) or CIF/C&F basis (for foreign bidders) may result in non-consideration of such bids.

6.6 In case BHEL accepts the EX-Works prices from Indian bidders, such offers will be loaded by 1% to 3% of EX-Works value towards freight depending on distance from material dispatch location to Haridwar or with actual freight charges as per BHEL freight rate contract whichever is higher.

6.7 In case of BHEL agreeing to accept the FOB condition of foreign bidders, to arrive at the landed cost at our plant site, the FOB prices shall be loaded for 3% towards sea freight, transit insurance (as per prevailing insurance policy), port handling charges as applicable and inland freight or actual freight/port handling charges as per BHEL contract, whichever is higher.

6.8 In case of Indigenous items covered on GeM (Government E-market place), the bidders should submit latest valid copy of the rate contract along with bid / quotation.

6.9 Basis of evaluation for Bid/ Quotation in foreign currency shall be as follows:

I. Offers of vendors will be evaluated on basis of landed cost at CFFP net of Input Tax Credit, to decide L1, L2, L3….
II. Currency exchange rate (TT selling rate of SBI) for evaluation of the bid/ quotation received in foreign currency will be as follows:
III. Single part bid –date of tender opening
IV. Two/ Three-part bid – Date of part 1 opening.
V. Reverse Auction –date of part-1 opening.

6.10 Applicable Taxes (IGST/ CGST/ SGST) and any other statutory levy should be indicated separately and clearly in the bid/quotation. Same should be given in amount or in percentage in respective fields. Incomplete offer shall not be accepted. **TDS on GST if applicable will be deducted . GST of LD if any will be deducted.**

6.11 Bidders can dispatch goods through any Indian Bank Association approved transporters having their branch at HARIDWAR/destination. If material is dispatched through other than Indian Bank Association approved transporter, material to be delivered on door delivery BHEL Stores basis.

6.12 In case of dispatch of material through any unapproved transporter, payment shall be made only after receipt of material and any additional charges payable to the transporter shall be to the bidder's account.

6.13 No demurrage / godown rent will be payable to the vendor / vendor's transporter for any delay in payments attributable to the vendor.

6.14 **Financial evaluation of L1, L2, L3 ……… status will be decided on the basis of Landed Cost to BHEL net of Input Tax Credit.**

7. Evaluation of Indian Agents commission:

7.1 BHEL shall deal directly with Foreign vendors, wherever required, for procurement of goods. However, if the Foreign principal desires to avail of the services of an Indian agent, then the foreign principal should ensure compliance to regularly guidelines which require mandatory submission of an agency agreement.

7.2 It shall be incumbent on the Indian agent and the foreign principal to adhere to the relevant guidelines of Government of India, issued from time to time.

7.3 **The agency agreement should specify the precise relationship between the Foreign OEM/Foreign principal and their Indian agent and their mutual interest in the business. All services to be rendered by agent/associate, whether of general nature or in relation to the particular contract, must be clearly stated by foreign supplier/Indian agent. Any payment, which the agent or associate receives in India or abroad from OEM, whether as commission or as a general retainer fee should be brought on record in the agreement and be made explicit in order to ensure compliance to laws of the country.**

7.4 Any agency commission to be paid by BHEL to the Indian agent shall be in Indian currency only.

7.5 Tax deduction at source is applicable to the agency commission paid to the Indian agent as per the prevailing rules.

7.6 In the absence of any agency agreement, BHEL shall not deal with any Indian agent (authorized representatives/associates/consultant, or by whatever name called) and shall deal directly with the Foreign principal only for all correspondence and business purposes.

7.7 The FOB / CIF price quoted will be deemed to be inclusive of Indian Agency commission. Agency commission if payable shall be converted to Indian Rupees at TT buying rates of exchange ruling on tender opening date which shall not be subjected to any further exchange rate variation, as disclosed by the bidder in his quoted FOB / CIF price will be paid in Indian Rupees on receipt & acceptance of Materials or it's installation at destination, as the case may be. The lower of the TT buying rate prevailing on the date of technical bid opening shall be considered for computation of Agency commission.

7.8 In a tender either the Indian Agent on behalf of Principal / OEM or the Principal / OEM itself can bid, but both cannot bid simultaneously for same item / product in the same Tender. If both OEM and its authorized agent submit their bids separately in that case only the offer of OEM can be considered as an exception.

7.9 While submitting your bids please clearly indicate:

a) Expected weight of goods (lots wise).
b) The size of packed goods.
c) Whether the goods can be dispatched in containers?
d) Port of Loading.
e) Port of Discharge.

