OFFICE MEMORANDUM


Attention is once again drawn to the email dated 22.01.2020 and 30.01.2020 (copy enclosed) with the attachments received from CSL/SBR Section, MoS regarding the above subject.

2. As was directed, list of countries which attract reciprocity clause 10 (d) of PP-MII Order, 2017 for restricting participation of Indian companies in their procurement, if any, was to be provided, within two days i.e. latest by 29th January, 2020 by 4.00 PM. Information even if NIL, was also to be intimated positively so that consolidated information could be submitted to MoS at the earliest.

3. The Ministry of Shipping has again reminded for submission of the requisite information which could not be furnished to MoS due to non-receipt of the same from the Wing Heads/Members/ROs etc.

4. This is being viewed seriously. Explanation for non-submission has to be provided.

5. The defaulting wings heads/ROs are once again directed to provide the requisite information along-with explanation/reason for delay, by today.

This issues with the approval of the Competent Authority.

Encl:- As above

To

1. Secretary, IWAI.
2. CE & Project Manager (JMVP) – As desired by the Vice-Chairman, may examine its applicability to JMVP Procurements.
4. Director R.O: Kolkata, Guwahati, Kochi, Vijayawada.
5. Officer-in-charge, IWAI, Allahabad, Varanasi, Sahibganj, Bhubaneswar,
6. Director – A&V/NER/IT/Traffic/Technical /P&C

Copy for information to:- PPS/ Sr. PS/ PA to Chairperson, Vice-Chairman & Project Director (JMVP)/ Member (Finance)/ Member (Technical)/ Member (Traffic), IWAI, Noida.
OFFICE MEMORANDUM


Attention is drawn to the email dated 22.01.2020 with 2 attachments received from CSL Section, MoS (copy enclosed) regarding the above subject.

2. As directed, list of countries which attract reciprocity clause 10 (d) of PP-MII Order, 2017 for restricting participation of Indian companies in their procurement, if any, has to be provided, at the earliest.

Copy of above referred to Clause 10 (d) of PP-MII Order, 2017 is also enclosed for ready reference.

3. Above information may be furnished to this Wing within two days i.e. latest by 29th January, 2020 by 4.00 PM. Information even if NIL, may also be intimated positively so that consolidated information could be submitted to MoS at the earliest.

This issues as per direction of the Hon’ble Chairperson.

Encl:- As above

To

1. Secretary, IWAI.
2. CE & Project Manager (JMVP) – As desired by the Vice-Chairman, may examine its applicability to JMVP Procurements.
4. Director R.O: Kolkata, Guwahati, Kochi, Vijayawada.
5. Officer-in-charge, IWAI, Allahabad, Varanasi, Sahibganj, Bhubaneswar,
6. Director – A&V/NER/ Marine/ IT/Traffic/Technical /P&C

Copy for information to:- PPS/ Sr. PS/ PA to Chairperson, Vice-Chairman & Project Director (JMVP)/ Member (Finance)/ Member (Technical)/ Member (Traffic), IWAI, Noida.
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.

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 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 capacity and financial strength do not result in unreasonable exclusion of local suppliers 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. If a Nodal Ministry is satisfied that Indian suppliers of an item are not allowed to participate and/or compete in procurement by any foreign government, it may, if it deems appropriate restrict or exclude bidders from that country from eligibility for procurement of that item and/or other items relating to that Nodal Ministry. A copy of every instruction or decision taken in this regard shall be sent to the Chairman of the Standing Committee.

.....Contd. p/5
e. For the purpose of sub-paragraph 10 d above, a supplier or bidder shall be considered to
be from a country if (i) the entity is incorporated in that country, or (ii) a majority of its
shareholding or effective control of the entity is exercised from that country; or (iii) more
than 50% of the value of the item being supplied has been added in that country. Indian
suppliers shall mean those entities which meet any of these tests with respect to India.*

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 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.

13. Manufacture under licence/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.

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 or class or classes of items or
procuring 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.