

# Public Procurement Policy

Preferential Market Access  
Make in India

# Public Procurement

- Procurement **by a Public Authority** using authorized **Public money**
- **Process** for Public Procurement is prescribed based on principles of
  - Fairness
  - Equity
  - Transparency
  - Competitiveness
  - Accountability

**And Priorities of Government**

# The Cardinals

Fair & Equitable

Transparency

Competitive & Cost-effective

Accountability

**Social Considerations**

Process Prevails over Results

# Public Procurement

## Social & Economic considerations

- Indigenous Industry development
- Protection to weaker sections
- Industries in Backward areas
- Optimization of Infrastructure
- Environment Protection
- Exploitation – No child labour
- **Make in India**
- **Skill development**
- **Job Creation**

# Types of Preferences

- Administrative instructions for policy of purchase **Rule 153 of GFR**

The Central Government may, by notification, provide for mandatory procurement of any goods or services from any category of bidders, or provide for preference to bidders on the grounds of promotion of locally manufactured goods or locally provided services.

- Applicable to each of the preferred sector
- The preferences allowed are as under:
  - Product Reservation - **Sector**
  - Purchase Preference - **Sector**
  - Price Preference - **Sector**
  - Make in India - **Country**

## Criteria for MSMEs (**UAM Code**)

<b>ENTERPRISES</b>	<b>Micro</b>	<b>Small</b>	<b>Medium</b>
<b>Manufacturing Investment</b> in P&M	Up to Rs. 25 Lakh  <b>A</b>	Above Rs. 25 Lakh & Up to Rs.5 Crore  <b>B</b>	Above Rs. 5 Crore & Up to Rs.10 Crore  <b>C</b>
<b>Services Investment</b> in equipment	Up to Rs. 10 Lakh  <b>D</b>	Above Rs. 10 Lakh & Up to Rs.2 Crore  <b>E</b>	Above Rs.2 Crore & Up to Rs.5 Crore  <b>F</b>

# Proposed Criteria for MSMEs

Proposal is under consideration to consider **Turnover** instead of **Investment**.

Needs to be passed by Parliament

<b>ENTERPRISES</b>	<b>Micro</b>	<b>Small</b>	<b>Medium</b>
Turn Over	Up to Rs. 5 Cr	Above Rs.5 Cr & up to Rs.75 crore	Above Rs.75 Crore & Up to Rs.200 Crore

# Public Procurement (Preference to Make in India) Order, 2017

- PPP MII Order 2017 issued by
  - DIPP (Department of Industrial Policy & Promotion)
  - **Now** DPIIT (Department for Promotion of Industry and Internal Trade)
- DIPP Order No. P-45021/2/2017-B.E.-II Dated 15<sup>th</sup> June, 2017 (for goods and services)
- ✓ DIPP Order No. P-45021/2/2017-B.E.-II Dated 28<sup>th</sup> May, 2018 (for goods services and works)
- ✓ DPIIT Order No. P-45021/2/2017-B.E.-II Dated 29<sup>th</sup> May, 2019 (for goods services and works – changes procurement reserved for local suppliers)



# Make in India Policy

- To promote manufacturing and production of goods and services in India for enhancing income and employment for local people
  - Growth driver for local industry – Demand creation
  - Encouraging domestic manufacturer's participation in public procurement activities

# PPP MII Order: Important Provisions

- Restrictive and discriminatory clauses against local suppliers – Reasonable
- Purchases - exclusively from local suppliers
- Other purchases – Purchase preference for local suppliers
- Terminology
- Nodal Ministry/Department
- Implementation and Monitoring
- No compromise on cost or quality
- Exemption /Waiver

# PPP MII Order

## **Scope**

- Applicable on procurement of goods, services and works (including turnkey works) by all Central Ministries/ Departments, their attached/ subordinate offices, autonomous bodies controlled by the Government of India, Government companies, their Joint Ventures and Special Purpose Vehicles

# Restrictive and discriminatory clauses against local suppliers – some examples

- **Case Study 1**

- **Tender/project:** Tender for Mumbai Metro Coaches, Estimated cost – INR 3000 Crores
- **Eligibility requirement:** Bidder should have supplied at least **130 metro coaches** and should have been in revenue service for at least **5 years**.
- **Local supplier Credentials:** M/s BEML has the operational performance of **140 coaches** running for last **3 years**.

- **Case Study 2**

- **Tender/project:** Tender for purchase of 491 Train Coaches, Estimated cost – INR 5000 Crores
- **Eligibility requirement:** Bidder should have prior experience of having supplied to G8 Countries.
- **Local supplier Credentials:** None of the local suppliers have experience in supply to G8 Countries

## Restrictive and discriminatory clauses – some examples

### • Case Study 3

- **Tender/project:** Tender for Pune Metro Rails.
- **Eligibility requirement:** Bidder should have supplied at least **22,500 MT Head Hardened Rails** in last 07 years (Original requirement amended from 18000 MT to 22500 MT)
- **Local Credentials:** M/s JSPL, local supplier has supplied **19996 MT**

### • Case Study 4

- **Tender/project:** Tender for installation of Video Surveillance (VSS) at various railway stations, Estimated cost – **Rs. 70 Crores**
- **Eligibility requirement:** Bidder should have minimum **annual turnover of INR 1000 crores** for 3 years.
- **Local Credentials:** None of local suppliers meet the eligibility criteria.

