

5/14761/2018

अखिल भारतीय आयुर्विज्ञान संस्थान
(समन्वय प्रकोष्ठ)

फा.सं.35-2/2018-समन्वय प्रकोष्ठ-स्था.-।

दिनांक: 26 NOV 2018

परिपत्र

विषय: औद्योगिक नीति एवं संवर्धन विभाग के सार्वजनिक खरीद
(मेक इन इंडिया को बढ़ावा देना) आदेश, 2017 - संबंधी।

कृपया उपर्युक्त विषयक स्वास्थ्य एवं परिवार कल्याण मंत्रालय से प्राप्त दिनांक 02 नवम्बर, 2018 के पत्र सं. जेड-28018/67/2010-ई.पी.डब्ल्यू (पार्ट) की प्रति, एतद्वारा, आवश्यक कार्रवाई हेतु इसके साथ संलग्न है।


(देवनाथ साह)

वरिष्ठ प्रशासन अधिकारी


विवरण:-

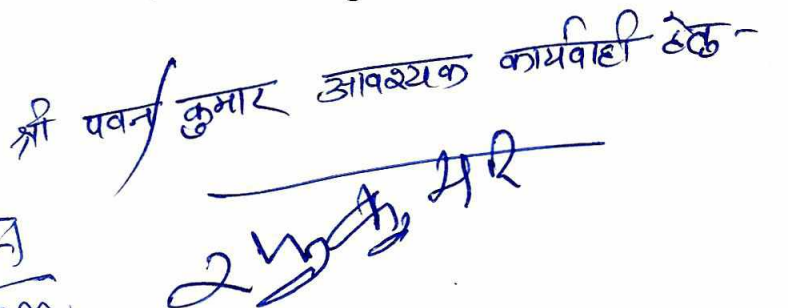
1. सभी केन्द्र प्रमुख।
2. सभी विभागाध्यक्ष।
3. सभी भंडार अधिकारी।

प्रतिलिपि:-

- निदेशक महोदय के प्रधान निजी सचिव।
- उप-निदेशक (प्रशा.) महोदय के निजी सचिव।
- उप-सचिव महोदय के वैयक्तिक सहायक।
- कंप्यूटर सुविधा- एम्स की वेबसाइट पर अपलोड करने हेतु तथा सभी संबंधितों को ई-मेल द्वारा भेजने हेतु।




श्री अनंद
वेवरी कम
श्री 11/18

श्री पवन कुमार आवश्यक कार्यवाही हेतु -

25/11/18

D.No. 1219
Date-14/11

F. No. Z-28018/67/2010-EPW(pt)
Government of India
Ministry of Health & Family Welfare
(EPW Division)

प्राप्त किया/RECEIVED
उप निदेशक (प्रशा.) कार्यालय, अ.भा.आ.सं.,
Dy. Director (Admn.) Office, A.I.I.M.S.
13 NOV 2018

510304
10/11/18
13/11/18

12 NOV 2018
RECEIVED
Nirman

Nirman Bhawan, New Delhi
Dated: 02.11.2018

OFFICE MEMORANDUM

Sub: Public Procurement (Preference to Make in India) Order, 2017 of Department of Industrial Policy & Promotions - regarding.

The undersigned is directed to refer to Department of Industrial Policy & Promotions Order dated 15.06.2017 and minutes of 4th meeting of the Standing Committee for implementation of Public Procurement (Preference to Make in India) Order, 2017. Copy of minutes of 4th meeting of Standing Committee of Department of Industrial Policy & Promotions is enclosed. EPW has already issued instructions for compliance in this regard vide OMs of even no. dated 27.07.2017, 21.08.2017, 14.01.2018, 23.02.2018 & 26.02.2018.

The grievances raised by Shri Raj Kamal Aggarwal against tender issued by AIIMS, Rishikesh and M/s Vikrant Life Sciences Pvt. Ltd. against tender issued by PGIMER, Chandigarh (Agenda point No. 8.6 & 8.10) were discussed in the above meeting.

