

No.P-45021/112/2020-PP (BE-II) (E-43780)
Government of India
Ministry of Commerce and Industry
Department for Promotion of Industry and Internal Trade
(Public Procurement Section)

Udyog Bhawan, New Delhi
Dated October 14, 2020

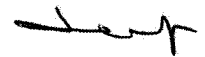
OFFICE MEMORANDUM

Subject: Revised format for registration of bidders from countries sharing land border with India- regarding.

The undersigned is directed to inform that the format of application for seeking registration for bidders having beneficial ownership in countries which share land border with India in accordance with Department of Expenditure Order no. F. No. 6/18/2019-PPD dated 23.07.2020 has been revised. A copy of the revised format is enclosed herewith. Accordingly, applicants are informed that henceforth the registration application are required to be submitted in updated revised format to the Office of Joint Secretary (MKN), DPIIT, Room No. 236A, Udyog Bhawan, New Delhi in ten hard copies. The pdf copy of the same may also be emailed at dpiit.144@gov.in.

2. The applications already received in this Department, as per earlier prescribed format, are under process and are not required to be submitted again.
3. This issues with the approval of competent authority.

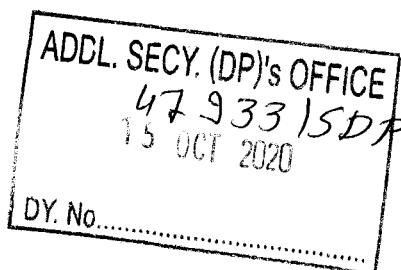
Encl: As above



(D.V.S.P. Varma)
Under Secretary to Govt. of India
E-mail: dvsp.varma@nic.in

To

1. All Ministries/ Departments
2. All Industry Associations
3. DPIIT Website/ CPP Portal/ GeM Portal

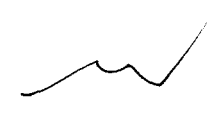


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Secy. (DP)'s Office
Date: 15/10/20
47933

Circulate
it to DE
15/10/20

AS (CDA)



JS (MKN)



DS (COPD)

Ganesh
16/10

As directed
above
S of (COPD)

Covering Letter Format

To

The Office of JS (MKN)
Chairman Registration Committee
Room No. 236A, Udyog Bhawan, New Delhi

Subject: Application for registration of bidders having beneficial ownership in countries which share land border with India in accordance with Department of Expenditure Order no. F. No. 6/18/2019-PPD dated 23.07.2020 - regarding.

We, M/s _____ (Name of the Bidder), hereby submit an application for registration of our Company in accordance with Department of Expenditure Order No. F. No. 6/18/2019-PPD dated 23.07.2020 through its authorized signatory consisting of following documents:

- i. The Covering letter
- ii. Letter of authority in favor of signatory.
- iii. Details of Bidder as per Appendix 'A'.
- iv. Details of Manufacturer/ Service provider/ Contractor, if different from bidder, as per Appendix 'B'.
- v. Details of item (goods/ services / works) for which registration is being sought as per Appendix 'C'.
- vi. Details of Bidder for security clearance as per Appendix 'D'.
- vii. Details of Manufacturer/ Service provider/ Contractor, if different from bidder, for security clearance as per Appendix 'E'.

2. We confirm that the application complete in all respects, and duly signed by authorized signatory on all pages, is being submitted in ten hard copies. We also confirm that a soft copy in pdf format has been emailed to dpiit.144@gov.in. We understand that incomplete application will not be processed and summarily ignored.

3. We also confirm that we, M/s _____ (Name of the Bidder), and M/s (Name of Manufacturer/ Service provider/ Contractor, if different from bidder) are not currently debarred/blacklisted/banned by any Government entity in India.

4. We also confirm that signatory of this letter & application form is the authorized signatory of the _____ (Name of the Bidder). A copy of authorization letter is enclosed.

5. We understand that the registration granted by the Registration Committee shall be only for the purpose of bid participation under Rule 144(xi) of General Financial Rules, 2017. We also understand that validity period of Registration shall be 3 years from date of issue of registration letter. However, in case of appointment of new Director(s)/ new shareholders with more than 10% shares/ change in controlling ownership interest or control through other means, the registration shall automatically stand annulled.