8. REVERSE AUCTION:

8.1 BHEL reserves the right to go for Reverse Auction (RA) instead of opening the sealed envelope price bid/ Price bid in e-portal, submitted by the bidder. This will be decided after Techno- Commercial Evaluation. All bidders to give their acceptance for participation in RA. in case BHEL decides for RA, non-acceptance to participate in RA may result in non-consideration of their bids. Detailed guidelines available at our site www.bhel.com.

8.2 Those bidders who have given their acceptance to participate in Reverse Auction will have to necessarily submit 'Process compliance form' (to the designated services provider) as well as Online sealed bid' in the Reverse Auction. Non-submission of Process compliance form or ' Online sealed bid' by the agreed bidder (s) will be considered as tampering of the tender process and will invite action by BHEL as per extant guidelines for suspension of business dealings with suppliers/ contractors (as available on www.bhel.com).

8.3 In case BHEL decides to go for Reverse Auction, only those bidders who have given their acceptance to participate in RA will be allowed to participate in the Reverse Auction. Those bidders who have given their acceptance to participate in Reverse Auction will have to necessarily submit 'online sealed bid' in the Reverse Auction.

8.4 The bidders will have to necessarily submit online sealed bid less than or equal to their envelope sealed price bid already submitted to BHEL along with the offer. **The envelope sealed price bid of successful L1 bidder in RA, if conducted, shall also be opened after RA and the order will be placed on lower of the two bids (RA closing price & envelope sealed price) thus obtained. The bidder having submitted this offer specifically agrees to this condition and undertakes to execute the contract on thus awarded rates.**

8.5 If it is found that L1 bidder has quoted higher in online sealed bid in comparison to envelope sealed bid for any item(s), the bidder will be issued a warning letter to this effect. However, if the same bidder again defaults on this count in any subsequent tender in the unit, it will be considered as fraud and will invite action by BHEL as per extant guidelines for suspension of business dealings with suppliers/ contactors (as available on www.bhel.com).

8.6 Highest bidder during online sealed bid will not be permitted to participate further in Reverse Auction of the tender enquiry for respective items.

9. DELIVERY TERMS

9.1 For Indian vendors, goods shall be delivered on 'FOR Destination' basis. Destination shall be Central Stores, Central Foundry Forge Plant, BHEL, Haridwar unless otherwise specified in the tender enquiry.

9.2 For Foreign vendors, following shall be the delivery terms:

9.2.1 Goods shall be dispatched by sea, unless stated otherwise in the tender enquiry or purchase order. No demurrage / godown rent will be payable to the vendor / vendor's transporter for any delay in payments attributable to the vendor.

9.2.2 In the event of bidder offering CIF delivery terms for delivery in FCL (Full Container Load), the bidder shall provide 21 days' time free of detention for General Purchase Container/High Cube Container and 14 days for the other types from the date of delivery at delivery port. Wherever the detention free period offered is less than the above specified period, the consequential cost at port of clearance shall be to the account of the bidder. Number of detention free days must be mentioned on Bill of Lading (BL).

9.2.3 The shipping line should be ready to move the containers to consignees nominated CFS (Container Freight Station) yard and Indian agent of shipping line should issue Cargo Arrival Notice (CAN) 7 days in advance to filing the IGM (Import General Manifest) at discharge port.

9.2.4 In case of CIF or C&F contract, bidder to supply the material through a Certified Sea worthy vessel.

9.2.5 A certificate of origin (COO) sanctioned in country of origin from chamber of commerce of the manufacturing country is mandatory to be provided. However, a certificate of origin (COO) from the countries under the restricted list of Govt. of India will not be acceptable.

9.2.6 For reasons of delay in receipt of documents from suppliers or due to the same being found to be incomplete, and/or faulty, the suppliers shall be responsible to reimburse in all demurrages/ wharfages. if any; paid by BHEL (for stated reasons).

9.2.7 The invoices being issued by shipping lines must be in the name of BHEL. Otherwise, BHEL will have to forego Input Credit on Service tax. While booking the shipment, bidder to also finalize destination charges and the same should appear over BL or agreed tariff to be provided to BHEL before arrival of shipment.

9.2.8 If cargo is stuffed in container then the same should be allowed to be moved to CFS of importers choice without any additional charges.

9.2.9 Load port charges shall be settled by the supplier and not be passed on to BHEL in form of destination charges.

9.2.10 NNDs (preferably with OBLs) should be sent at least 7 days in advance i.e. 7 days before the arrival of vessel so as to enable BHEL to move the containers to JWC CFS.