All the AIIMS are advised for strict compliance of Public Procurement (Preference to Make in India) Order, 2017 dated 15.06.2017 and desist from inclusion of such discriminatory conditions against local suppliers. Director, AIIMS, Rishikesh and Director PGIMER, Chandigarh are requested to furnish their comments/action taken on the grievances discussed in the above Standing Committee meeting to US (BE-II Section), DIPP under intimation to EPW.

Encl: As Above

प्राप्त किया/RECEIVED
उप-सचिव कार्यालय, अ.भा.आ.सं.
OFFICE OF THE DY. SECRETARY, A.I.I.M.S.
14 NOV 2018
आयरी सं./Dy. No.:

(Rajendra Nair M.B.)
Under Secretary (EPW)
Tel: 23061436

To:

1. The Director, AIIMS, New Delhi/ Patna/ Bhubaneshwar/ Raipur/ Bhopal/ Jodhpur/ Rishikesh.
2. Director, JIPMER/ PGIMER/ NEIGHRIMS/ RIMS/ NIHFV/ FSSAI / NIMHANS, MGIMSKHS

Copy to:

JS(PMSSY) & JS(SP):- It is requested that the comments of AIIMS, Rishikesh & PGIMER, Chandigarh may be forwarded on the grievances discussed in the 4th Standing Committee meeting of DIPP.

For. AD
to circulate to all concerned
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13/11
12/11/18
14/11/2018
for four

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24/9/18

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Most Immediate

1060528
17-14/18

No. P-45014/69/2018-BE-II
Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
(BE-II Section)

RECEIVED
MINISTRY OF HEALTH & F.W.
18 A CDD 9/18

Udyog Bhawan, New Delhi
Date: 24 September, 2018

OFFICE MEMORANDUM

Subject: Forwarding of Minutes of 4th Meeting of the Standing Committee for implementation of Public Procurement (Preference to Make in India) Order, 2017 held on 27.08.2018 at 2.30 PM in Room No. 152, Udyog Bhawan, New Delhi.

The undersigned is directed to forward herewith a copy of the Minutes of 4th Meeting of the Standing Committee for implementation of Public Procurement (Preference to Make in India) Order, 2017, held under the Chairmanship of Secretary, DIPP on 27th August 2018 at 2.30 PM in Room No. 152, Udyog Bhawan, New Delhi, for compliance and further necessary action.

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24/9/18

(B.S. Nayak)
Under Secretary to the Government of India
Tele: 23061257
E-mail: bs.nayak@nic.in

Encl: As above.

To,

1. Chairman, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi. Email: crb@rb.railnet.gov.in.
2. Secretary, Department of Heavy Industries, Udyog Bhawan, New Delhi. Email: shioff@nic.in. Tel No: 0 11-23063633, 0 11-2306 1854
3. Secretary, Ministry of Housing & Urban Development, Nirman Bhawan, New Delhi. Email: secyurban@nic.in. Tel/Fax: 0 11 -2306 1863 , 23063221
4. Secretary, Department of Health & Family Welfare, Nirman Bhawan, New Delhi. Email: secyhfw@nic.in. Tel. No.: 0 11-2338 1573;
5. Secretary, Department of Pharmaceuticals, Shastri Bhawan, New Delhi. Email: jaipriye@nic.in. Tel. No. 011-24364041
6. Secretary, Ministry of Electronics & Information Technology, 6, CGO Complex, Lodhi Road, New Delhi. Email: secretary@meity.gov.in. Tel.- 011-24363 134
7. Secretary, Department of Chemicals & Petrochemicals, Shastri Bhawan, New Delhi. Email: sec.cpc@nic.in. Tel. No. 011 -23 384196

....Contd-2/p

Handwritten note:
lead
30.7.18

Handwritten note:
P.S.
to secy (M)

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AS&DG
JES

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JS (SP)
DR (RK)