(Name and Signature of authorized signatory of bidder along with telephone number and email Id)

Bidder's details for registration under Rule 144(xi) of GFR

1.	Name of Bidder - as defined in the Department of Expenditure Order (Public Procurement No. 1) issued vide No. F.No.6/18/2019-PPD dated 23rd July, 2020	
2.	Type of business entity (Natural Person/ Private Limited Company/ Public Limited Company/ Sole Proprietorship/ One Person Company/ Partnership firm/ Limited Liability Partnership/ Joint Venture/ Trust/ NGO/or any other type of entity) In case of incorporated entity - to attach certificate of incorporation.	
3.	Complete address of the Registered Office with contact person name, telephone number and email Id.	
4.	Whether registration is being sought as Manufacturer/ service provider/ contractor for supply of goods/ services / works or As an agent/reseller/distributor/member of consortium/ Branch Office/ Office Controlled by bidder/any subsidy of any artificial juridical person/ any other type of category) Bidder to give details in which category – registration is being sought.	
5.	In case bidder is seeking registration as manufacturer, complete address of the manufacturing premises with name, telephone number and email Id of contact person.	
6.	In case bidder is seeking registration as service provider/ contractor, complete address of the premises from where services are provided may be given with name, telephone number and email Id of contact person.	
7.	In case registration is being sought as an agent/reseller/distributor/Office controlled by bidder/ any other subsidy of any artificial juridical person /any other category other than manufacturers, service provider and contractor of above - the	

	details of manufacturer/ service provider/ contractor may be furnished in Appendix- B.	
8.	The details of items (goods/ services / works) for which registration is sought as per Appendix- C.	

9. **Financial details# of the bidder in INR/ US Dollar** for last five financial years in the following format, duly certified by practicing Chartered Accountant (CA) in India:

Financial year (FY)	Net Sales turnover during the FY	Net Profit during the FY	Net worth at the end of the FY

Refer foot notes at the end of Appendix.

10. **Beneficial owners# of the bidder**, as defined in the Department of Expenditure Order (Public Procurement No. 1) issued vide No. F.No.6/18/2019-PPD dated 23rd July, 2020, in the following format, duly certified by practicing Chartered Accountant (CA) in India:

Beneficial owner details				
Name of the beneficial owner	% beneficial ownership	Natural person or legal/ artificial juridical person/ entity	Country of Citizenship / Country of incorporation of legal/ artificial juridical entity.	In case of legal/ artificial juridical person/ entity, beneficial ownership details of such entities may be furnished and so on.

Refer foot notes at the end of Appendix.

Note:

1. The terminology "Works" in the entire document means "Works including turnkey works/ projects". Similarly, the terminology "Services" means "Consultancy as well as non-consultancy services".
2. Details of all beneficial owners having ownership more than that prescribed in Para 9 of Department of Expenditure Order (Public Procurement No. 1) issued vide No. F.No.6/18/2019-PPD dated 23rd July, 2020 are to be furnished.
3. In case beneficial owner is legal/ artificial juridical person/ entity, beneficial ownership details of such entities to the last natural person are to be furnished.
4. The details at serial number "9" and "10" should be on Chartered Accountant's letterhead indicating name, membership number and UDIN number.

Manufacturer/ Service provider/ Contractor details for registration under Rule 144(xi) of GFR

(Note: The Appendix-B is to be filled up only in case Manufacturer/ Service provider/ Contractor is other not bidder, whose details have already been provided in Appendix -A)

1.	Name of manufacturer/ service provider/ contractor	
2.	Type of business entity (Natural Person/ Private Limited Company/ Public Limited Company/ Sole Proprietorship/ One Person Company/ Partnership firm/ Limited Liability Partnership/ Joint Venture/ Trust/ NGO/or any other type of entity) In case of incorporated entity - to attach certificate of incorporation.	
3.	Complete address of the Registered Office of manufacturer/ service provider/ contractor with contact person name, telephone number and email Id.	
4.	In case of manufacturer, complete address of the manufacturing premises with name, telephone number and email Id of contact person.	
5.	In case of service provider/ contractor, complete address of the premises from where services are provided may be given with name, telephone number and email Id of contact person.	
6.	Manufacturer/ service provider/ contractor's agreement with the bidder to seek registration under Rule 144(xi) of GFR and participate in public procurement in India, if any. Copy to be attached with the application.	

7. **Financial details# of the manufacturer/ Service provider/ Contractor in INR/ US Dollar** for last five financial years in the following format, duly certified by practicing Chartered Accountant (CA) in India:

Financial year (FY)	Net Sales turnover during the FY	Net Profit during the FY	Net worth at the end of the FY

Refer foot notes at the end of Appendix.