9.2.11 Information related to OBL/AWB Documents:

I. Consignee name and address should be same as mentioned in the Purchase order.

II. Notify party: Name and address will be as follows:(For discharge port Mumbai or Nhava Sheva)
Bharat Heavy Electricals Limited
14th Floor World Trade Centre-1, Cuffe Parade, Colaba,
Mumbai - 400005
Email: msseahwr@bhel.in and ppximx@bhel.in and shardul@bhel.in (in case of Sea Shipments) Email: kkant@bhel.in; salvi@bhel.in, Sunil.patil@bhel.in, parker@bhel.in (in Case of Air shipments)
For latest updation please refer our web site: www.bhelhwr.co.in

III. OBL should clearly mention the Indian agent address and contact details.

IV. OBL should be issued as per UCP 600.

V. In case of incoterms other than FOB, OBL should mention the container detention free period.

10. PENALTY OF LATE DELIVERY

10.1 Date of delivery will be considered as per the delivery terms mentioned in the Purchase Order. Penalty will be applicable @0.5% per week subject to maximum of 10% of the unexecuted portion of the PO. Acceptance / Non Acceptance of this CONDITION must be specifically mentioned in your quotation. Any deviation from this will be loaded accordingly i.e. BHEL shall load maximum penalty under penalty for late delivery Clause, to the extent the same is not agreed by the bidder, for the purpose of evaluation. GST on LD amount shall also be deducted.

10.2 Bidders are requested to quote the best delivery meeting the delivery requirements. BHEL reserves the right to reject the offers not meeting BHEL's delivery requirement.

10.3 Commencement of delivery period shall be reckoned from the date of PO / LOI or any other agreed milestone.

10.4 Bidder shall deliver the goods in the manner and schedule agreed under the terms and conditions of Purchase order.

10.5 **DELIVERY IN CASE OF REJECTION:** In case the material is rejected, then date of replacement will be considered as the actual date of delivery.

10.6 **DELIVERY AGAINST BANK DOCUMENTS:** In case payment terms quoted by bidder are documents through bank, and the delivery terms being "FOR Haridwar/FOR Transporter Godown", then date of delivery will be date of intimation by transporter/bidder of delivery of material at Haridwar for the penalty purpose.

10.7 Where the payments are through bank, the documents may be presented for negotiation to BHEL authorized/nominated bank.

11. PAYMENT TERMS

11.1 **For Indian Bidder/ Vendor**: BHEL's Standard payment term is 100% within 45 days after receipt of material, subject to acceptance of material at CFFP/ BHEL, Haridwar or at desired destination, through e-payment unless otherwise specified in the special terms attached to the Tender Enquiry.

11.2 **For Foreign Bidder/ Vendor:** The standard payment term is 100% direct payment through bank on 70th day of bill of lading date subject to acceptance of material at CFFP/ BHEL, Haridwar . All Foreign bank charges, if any, shall be to vendor's account.

11.3 **BHEL reserves the right to accept or reject the offer of the bidder who quotes the payment term other than BHEL's standard payment term.**

11.4 Loading on account of deviation in payment terms shall be done as per extant rules of BHEL-Haridwar. The normal loading shall be @ Base rate of SBI (as applicable on the date of bid opening, Techno-commercial bid opening in case of two part bids) + 6%, for the period of relaxation sought by bidders.

11.5 In case BHEL agrees for payment through LC, in exceptional cases, the same shall be opened after placement of PO on vendor. Where the payments are through bank, the documents may be presented for negotiation through BHEL designated banks which will be specified in Purchase order. Documents should be submitted within 5 day

11.6 of vessel sailing and receipt of OBL from shipping line

11.7 Offers of vendors asking for advance payment shall be summarily rejected.

12. TAXES AND DUTIES (AS APPLICABLE TO INDIAN VENDORS):

12.1 The bidder to specify in their offer (part 1 bid) the category of their registration under GST like Registered, Unregistered and composite dealer.

12.2 **The GST registration number of Bharat Heavy Electrical Ltd, Central Foundry Forge Plant, Ranipur, Haridwar is "05AAACB4146P1ZL" with state Code as "05" and State Name as "Uttarakhand".**

12.3 Please quote our GST registration number in all invoices raised for supply of goods and services under GST regime and ensure filing of timely return and payment of tax and compliance of other applicable provisions on supplier under GST regime.