8. Secretary, Ministry of Steel, Udyog Bhawan, New Delhi. Email: secy-steel@nic.in.
9. Secretary, Ministry of Textiles, Udyog Bhawan, New Delhi. Email: secy-textiles@nic.in. Tel. No 23063489, 23063912
10. Secretary, Ministry of Petroleum and Natural Gas, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi. Email: sec.png@nic.in. Tel. No. 0 11-2306 1769
11. Secretary, Ministry of Shipping, Transport Bhawan, Parliament Street, New Delhi. Email: secyship@nic.in. Tel. No. : 011-23 063664
12. Secretary, Ministry of Power, Shram Shakti Bhawan, New Delhi. Email: secy-power@nic.in. Tel No. : 011-23714938; Fax No. - 01 1-237 16656
13. Secretary, Ministry of New and Renewable Energy, CGO Complex, Lodhi Road, New Delhi. Email: secy-mnre@nic.in. Tel No.: 011-233 840 1 0
14. Secretary, Ministry of Civil Aviation, New Delhi. Email: secy.moca@nic.in Tel No.: 011 -23012527
15. Secretary, Ministry of Mines, Shastri Bhawan, New Delhi. Email: secy-mines@nic.in. Tel No.:-011-2371 0271, 2371 1316
16. Secretary, Ministry of Road Transport and Highways, New Delhi [email: secy-road@nic.in]
17. Secretary, Ministry of Defence, Sena Bhawan, New Delhi.[email: defsecy@nic.in]
18. Secretary, Department of Defence Production, South Block, New Delhi [email: sdpns@nic.in]
19. Secretary, Department of Financial Services, 6A, 3rd floor Jeevan Deep Building Sansad, Marg, New Delhi-110001 [email: secy-fs@nic.in]
20. Secretary, Department of Economic Affairs, North Block, New Delhi. Email: secy-dea@nic.in
21. Secretary, Department of Expenditure, North Block, New Delhi. Email: secyexp@nic.in
22. Chairman TC & Secy.(T) Department of Telecommunications, Sanchar Bhawan 20, Ashoka Road, New Delhi 110001. Email: secy-dot@nic.in
23. Foreign Secretary, Ministry of External Affairs, Jawahar Bhawan, New Delhi Email: psfs@mea.gov.in
24. Secretary, MSME, Udyog Bhawan, New Delhi. Email: secretary-msme@nic.in
25. Secretary, Ministry of Coal, Shashtri Bhawan, New Delhi. Email: secy.moc@nic.in

Copy to:

1. PSO to SIPP
2. PPS to SS & FA
3. PPS to JS (RA)

Minutes of the 4th Meeting of Standing Committee for Implementation of Public Procurement (Preference to Make in India) Order, 2017 held on 27.08.2018

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4th Meeting of Standing Committee for Implementation of Public Procurement (Preference to Make in India) Order, 2017 was held under the Chairmanship of Secretary, DIPP on 27.08.2018.

List of participants is attached.

Gist of the discussion of each agenda item is given below :-

Agenda 1: Action Taken Reports (ATRs) in respect of Minutes of the Third Standing Committee Meeting held on 23.04.2018

Action taken report in respect of Minutes of the Third Standing Committee Meeting held on 23.04.2018 was discussed and it was noted that the action in respect of following issues is yet to be completed :-

- (i) **Agenda Item No. 2** : Out of 19 nodal Ministries/ Departments, 10 (ten) nodal Ministries/ Departments have notified Minimum Local Content (MLC). Remaining 09 nodal Ministries have yet to respond to the matter.

(Action : Concerned Ministries)

- (ii) **Agenda Item No. 3(i)** : Response of MEA on the matter regarding reciprocal access given by the countries of tendering parties to the Indian companies is yet awaited. MEA has to provide their response after taking inputs from Indian Missions.

(Action : Ministry of External Affairs)

- (iii) **Agenda Item No. 5.1** : Grievance raised by M/s Joy Global India Limited : Response of Ministry of Coal/Northern Coal Fields in the matter is awaited.