8. **Beneficial owners# of the Manufacturer/ Service provider/ Contractor**, as defined in the Department of Expenditure Order (Public Procurement No. 1) issued vide No. F.No.6/18/2019-PPD dated 23rd July, 2020, in the following format, duly certified by practicing Chartered Accountant (CA) in India:

Beneficial owner details				
Name of the beneficial owner	% beneficial ownership	Natural person or legal/ artificial juridical person/ entity	Country of Citizenship / Country of incorporation of legal/ artificial juridical entity.	In case of legal/ artificial juridical person/ entity, beneficial ownership details of such entities may be furnished and so on.

Refer foot notes at the end of Appendix.

Note:

1. The terminology "Works" in the entire document means "Works including turnkey works/ projects". Similarly, the terminology "Services" means "Consultancy as well as non-consultancy services".
2. Details of all beneficial owners having ownership more than that prescribed in Para 9 of Department of Expenditure Order (Public Procurement No. 1) issued vide No. F.No.6/18/2019-PPD dated 23rd July, 2020 are to be furnished.
3. In case beneficial owner is legal/ artificial juridical person/ entity, beneficial ownership details of such entities to the last natural person are to be furnished.
4. The details at serial number "7" and "8" should be on Chartered Accountant's letterhead indicating name, membership number and UDIN number.

Details of items (goods/ services / works) for which registration is sought

1.	Description of items (goods/ services / works) for which registration is being sought.	
2.	Broad technical specification parameters/ details of items	
3.	Annual Capacity of bidder for each of the goods/ services / works for which registration is being sought.	
4.	Major public procuring entities in India for these items	

5. Details of contracts# received by the bidder in last 05 years from public procuring entities in India in the following format, duly certified by practicing Chartered Accountant (CA) in India:

Sr. No.	Description of goods/ services / works with broad technical parameters	Procuring entity details – Name and complete address of the Organization.	Purchase Order No., date, Qty and value	Status of the Order – Executed successfully/ under execution/ cancelled

Refer foot notes at the end of Appendix.

6. Details of contracts# received by the bidder in last 05 years from private procuring entities in India in the following format, duly certified by practicing Chartered Accountant (CA) in India:

Sr. No.	Description of goods/ services / works with broad technical parameters	Procuring entity details – Name and complete address of the Organization.	Purchase Order No., date, Qty and value	Status of the Order – Executed successfully/ under execution/ cancelled

Refer foot notes at the end of Appendix.

7. Details of outsourced components/goods and subcontracted works and services proposed to be used in execution of contract may be provided in the format given below:

Sr. No.	Details of outsourced components/goods and subcontracted works and services	Major technical parameters	Manufactured by /Subcontracted to	Country of Origin

Note:

1. The details at serial number "5" and "6" above are required to be furnished only for those goods/ services / works for which registration is being sought and for the same Manufacturer/ Service provider/ Contractor, whose details have been furnished in Appendix-B, if bidder is not Manufacturer/ Service provider/ Contractor. In case of large number of contracts, the details may be restricted to 20 (twenty) high value contracts.
2. The details at serial number "7" above are required to be furnished only for top 20 high value outsourced components/goods and subcontracted works and services.
3. Bidder can seek registration for multiple items in an application by providing requisite details for each of the item for which registration is being sought.
4. The details at serial number "5" and "6" should be on Chartered Accountant's letterhead indicating name, membership number and UDIN number.

Details of bidder for security clearance

I. Details in respect of bidding company/person:

SI No.	Name of company/person	Type of Company (Pvt. Ltd. /Pub. Ltd. /Sole Proprietary /one person company/partnership/LLP/JV/Trust/NGO etc.)	Country of registration in case of company/nationality (if holding multiple nationalities, all must be mentioned) in case of person	Registration number with date in case of company/passport nos. and issue date in case of person	Registered office address and correspondence address in case of company/Contact Address in case of person	Previous Name of the Company, if any	Details of earlier registration, if any (ref no. & date)

II. Details of beneficial ownership of entity:

SI No.	Name of company/individual which/who are the beneficial owner of bidding company	Country of registration, registration number with date in case beneficial owner is a company/nationality, passport number and issue date (if holding multiple nationalities, all must be mentioned) in case beneficial owner is an individual	Registered office address and correspondence address in case of company/Contact Address in case of person	Details of intermediary company(s)/persons between bidder company or person and beneficial owner company/individual	Enclose a chart depicting the link between bidding company/person and the beneficial company/owners along with details such as address, parentage, passport details (in case of individuals) or company registration details (in case of companies)