12.4 No GST will be reimbursed to unregistered or composite dealer. In the event, any GST is quoted by composite dealer, the same shall be added to the cost of supply in evaluating the bid. Since, input credit of GST will be available to BHEL-Haridwar only after correct filing of return and payment of applicable GST by supplier, reimbursement of GST shall be made by BHEL-Haridwar on matching of vendor inputs at GST portal, ensuring availability of input credit to BHEL Haridwar. Payment of GST will be made to vendor after matching of input credit and vendor to ensure submission of their invoices along with consent to accept payment of tax after such matching in all cases where bills are submitted directly to BHEL-Haridwar or through bank or under LC or through any other mode.

12.5 In the event of any disallowance of input credit or applicability of interest or any other financial liability arises on BHEL-Haridwar due to any default of supplier under GST, such implication shall be to supplier's account. Wherever input tax credit (ITC) could not be availed by BHEL within the prescribed time limit due to delay in submission of invoices or for any other reasons attributable to vendor, liability towards loss of such credit (ITC) shall be passed on to vendor.

12.6 In the event of any change in the status of the vendor after the submission of the bid but before the supply, GST applicable at the time of supply or in the bid, based on the registration status of the vendor, whichever is lower shall be payable.

12.7 Where ever applicable If PAN (Permanent Account Number) of the recipient is not available, income tax is deductible either at the normal rate or at the rate of 20 percent, whichever is higher as per Section 206AA of Indian Income Tax Act 1961.

12.8 The bidder shall clearly indicate HSN (Harmonised System Nomenclature) / SAC (Service Accounting Code), its description and applicable rate of GST for each item in his techno-commercial bid.

12.9 Statutory Variation in Taxes & duties as applicable at the time of supply shall be payable. However, in the event of no change in law but bidder quoting certain tax structure in bid document which is lower than the applicable one, such amount shall be the maximum amount of tax that can be claimed by bidder.

12.10 IMPORTED GOODS OFFERED BY INDIAN BIDDERS AGAINST DEALER INVOICE: Wherever the material being offered is imported, the bidder must quote the prices inclusive of IGST. The rate and value of IGST as included in the price must be indicated separately. In case quantum of IGST is not mentioned by the bidder the same will not be considered for evaluation. However, bidder will have to pass on the benefit of IGST to BHEL at the time supply.

12.11 All queries on any issue related to GST & pertaining to CFFP, BHEL are to be sent to email id gst.cffp@bhel.in.

Note: - *Vendors must ensure compliance of all the applicable rules and procedure as envisaged in the GST Regime. Any loss to BHEL-Haridwar due to fault / non-compliance by the vendor will be to the vendor's account. All vendors are required to provide PAN details, GSTIN Number.*

13. <u>WEIGHMENT OF MATERIAL:</u>

After receipt of material, accountal of material shall be based on weighment at CFFP/ Counting and same shall be treated as final and binding on supplier.

14. <u>BANK GUARANTEE:</u>

In case the bank guarantees are required to be deposited towards security deposit/performance guarantee or for any other purpose as per the terms of the tender enquiry, such bank guarantees of the requisite value in the denominated currency of the purchase order should be from one of the Indian branch of BHEL consortium banks and the bank guarantee should be in the proforma as prescribed by BHEL. The proforma of bank guarantee and the list of consortium banks are displayed at BHEL website www.bhelhwr.co.in. However, in case the bank guarantee is not from BHEL consortium banks, then the bidder has to get the bank guarantee confirmed from one of the Indian branch of BHEL consortium banks and the bank charges for such confirmation will be borne by the bidder.

15. GUARANTEE/ WARRANTY & CORRESPONDING REPAIRS/ REPLACEMENT OF GOODS.

15.1 Goods shall comply with the specifications for material, workmanship and performance. Unless otherwise specified, the warranty shall be for a period of 12 months from the date of receipt or as specified in the special terms of the tender enquiry. If the material/ goods is found non-compliant during the warranty period, leading to rejection, the Seller shall arrange free replacement / repair of goods, within one month from the date of intimation or any mutually agreed period. The rejected goods shall be taken away by the Seller at his cost and replaced on Delivered Duty Paid (DDP) (FOR - BHEL Stores / designated destination basis) within such period. In the event of the Seller's failure to comply, Purchaser may take action as appropriate, including Repair / Replenish rejected goods & disposal of rejections, at the risk & cost of the Seller. In case the defects attributable to Seller are detected during processing of the goods at BHEL or our subcontractor's works, the Seller shall be responsible for free replacement/ repair of the goods as required by BHEL.