### • Case Study 5

- **Tender/project:** Tender for supply of **01 No. CNC Wheel lathe**, Estimated cost – Rs. 25 Crores
- **Eligibility requirement:** Should have supplied **350 machines outside** country of origin and have service centres in at least 7 Countries.
- **Local Credentials:** None of local suppliers meet the eligibility criteria

# Types of Restrictive/Discriminative Practices

- **Rejection of bid/ Non-award of contract despite being L-1**
- **Specifications tailor-made to suit foreign products** (Foreign Standards/ International Certifications)
- **Pre-approved brands in turnkey projects**
- **Restrictive and Discriminatory Eligibility Criteria/ Tender Conditions**
  - Excessive Turnover requirement – Rs.1000 Cr for procurement of Rs. 70 Cr
  - Excessive past Experience – 25 years for CPWD Lift Registration
  - Mandatory Presence in Gartner Magic Quadrant - IT and Telecom Products
  - Mandatory USFDA/ European CE – Medical Devices
- **Specifying Foreign Brands**
  - CISCO, NEC, Alcatel, Siemens – Telecom Products
  - HP, Dell, Lenovo – IT products
  - OTIS, Mitsubishi, Schindler, Kone, Johnson – Lifts

## PPP-MII Order – Purchases exclusively from local suppliers

- ✓ Purchases with estimated value **less than INR 50 Lakhs**.
- ✓ Items, 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.
- ✓ 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.

Note: If the procuring authority is of the view that the **item may not be available in the country, or sufficient capacity or competition does not exist domestically**, and it is necessary to undertake global competitive bidding, the procuring authority may **allow the same after recording reasons**.

# PPP-MII Order – Purchase preference for local suppliers

## For Divisible Items

- If **L1 is local supplier**, award full qty to local supplier
- If **L1 is not local supplier but local supplier rates are within 20%** of the rates quoted by L1
  - ✓ Award contract for 50% quantity to L1
  - ✓ For balance 50% quantity, lowest quoting local supplier is awarded the contract subject to his matching the L1 rates.
  - ✓ If lowest quoting local supplier fails to match the L1 price, next higher local supplier (subject to his rates being within 20% of L1) is asked to match L1 rates and so on.
  - ✓ The quantity not accepted by local suppliers awarded to L1



# PPP-MII Order – Purchase preference for local suppliers

## For Non-divisible Items

- If **L1 is local supplier**, award contract to local supplier
- If **L1 is not local supplier but local supplier rates are within 20%** of the rates quoted by L1
  - ✓ Lowest quoting local supplier is awarded the contract subject to his matching the L1 rates.
  - ✓ If lowest quoting local supplier fails to match the L1 price, next higher local supplier (subject to his rates being within 20% of L1) is asked to match L1 rates and so on.
  - ✓ If none of the local suppliers accept L1 rates, L1 bidder is awarded the contract

# Terminology

- ❖ **Local content** - Local Content means the amount of value added in India , i.e. total value of item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all custom duties) as proportion of the total value, in percent.
  - $(\text{Sale Price} - \text{Imported Content}) * 100 / \text{Sale Price}$
  - Definition under Revision – Revised definition circulated to all Nodal Ministries for Comments/feedback
- ❖ **Minimum local content** – 50%, nodal ministry/ department authorised to change.
- ❖ **Local supplier-** a supplier or service provider whose product or service offered for procurement meets the minimum local content as prescribed by the nodal ministry/ department.
- ❖ **Foreign/MNC companies manufacturing in India**

# To do – Role & Responsibility

- ❖ Notify minimum local content
- ❖ Declaration of items, which have sufficient local capacity and competition - to be procured only from local suppliers
- ❖ Notify and implement Phased Manufacturing Programme (PMP) – Metro Rail Coaches example
- ❖ Constitution of Committee for verification of self-declaration and Auditor's / Accountant's certificates on random basis and in case of complaints
- ❖ Restrict bidders from a country for procurement of an item wherein Indian supplier of that item are not allowed to participate / compete in procurement by that foreign Government, Clause 10 (d)

# Trust based Working

## ❖ **Verification of local content:-**

- For purchase value less than 10 Crores –Self certificate by the bidder
- For purchase value more than 10 Crores – Certificate from the statutory auditor/ cost auditor of the company (in case of companies ) or from practicing cost accountant/charted account (in respect of suppliers other than companies ).

## ❖ **Complaints about Local Content** – Same authority which is empowered to look into procurement related complaint related to procurement entity.

## ❖ **False declaration** will be in breach of code of integrity under rule 175 (1)(i)(h) of GFR for which a bidder or its successor can be debarred up to 2 years as per rule 151(iii) of GFR.

## ❖ **Restrictive and discriminatory clauses** against domestic suppliers cannot be included in procurement by Central Government agencies – any stipulation in tender which limits the participation of local suppliers in the bidding process is restrictive and discriminatory.

# Checks & Balances

## ❖ CPPP

- All tenders for procurement by Central Government have to be certified for compliance of the “PPP-MII Order” by the concerned Procurement Officer of the Government organization before uploading in the portal.
- Public grievances can be registered online for any complaint reg. flouting of “PPP-MII Order” in tenders uploaded by the Government organizations.

## ❖ Monitoring Mechanism

- CVC Oversight - CVC directed all CVOs to exercise oversight on all contracts over Rs. five crores so as to ensure that restrictive and discriminatory clauses against domestic suppliers are not included in the tender documents and that the tender conditions are in sync with the PPP-MII Order, 2017
- Standing Committee on Public Procurement in DIPP.
- Sector-wise and department-wise review meetings with industry

# DPIIT – Role & Responsibility

- ❖ To oversee implementation of order
- ❖ To identify Nodal Ministries and allocation of items for local content
- ❖ To resolve inter-ministerial issues
- ❖ To examine grievances regarding restrictive and discriminatory clauses of bidding
- ❖ To convene Standing Committee Meetings

# Exemptions from PPP MII Order

- Purchase cases with estimated value less than INR 5 Lacs
- Quality based selection
- Ministries/Department notified their own purchase preference policy after 01.01.2015 with approval of Cabinet

Question/  
Suggestion



Thank you