III. Details in respect of Directors of bidding Company:

SI No.	Full Name of Board of Directors	Present position held with date (since when)	Date of birth	Percentage (name of father/mother)	Present & Permanent Address	Nationality (if holding multiple nationality, all must be mentioned)	Passport Nos. and issue date, if any.	Contact Address & telephone number

IV. Details of shareholders of bidding company (all companies/entities/individuals with more than 10% shares or having controlling ownership interest or exercising control through means in case of less than 10% shares):

SI No.	Full Name of individual / company	Parentage (name of father/mother) in case of individuals and registration number in case of companies	Permanent address /present address in case of individuals, and registered and correspondence address in case of companies	Present position held, if any, in the applicant company	Nationality, in case of individual (if holding multiple nationality, all must be mentioned)/country of registration, in case of company	Passport Nos. and date of issue, if any (date of birth, in case passport is not available) for individuals	% of shares held in the company

V. Details of tender(s) and specific goods/services/works proposed to be supplied:

VI. Reasons for seeking registration with Registration Committee of DPIIT: A brief note to be attached

VII. Details of nature of activities undertaken by bidding company/person: A brief note to be attached

VIII. Details of nature of activities undertaken by beneficial owner of bidding company/person: A brief note to be attached

IX. Details of criminal cases, if any, against the bidding company, its director(s) or person as per annexure

Annexure to Appendix - D

Self-Declaration for bidding company and its director(s)/owners or person

- a. Name & address and registration number of the Company :
- b. Name and address of owners (in case of proprietorship firm)/directors of the company/person :
1. _____
 2. _____
 3. _____
 4. _____
- c. Are the company owners (in case of proprietorship firm)/directors/person listed above, are the subject of any?
1. Preventive detention proceedings under Public Safety Act/National Security Act etc. : Yes/No
 2. Criminal Investigation in which charge sheet has been filed: Yes/No
- d. If, Yes, please provide following details
1. Case/FIR number :
 2. Detention/warrant number, if any :
 3. Police Station/district/agency :
 4. Sections of law under which cases has/have been filed :
 5. Name and place of the court :
- e. The above mentioned details are in respect of both India and any other foreign country.

(Signature)

Note: The above self-declaration is required to be filled and signed by the authorized signatory of the Company.

Details of Manufacturer/Service Provider/Contractor for security clearance

(Note: The Appendix-E is to be filled up only in case Manufacturer/ Service provider/ Contractor is other not bidder, whose details have already been provided in Appendix -D)

I. Details in respect of Manufacturer/Service provider/Contractor:

SI No.	Name of company/person	Type of Company (Pvt. Ltd. /Pub. Ltd. /Sole Proprietorship/one person company/partnership/LLP/JV/Trust/NGO etc.)	Country of registration in case of company/nationality (if holding multiple nationality, all must be mentioned) in case of person	Registration number with date in case of company/passport nos. and issue date in case of person	Registered office address and correspondence address in case of company/Contact Address in case of person	Previous Name of the Company, if any	Details of earlier registration, if any (ref no. & date)

II. Details of beneficial ownership of Manufacturer/Service provider/Contractor:

SI No.	Name of company/individual which/who are the beneficial owner of bidding company	Country of registration, registration number with date in case beneficial owner is a company/nationality, passport number and issue date (if holding multiple nationality, all must be mentioned) in case beneficial owner is an individual	Registered office address and correspondence address in case of company/Contact Address in case of person	Details of intermediary company(s)/persons between bidder company or person and beneficial owner company/individual	Enclose a chart depicting the link between manufacturing company/person or service provider or contractor and the beneficial company/owners along with details such as address, parentage, passport details (in case of individuals) or company registration details (in case of companies)

III. Details in respect of Directors of Manufacturing Entity/Individuals/Service Provider/Contractor:

SI No.	Full Name of Board of Directors	Present position held with date (since when)	Date of birth	Percentage (name of father/mother)	Present & Permanent Address	Nationality (if holding multiple nationality, all must be mentioned)	Passport Nos. and issue date, if any.	Contact Address & telephone number

IV. Details of shareholders of Manufacturer/Service provider/Contractor (all companies/entities/individuals with more than 10% shares or having controlling ownership interest or exercising control through means in case of less than 10% shares):