15.2 RETURN OF REJECTED MATERIAL FOR REPLACEMENT. The rejected material shall be sent back only after receipt of replacement /submission of BG/refund of amount paid. In case of rejection of material after receipt at CFFP, seller is required to take back the rejected material at their cost within 45 days from the date of rejection memo / note. If seller fails to take back the rejected material from CFFP within 90 days from the date of rejection memo / note. CFFP has the right to dispose of the rejected material at the risk & cost of the seller and no further claim for the rejected material will be entertained.

16. QUALITY REQUIREMENT:

Your bid/quotation should have specific confirmation regarding meeting all our quality requirements such as.

(i) Test Certificate (TC)/ Original Manufacturer's Certificate: Original Manufacturer Test Certificate is required along with the dispatch documents. In case supplies are from trader/ seller, it shall be responsibility of the trader/ seller to provide Original Manufacturer's Test Certificate with linkage to trader/ seller invoice stating batch no.

(ii) Guarantee Certificate (GC) / Warranty Certificate (WC),

(iii) Quality Plan (QP) (if applicable); and

(iv) Pre-Dispatch Inspection at your works (if applicable).

17. VALIDITY:

The quotation should be valid for a minimum period of 90 days effective from the date of opening of tender, **unless otherwise specified in the tender enquiry**. **The validity of quotation asked for / specified in tender enquiry shall supersede this clause.**

18. RIGHT OF ACCEPTANCE

18.1 BHARAT HEAVY ELECTRICALS LIMITED HARIDWAR reserves the right to reject any or all the bids/quotations without assigning any reason thereof. BHEL also reserves the right to increase or decrease the tendered quantities. Bidders should be prepared to accept order for reduced quantity without any extra charge.

18.2 Any discount/revised offer/bids submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer/bid submission (Part-1). Conditional discounts shall not be considered for evaluation of tenders.

18.3 Unsolicited discounts/revised offers/bids given after Part-1 bid opening shall not be accepted. No change in price will be permitted within the validity period asked for in the tender enquiry.

18.4 In case of changes in scope and/or technical specification and/or commercial terms & conditions having price implication, techno-commercially acceptable bidders shall be asked by BHEL to submit the impact of such changes on their price bids. In case a bidder opts to submit revised price bid instead of impact called for, then latest price bid shall prevail. However, in both situations, original price bid will be necessarily opened.

18.5 The bidder whose bid is technically not accepted will be informed & EMD wherever submitted shall be returned after finalization of contract. EMD shall be forfeited in the event of bidder opting out after tender opening.

18.6 BHEL reserves the right to short close the existing Purchase Order / Rate Contract / Work Order or any extension thereof at any stage.

19. TRANSIT INSURANCE

19.1 All bidders are requested to quote their prices on FOR destination basis. Destination shall be Central Stores, C.F.F.P., BHEL Ranipur, Haridwar. Quoted price shall be inclusive of transit insurance.

19.2 In case bidder has submitted their offer without confirmation to transit insurance to their account in their offer, BHEL will load their offer at the applicable rate at that time.

20. RISK PURCHASE

In case of abnormal delays in supplies / defective supplies or non-fulfillment of any other terms and conditions given in Purchase Order, BHEL may cancel the Purchase Order in full or part thereof and may also make the purchase of such material from elsewhere / alternative source at the risk and cost of the supplier. BHEL will take all reasonable steps to get the material from alternate source at optimum cost. If bidder does not agree to the above Risk Purchase Clause, BHEL reserves the right to reject the offer. In the eventuality of Risk Purchase, appropriate action will be taken as per BHEL extant rules. This will be without prejudice to any other right of BHEL under the contract.

21. FORCE MAJEURE CLAUSE

Notwithstanding any other thing contained anywhere else in the contract or PO (Purchase Order), In case the discharge of obligation under the contract by either party is impeded or made unreasonably onerous, neither party shall be considered in breach of the contract to the extent that performance of their respective obligation is prevented by an event of Force Majeure that arises after the effective date (PO date).

In the above clause, Force Majeure means an event beyond the control of the parties to the contract which prevents a party from complying with any obligation of the contract including but not limited to:

a) Act of God (Such as but not limited to earthquake, drought, tidal waves, floods etc.).
b) War (whether war be declared or not), Hostilities Invasion, Act of foreign enemy etc.

c) Rebellion, revolution, insurrection, civil war etc.
d) Contamination of Radio Activity from any nuclear fuel or from any other nuclear waste or any other hazardous materials.
e) Riots, commotions, strike unless restricted to the employees of supplier.
f) Acts of terrorism.
g) Other unforeseeable circumstances beyond the control of the parties and which the affected party cannot avoid even by using its best efforts.
h) Cancellation of Contract by CFFP/ BHEL customer.
i) Change in law/ government. Regulation making the performance impossible.