(Action : Ministry of Coal/ Northern Coal Fields)

- (iv) **Agenda No. 5.3**: Grievance raised by Tejas Networks: The decision taken in the 3rd Standing Committee meeting regarding applicability of PPP-MII Order to the Bharat Net-2 programme was again deliberated in the Fourth Standing Committee Meeting at Agenda item No. 8.8 The decision taken in the 3rd Standing Committee meeting held on 23.4.2018 stands modified to the extent detailed in the present minutes.

- (v) **Agenda Item No. 5.6** : Grievance of M/s Electronics Payments & Services Pvt. Ltd. (EPS) : Response of Deptt. of Financial Services is

clarified that in case MLC had been fixed higher, then large number of steel product companies would not fulfill the norm of local content despite making value addition. Ministry of Steel was requested to review the MLC and also to consider adding the provisions regarding purchase preference margin. They may also review the applicability of the Order to procurement of iron & steel products above Rs.50 crores only in any project, as the PPP-MII Order is applicable on all public procurements above Rs.5 lakhs.

Representative of Ministry of Steel informed that the Notification of Ministry of Steel is being reviewed and they will inform the decision in this regard shortly.

(Action : Ministry of Steel)

- (v) **Department of Pharmaceuticals** : It was noted that in the draft Notification for pharmaceuticals a uniform MLC of 60% (2018-19) has been kept. The Committee was of the view that while a number of pharma products are manufactured in India, there are some critical drugs that are imported.

Accordingly, it was suggested to D/o Pharmaceuticals that lower %age of MLC may be notified for such imported drugs to induce their local manufacturing, alongwith PMP if appropriate.

(Action : Department of Pharmaceuticals)

- (vi) **Department of Heavy Industry**: The Committee noted that D/o Heavy Industry has already issued notification for MLC for automobile and auto components and capital goods sector. D/o Heavy Industry was requested to undertake notification for machine tools, furnaces and HVAC.

Representative of DHI informed that the notification of MLC for these items will be issued shortly.

(Action : Department of Heavy Industry)

- (vii) **Ministry of Shipping** : It was noted that M/o Shipping has issued guidelines for evaluating and awarding tenders for dry-docking and ship repair works, but is yet to notify MLC as per the PPP-MII Order.

Representative of M/o Shipping informed that Notification for MLC will be issued shortly.

(Action : Ministry of Shipping)

- (viii) **Ministry of Textile**: It was noted that M/o Textiles has proposed Minimum Local Content (MLC) for certain products like cotton fabric as 100%, and for products like carpets at 90%. In such a situation, local vendors/ industry who have even a very small imported value addition, will not be eligible for the preference.

M/o Textiles was requested to consider above while issuing the final notification. Ministry of Textile may also consider inclusion of Bullet proof

- (xv) **Department of Defence:** No representative from Department of Defence was present in the Meeting. Secretary, Deptt. of Defence is requested to ensure participation at appropriate level in the Standing Committee Meeting and issue notification for Minimum Local Content for defence items. It is noted that Deptt. of Defence is nodal Ministry for "Defence Works" under PPP-MII Order.

(Action : Department of Defence)

Agenda 3: Applicability of PPP-MII Order on all tenders issued subsequent to the Order

It was noted that some procurement agencies are not complying with the provisions of the 'PPP-MII Order' by taking the plea that their tender was floated based on the Pre-Qualification Requirements (PQRs) formulated by them/ their client before the issue of DIPP's order dated 15.06.2017, and thus implying that the PPP-MII Order would not be applicable on them. The Committee took note of it and categorically clarified that the provisions of PPP-MII Order are mandatorily applicable to all such tenders issued subsequently to the issuance of 'PPP-MII Order', i.e. 15.06.2017, irrespective of whether the RFQs/RFPs are issued before the issue of PPP-MII Order. It is made clear that PPP-MII Order does not require any changes in technical requirements, so long as they are not discriminatory or restrictive against domestic suppliers.

(Action : All Ministries/Departments)

Agenda 4: Compliance of 'PPP-MII Order' along with 'MSME Order'

It was noted that the question of applicability of 'PPP-MII Order' in conjunction with 'MSME Policy' of Government of India has been raised by some Government organizations. The issue is that the 'PPP-MII Order' does not distinguish between MSME and other units in normal course, so long as both are local vendors, and that the 'PPP-MII Order' takes precedence over all the notifications/ orders/ circulars, except those which are issued with Cabinet approval after 1st January 2015.