SI No.	Full Name of individual / company	Parentage (name of father/mother) in case of individuals and registration number in case of companies	Permanent address /present address in case of individuals, and registered and correspondence address in case of companies	Present position held, if any, in the applicant company	Nationality, in case of individual (if holding multiple nationality, all must be mentioned)/country of registration, in case of company	Passport Nos. and date of issue, if any (date of birth, in case passport is not available) for individuals	% of shares held in the company

- V. **Details of tender(s) and specific goods/services/works proposed to be supplied:**
- VI. **Reasons for seeking registration with Registration Committee of DPIIT: A brief note to be attached**
- VII. **Details of nature of activities undertaken by bidding company/person: A brief note to be attached**
- VIII. **Details of nature of activities undertaken by beneficial owner of bidding company/person: A brief note to be attached**
- IX. **Details of criminal cases, if any, against the bidding company, its director(s) or person as per annexure**

Self-Declaration for manufacturer/service provider/ contractor and its director(s)/owners or person

- a. Name & address and registration number of the Company :
- b. Name and address of owners (in case of proprietorship firm)/directors of the company/person :
 - _____
 - _____
 - _____
 - _____
- c. Are the company owners (in case of proprietorship firm)/directors/person listed above, are the subject of any?
 - Preventive detention proceedings under Public Safety Act/National Security Act etc. : Yes/No
 - Criminal Investigation in which charge sheet has been filed: Yes/No
- d. If, Yes, please provide following details
 - Case/FIR number :
 - Detention/warrant number, if any :
 - Police Station/district/agency :
 - Sections of law under which cases has/have been filed :
 - Name and place of the court :
- e. The above mentioned details are in respect of both India and any other foreign country.

(Signature)

Note: The above self-declaration is required to be filled and signed by the authorized signatory of the Company.

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


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

Office Memorandum

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

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

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


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

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

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

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

Order (Public Procurement No. 1)

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

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

Requirement of registration

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

Transitional cases

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

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

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

Incorporation in tender conditions

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

Applicability

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

Definitions

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

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

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

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

Explanation—

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

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

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

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

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

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

Sub-contracting in works contracts

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

Certificate regarding compliance

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

Validity of registration

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

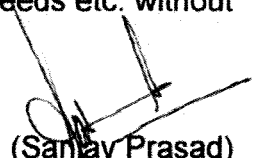
Government E-Marketplace

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

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Model Clauses/ Certificates

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


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

To

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

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Annex I: Competent Authority and Procedure for Registration

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

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

[*Note:

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

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Annex II: Special Cases

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

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Annex III

Model Clause /Certificate to be inserted in tenders etc.

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

Model Clauses for Tenders

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

Explanation—

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

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

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

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

Model Certificate for Tenders

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

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

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

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

Model Certificate for GeM:

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

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

161, North Block
New Delhi
23rd July, 2020

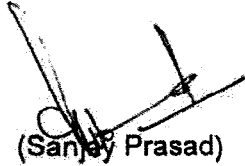
Order (Public Procurement No. 2)

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

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

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

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


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

To,

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

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

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

Order (Public Procurement No. 3)

Subject: Clarification to Order (Public Procurement No.1) dated 23rd July 2020

Attention is invited to paragraph 3(b) of the Order (Public Procurement No.1), under the heading "Transitional provisions" which reads as follows:

*b) If the tendering process has crossed the first exclusionary qualificatory stage: If the qualified bidders include bidders from such countries, the entire process shall be scrapped and initiated *de novo*. The *de novo* process shall adhere to the conditions prescribed in this Order.*

It is hereby clarified that for the purpose of paragraph 3 (b), "qualified bidders" means only those bidders who would otherwise have been qualified for award of the tender after considering all factors including price, if Order (Public Procurement No. 1) dated 23rd July 2020 had not been issued.

2. If bidders from such countries would not have qualified for award for reasons unconnected with the said Order (for example, because they do not meet tender criteria or their price bid is higher or because of the provisions of purchase preference under any other order or rule or any other reason) then there is no need to scrap the tender / start the process de novo.

3. The following examples are given to assist in implementation of the Order.


Example1: Four bids are received in a tender. One of them is from a country which shares a land border with India. The bidder from such country is found to be qualified technically by meeting all prescribed criteria and is also the lowest bidder. In this case, the bidder is qualified for award of the tender, except for the provisions of the Order (Public Procurement No. 1) dated 23rd July. In this case, the tender should be scrapped and fresh tender initiated.

Example 2: The facts are as in Example 1, but the bidder from such country, though technically qualified is not the lowest because there are other technically qualified bidders whose price is lower. Hence the bidder from such country would not be

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

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

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


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To,

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