The party claiming to be affected by force majeure shall notify the other party in writing immediately without delay on the intervention and on the cessation of such circumstances.

Irrespective of any extension of time, if an event of force majeure occurs and its effect continues for more than 180 days the affected party shall have right to cancel the contract.

As soon as reasonably practicable following the date of commencement of a Force Majeure Event, and within a reasonable time following the date of termination of a Force Majeure Event, either Party invoking it shall submit to the other Party reasonable proof of the nature of the Force Majeure Event and of its effect upon the performance of the Party's obligations under this Agreement.

The party shall, and shall ensure that its Subcontractors shall, always take all reasonable steps within their respective powers and consistent with Good Operating Practices (but without incurring unreasonable additional costs) to:

a) Prevent Force Majeure Events affecting the performance of the party's obligations under this Agreement.
b) Mitigate the effect of any Force Majeure Event and
c) Comply with its obligations under this Agreement.

If the war like situation has developed in a country where a seller's works is located in this P.O. or there is political instability and Indian Embassy located in that country forbids or advises for not having any business dealing with the sellers located in such zone / region/ country, then BHEL reserves the right to cancel the order. Either party shall be entitled to suspend/cancel performance of his obligations under the contract without any cost to the other party, to the extent that such performance is impeded or made unreasonably onerous by any of the following circumstances: fire, war, flood, riots, earthquake, any other act of God, change in Government Policies, terrorist attack etc. or any other circumstances beyond the control of either party which inter alia include cancellation, suspension of order by end customer due to Force Majeure conditions.

22. FRAUD PREVENTION POLICY:

The bidder along with its associate/ collaborators/ subcontractors/ sub vendors/ consultants/ service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website http://www.bhel.com and shall immediately bring to the notice of BHEL management about any fraud or suspected fraud as soon as it comes to their notice.

23. NON-DISCLOSURE AGREEMENT:

All Drawing and Technical Documents relating to the product or its manufacture submitted by one party to the other, prior or subsequent to the formation of contract, shall remain property of the submitting party. Drawing, technical documents or other technical information received by one party, shall not without the consent of the other party, be used for any other purpose than that, for which they were provided. Such technical information shall not without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party. Patterns supplied by BHEL will remain BHEL's property which shall be returned by the bidder on demand to BHEL. Bidder shall in no way share or use such intellectual property of BHEL to promote his own business with others. BHEL reserves the right to claim damages from the bidder, or take appropriate penal action as deemed fit against the bidder, for any infringement of the provisions contained herein.

24. SETTLEMENT OF DISPUTES/ ARBITRATION

In all cases of dispute, the matter shall be referred for ARBITRATION by sole arbitrator to be appointed by the Unit Head of Bharat Heavy Electricals Ltd., at HARIDWAR. The award of the Arbitrator shall be final and binding on both the parties. The place of Arbitration shall be Haridwar.

JURIDICTION: The courts of Haridwar, India, shall have exclusive jurisdiction

25. WHARFAGE/ DEMURRAGE RESPONSIBILITY

In the event of delay in receipt of documents by Manager (Central Stores-CFFP) BHEL-Haridwar and in case where dispatches are made through Unapproved Transporter the sole responsibility for wharfage /demurrage for such delay shall be that of supplier.

26. CONDITIONS FOR AVAILING MICRO & SMALL ENTERPRISES (MSE's) BENEFITS BY INDIAN BIDDERS

26.1 MSE Suppliers can avail the intended benefits only if they submit along with the offer, copy of Udyog Aadhaar Memorandum (UAM) . Vendor to declare UAM number on e-Procurement portal, failing which bidder will nt be able to enjoy the benefits as per the public procurement policy for MSEs order 2012.

26.2 Any new supplier will be eligible for registration with BHEL as MSE supplier provided Valid Udyog Aadhar Certificate

26.3 MSE bidders claiming SC/ST status will have to submit SC/ST certificate of the Proprietor from competent authority. Attested (notarized or attested by Gazetted officer) copy to be submitted along with the offer.