Accordingly, it was proposed to provide preference to local MSEs over non-MSE local suppliers, to the tune of 20% of the supply quantity in cases covered under clause 3(a) and 3(b) of the PPP-MII Order. However, for cases covered under clause 3(c), there shall be no preference to MSEs over non-MSEs, and the provisions of PPP-MII Order shall prevail. The Order will accordingly have to be amended. Also, to avoid conflict, it was suggested that Ministry of MSME should consider increasing the '*purchase preference*' to 20% in consonance with the provisions of 'PPP-MII Order' for simplification.

The Committee noted that inclusion of foreign brands/ companies in the 'pre-approved list' is against the spirit of 'PPP-MII Order'; and only domestic brands that meet the minimum local content should be considered for inclusion in the 'pre-approved list'. It was noted that as per GFR 144(i)(b), *"the description of the subject matter of procurement to the extent possible should not indicate a requirement for a particular trade mark, trade name or brand"*. Wherever it is felt that the required technical specifications and quality norms are not met indigenously, then only foreign brands/ companies may be included after due diligence. It was categorically clarified that the 'PPP-MII Order' is applicable to all such EPC contracts also.

The Committee was of the view that as many such grievances are being received regarding exclusion of domestic companies from pre-approved list and by changing the pre-qualification conditions viz. turnover, experience criteria etc. with malafide intentions. The Committee noted that this is totally unacceptable and all the Ministries / Departments should issue directions to the PSUs /autonomous bodies/ subordinate offices under them that PPP-MII Order shall be followed in letter and spirit. No foreign brands/companies should be included in pre-approved list unless it is felt that the required technical specifications and quality norms are not fulfilled by brands/companies meeting the minimum local content requirement. All Ministries/Departments may initiate disciplinary action against the erring officials whenever PPP-MII Order is flouted with malafide intent.
 (Action : All Ministries/Departments)

Agenda 8: Disposal of grievances raised by companies

Agenda No.8.1 : Grievance raised by Electronic Payment and Services Pvt. Ltd.

The grievance of the representative of the complainant Electronic Payment and Services Pvt. Ltd. (EPS) was heard. EPS has complained that Punjab National Bank (PNB) and IDBI Bank have imposed restrictive conditions in the tender floated by them thereby denying equal opportunity. M/s EPS has stated that following discriminatory conditions have been included in the tender documents of PNB :-

- (i) Bidder should have provided ATM Managed Services for at least 10,000 ATMs/BNAs in India in the scheduled commercial Banks at any point of time during last one year from date of submission of Bids.
- (ii) The bidder should be a financially strong company with an annual turnover of at least Rs.500 crores for the last financial year of 2016-17; should also have "Positive Net Worth" as per its latest audited balance sheet for the year ending 31st March, 2017.

It was noted that the conditions imposed by CPWD appears to be restrictive against domestic manufacturers. MoHUA was therefore requested to review the same at the earliest and modify the same suitably.

(Action : Ministry of Housing & Urban Affairs)

Agenda No. 8.3 : Grievance raised by M/s Polygamma Industries Private Limited

The grievance of the representative of the complainant M/s Polygamma Industries Pvt. Ltd. was heard. M/s Polygamma has raised the grievance related to the tender issued by NBCC (India) Ltd. in the procurement of EPDM Waterproofing Membrane by for the AIIMS Re-development Project. The company has alleged that for purchase of the above item, foreign make brands viz. Carlisle, Firestone were specified 'pre-approved list', whereas other brands like Pidilite and STP, who are not manufacturers, were also listed in the 'pre-approved list'. The name of 'Polygamma', a local manufacturer, which was earlier approved by NBCC, has been removed for the concerned tender.