26.4 MSE bidders where the proprietor is woman, must clearly specify the same in their offer.

26.5 In case techno-commercial accepted bidders include MSE source and their prices (based on landed cost – considering quoted prices) are within the price band of 15% w.r.t. L-1 bidder, then BHEL can consider to offer quantities of respective item (rounded off to nearest number) to MSE bidders at L-1 price and in case, more than one MSE bidder is in 15% band and the same is accepted by more than one MSE bidders then offer quantities of respective items will be considered for ordering amongst MSE bidders.

26.6 In case CFFP, BHEL has envisaged two party ordering to for this tender enquiry on 70:30 or 60:40 basis i.e. 70%/ 60% to L1 vendor and 30% 40% to L2, L3,… vendor then

a. In case L1 vendor is non MSE vendor then 70%/ 60% will be ordered to L1 Vendor and balance 30% / 40% will be offered to MSE vendors equally.

b. In case L1 vendor is MSE vendor then 70% / 60% will be ordered to L1 vendor and balance 30% / 40% to L2, L3, …… vendor who matches L1 price based on rank i.e. 1st it will be offered to L2 Vendor, if accepted then the same will be ordered and in case not accepted by L2 vendor then quantity will be offered to L3 vendor and so on.

c. In case none of the vendor is MSE vendor then normal procedure will be followed.

26.7 In all other cases, quantity up to 25% will be reserved for MSE vendor(s) and following process will be adopted.

a. In case L1 vendor is MSE vendor then full quantity to be ordered on L1 vendor.

b. In case L1 vendor is non-MSE vendor then 75% will be ordered on L1 vendor and balance 25% will be distributed to MSE vendors as detailed in Clause 26.4 above.

c. Out of 25% quantities reserved for MSE vendor, 3% quantity will be reserved for MSE vendor with woman as proprietor/more than 50% shareholder and 6.25% quantity will be reserved for MSE vendor with SC/ST status.

d. In case none of the participating vendor is MSE vendor, normal procedure will be followed.

26.8 Cases where CFFP decides to order on 3 vendors then last percentage indicated in the Tender Enquiry will be reserved for MSE vendors.

26.9 While distributing the 25% quantity amongst MSE bidders the decimal points in quantity shall be ignored for all the bidders except the L-1 amongst MSE bidders. Balance quantity after allocating the quantity to other MSE bidders ignoring the quantities in decimal, shall be given to L-1 (amongst MSE) bidder. However, if there are more than one MSE bidder at the same price level than preference for additional quantities due to ignoring off the decimal (as mentioned above) shall be given to the bidder offering favorable terms to BHEL and if the conditions offered are also same then preference will be given to the bidder having high SPR (Supplier Performance Rating) rating.

26.10 In case there are more than one MSE bidders (with different landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given to the MSE bidder with lowest landed cost.

26.11 In case there are more than one MSE bidders (with same landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given first, based on the favorable terms in the bid and in case terms are also same, the bidder with high SPR (Supplier Performance Rating) rating shall be given preference.

27. CONDITIONS TO AVAIL BENEFITS UNDER PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA) ORDER 2017 AND ITS AMENDMENTS THEREOF

27.1 For giving preference to Make in India under Public Procurement Order 2017 and its amendment, the minimum local content shall be 50%, unless otherwise advised by respective nodal ministry. Bidder has to submit undertaking that local content (value added by indigenous supplier) is more than 50%. In case of contract value is more than Rs. 10 Crores, a certificate from statutory auditor or cost auditor of the company (in case of companies) or from a practicing cost accountant or practicing charted accountant (in respect of suppliers other than companies) giving the percentage of local content.

27.2 In procurement of goods, services or works in respect of which the estimated value of procurement is less than INR 50 Lakhs, only local suppliers shall be eligible to bid. However, in procurement of all goods, services or works, in respect of which the Nodal Ministry / Department has communicated that there is sufficient local capacity and local competition, only local suppliers shall be eligible to bid irrespective of purchase value.

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

Further provided that in any particular case of procurement , if the procuring authority is of the view that he goods, services or works of required quality / specifications etc. may not be available in the country or sufficient capacity or competition does not exist domestically and it is necessary to undertake global completive bidding, the procuring authority may allow the same after recording reasons. In such cases, the provisions of 27.3 or 27.4 as the case may be, shall apply.

27.3 In procurement of good not covered by clause 27.2 and which are divisible in nature, the following procedure shall be followed:

27.3.1 Among all qualified bids, the lowest bidder (l1) is from local supplier, the contract for full quantity will be awarded to L1.