The matter was deliberated in the meeting and it was noted that inclusion of foreign brands/companies in the 'pre-approved list' is against the spirit of 'PPP-MII Order'; and only domestic brands that meet the minimum local content should be considered for inclusion in the 'pre-approved list'. Wherever it is felt that the required technical specifications and quality norms are not met indigenously, then only foreign brands/companies may be included after due diligence.

Representative of MoHUA was asked to review the matter and issue the directions to all PSUs/attached offices/ subordinate officers including CPWD, NBCC, DDA etc. for compliance of PPP-MII Order and ensure that only domestic brands that meet the minimum local content should be considered for inclusion in the 'pre-approved list'.

(Action : Ministry of Housing & Urban Affairs)

Agenda No. 8.4 : Grievance raised by M/s OMEGA Elevators

The grievance of the representative of the complainant M/s OMEGA Elevators was heard. The company has complained regarding CPWD Notification No. DG/SE/TAS(E)/Enlist. Rules-Lifts-A/01 DATED- 10.4.2018 for enlistment of class-A Suppliers. The company has claimed to meet qualified criteria for registration of category A or type A building as they have been registered with CPWD. However, they have complained that in a recent enlistment of class A supplier of CPWD, they have been delisted due to turn over criteria of 500 crore for five consecutive years, which they feel is on higher side as the lift are to be installed by CPWD is valued upto Rs. 20 Cr. The applicant company has requested to make amendment in the notification of CPWD, which states the turnover criteria of Rs.500 Cr in five consecutive years.

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of local suppliers who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier. Therefore, eligibility conditions, including on matters like turnover, production capability and financial strength in the tender should be in consonance with the approximate tender value/quantity. Further, Ministry of Health & Family Welfare has already issued directions that foreign certifications, such as CE/USFDA, should not be mandatory for bid participation and equivalent Indian certification should be given. Therefore, inclusion of such certification is discriminatory against domestic suppliers.

Ministry of Health & Family Welfare was requested to review the matter and provide their comments/ action taken to the Standing Committee at the earliest.

It was also decided that M/o H&FW may issue directions to all the AIIMS for compliance of PPP-MII Order and desist from inclusion of such discriminatory or restrictive conditions against local suppliers.

(Action : Ministry of Health & Family Welfare)

Agenda No. 8.7 : Grievance raised by Telecom Equipment and Services Export Promotion Council (TEPC)

The grievance of the representative of the complainant M/s TEPC was heard. TEPC has complained regarding tender issued by PGCIL for procurement of Telecom equipment(DWDM) package –U under Augmentation of Telecom Backbone and access Network. TEPC has complained that following restrictive conditions have been included in the tender:-

- (i) Turnover criterion of Rs. 138 crore per year for best last three years out of 5 years is far high than the government policy for micro and small units at Rs 5/75 crores.
- (ii) clause 2(b) of the tender prescribing "experience for Indian bidder to have installed, tested, and commissioned at least 25 add drop nodes of 32 channels 10G or above DWDM system in one or more contracts in last 7 years, which should have been in satisfactory operation" restrictive for local bidder.

It was noted that as per para 10(b) of PPP-MII Order, 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 local suppliers who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier. Therefore, eligibility conditions, including on matters like turnover, production capability and financial strength in the tender should be in consonance with the approximate tender value/quantity.

Ministry of Power was requested to review the matter and provide their comments/ action taken to the Standing Committee at the earliest.

(Action :Ministry of Power)

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In this regard, the following decision taken in the CoS meeting dated 21.5.2018, was also noted:-

"Central Ministries/Departments may specify in all Central Sector Schemes/ Centrally Sponsored Schemes (CS/CSS) that the procurement made by States and Local Bodies would come within the purview of PPP-MII Order, if that project / scheme is fully / partly funded by Government of India."

In view of the above, the Standing Committee decided that the PPP-MII Order is applicable to procurement under Bharat Net-2 programme as also other projects funded from USOF. The decision taken in the 3rd Standing Committee meeting held on 23.4.2018 stands modified to this extent.