27.3.2 If L1 bid is not from local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the local suppliers, will be invited to match the L1 price for the remaining 50% quantity subject to the local supplier's quoted price falling within L1+20%, and contract for that quantity shall be awarded o such local supplier subject to matching the L1 price. In case such lowest eligible local supplier fails to match the L1 price or accepts less than the offered quantity, the next higher local supplier within the L1+20% shall be invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on local suppliers, then such balance quantity may also be ordered on the L1 bidder.

27.4 In procurement of goods or works not covered by 27.2 and 27.3, and which are not divisible, the following procedure shall be followed:

27.4.1 Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract shall be awarded to L1.

27.4.2 If L1 is not from local supplier, the lowest bidder among the local suppliers will be invited to match the L1 price subject to local supplier's quoted price falling within L1+20% and the contract shall be awarded to such local supplier subject to matching the L1 price.

27.4.3 In case such lowest eligible local supplier fails to match the L1 price, the local supplier with the next higher bid within L1+20% shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the local suppliers within L1+20% matches the L1 price, then the contract shall be awarded to L1 bidder.

28. <u>CONDITIONS TO BREAK TIES IN LANDED PRICE:</u>

28.1 Cases where landed price of two or more vendors are same then while ordering preference will be given to vendor/ seller whose conditions are favorable to CFFP. If all conditions are same for vendors, then whose Supplier Performance Rating (SPR) is more shall be given preference.

28.2 First time vendor (new vendor) or vendor who has not executed any PO in material category of the tender enquiry item/s, their Supplier Performance Rating (SPR) will be treated as Zero.

28.3 In case, SPR of vendors are equal, then quantity will be distributed equally between those vendors who have quoted lowest landed rate. If quantity ordered is only one piece or where quantity can't be divided equally then the preference will be given to vendor whose Quality Rating is more. If Quality Rating is also same then ordering will be on vendor whose delivery rating is better.

29. INFORMATION TO THE BIDDERS

29.1 Purchase related information is available at our Business- to-Business (B2B) Portal available on our website www.bhelhwr.co.in. The user ID & password can be obtained by sending a request to concerned purchase executives.

29.2 Intimate your change in mail address or communication address or changes, if any, by email to **hwcfmm@bhel.in** and email of Purchase Officer of respective product, giving your bidder Code.

29.3 Please resolve your rejections and unexecuted overdue purchase order immediately which are posted at our B2B Portal, which can be visited through our site www.bhelhwr.co.in

30. NOTE

30.1 Special conditions of enquiry, if enclosed by BHEL, will supersede the respective standard/general terms of enquiry.

30.2 Any other Standard terms and Conditions of the bidder attached/referred against the tender enquiry will be treated as null and void ab initio.

30.3 In order to protect the commercial interests of BHEL, it becomes necessary to take action against suppliers / contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, loss of business / money / reputation, indulged in malpractices, cheating, bribery, fraud or any other misconducts or formation of cartel so as to influence the biding process or influence the price etc. Guide- lines for Suspension of Business Dealings with Suppliers / Contractors shall prevail over which is available at BHEL website http://www.bhel.com

30.4 The offers of the bidders who are under suspension as also the offers of the bidders, who engage the services of the banned firms, shall be rejected. The list of banned firms is available on BHEL web site www.bhel.com.

30.5 Integrity commitment, performance of the contract and punitive action thereof:

30.5.1 Commitment by BHEL:

BHEL commits to take all measures necessary to prevent corruption in connection with the tender process and execution of the contract. BHEL will during the tender process treat all Bidder(s) in a transparent and fair manner, and with equity.

30.5.2 Commitment by Bidder/ Supplier/ Contractor:

(1) The bidder/ supplier/ contractor commit to take all measures to prevent corruption and will not directly or indirectly influence any decision or benefit which he is not legally entitled to nor will act or omit in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India.

(2) The bidder/ supplier/ contractor will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other

intermediaries in connection with the award of the contract and shall adhere to relevant guidelines issued from time to time by Govt. of India/ BHEL.

(3) The bidder/ supplier/ contractor will perform/ execute the contract as per the contract terms & conditions and will not default without any reasonable cause, which causes loss of business/ money/ reputation, to BHEL.

30.5.3 If any bidder/ supplier/ contractor during pre-tendering/ tendering/ post tendering/ award/ execution/ post-execution stage indulges in mal-practices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India, then, action may be taken against such bidder/ supplier/ contractor as per extant guidelines of the company available on www. bhel.com and/or under applicable legal provisions".

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.

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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

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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.

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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

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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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