Representative of Deptt. of Telecommunication informed that the necessary orders for compliance of PPP-MII Order in respect of USOF are being issued shortly. Deptt. of Telecommunications was requested to inform the Standing Committee after issuing the Orders.

(Action :Dept. Of Telecommunication)

Agenda No. 8.9 : Grievance raised by M/s Coral Telecom Limited

The grievance of the representative of the complainant M/s Coral Telecom Limited was heard. The company has complained regarding tender issued by Workshop Projects Organisation, Patna under Ministry of Railways for supply of Supply, installation, testing and commissioning of Voice communication system with facility of LAN connectivity, Wi Wi-Fi, Internet/Railnet and BSNL connectivity through a secured wireless link (Licence free) in Staff colony, Staff rest house, Health unit at Rail Wheel Plant, Bela. The company has complained that tender has asked for Server/Media Gateway of Gartner's Magic Leader quadrant Product and the Gartner Magic Quadrant is a foreign certification body. Gartner Leader Magic Quadrant clause in the tender is restrictive for participation of domestic manufacturer.

It was noted that the Gartner Magic Quadrants is a research methodology and visualization tool for monitoring and evaluating the progress and positions of companies in a specific, technology-based market by Gartner, a company based in USA.

The matter was deliberated and it was concluded that specifying one certification body, and that a foreign one like Gartner, appears to be a restrictive clause against local suppliers. The Ministry of Railways should review the tender for suitable modification of this clause.

(Action :Ministry of Railways)

Agenda No. 8.10 : Grievance raised by Shri Vikrant Life Sciences Pvt. Ltd.

The grievance of the representative of the complainant M Shri Vikrant Life Sciences Pvt. Ltd. was heard. The company has complained regarding tender issued by

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It has also been pointed out by the company that an earlier tender (for 660MW plants) had as qualifying criteria, the supply of 1 Air Cooled Condenser (ACC) for 200 MW Power Plant which has been in commercial operation for at least one year. But now the qualification criterion has been raised to 500 MW (for an 800MW plant), whereas the complainant meets the condition for a 300 MW Plant. It is alleged that the qualifying bar has been raised so high only to keep Indian bidders out of the fray. The complainant thus claims that the terms of the tender have been designed to favour foreign suppliers. Further, the tender stipulates that the factory for which the equipment will be supplied should be the one used in the earlier project. However, the main tender of NTPC, which is the client on whose behalf BHEL is undertaking the procurement, had no such requirements for factory qualification. This clause effectively excludes the use of M/s PCTL's Vadodara facility for manufacture of tube bundles.

The matter was raised with Dept. of Heavy Industry. DHI vide D.O. letter dated 27.07.2018 conveyed that the said tender was floated by BHEL based on the Pre-Qualification Requirements (PQRs) formulated by NTPC in its tender floated on 31.08.2016, before the issue of DIPP's order dated 15.06.2017, and thus implying that the PPP-MII Order would not be applicable.

It was noted as the BHEL tender for ACC Package for 3x800 MW Patratu Project was issued only on 14.11.2017, i.e. after the PPP-MII Order had come into force, as such, the provisions of PPP-MII Order are definitely applicable to the procurement undertaken by BHEL. Also, BHEL has included the stipulation that the factory for which the equipment will be supplied should be the one used in the earlier project. However, the main tender of NTPC, which is the client on whose behalf BHEL is undertaking the procurement, had no such requirements for factory qualification. Therefore BHEL has changed the conditions stipulated in the tender of NTPC.

The matter was deliberated and the Standing Committee was of the view that PPP-MII Order is applicable in the above tender. Accordingly, Ministry of Power should issue directions to NTPC and BHEL for compliance of the PPP-MII Order. As regards to "qualification criteria of 500 MW/300 MW and the requirement that factory for which the equipment will be supplied should be the one used in the earlier project", Ministry of Power may examine the issue and decide on suitability of including these conditions in the tender by BHEL. Ministry of Power may also ensure that no discriminatory and restrictive conditions against domestic suppliers are included in the tender.

(Action :Ministry of Power)

The meeting ended with the vote of thanks to the Chair.
