

No.P-45021/52/2019-PP(BE-II)(E-28262)
Government of India
Ministry of Commerce and Industry
Department for Promotion of Industry and Internal Trade
(Public Procurement Section)

Udyog Bhawan, New Delhi
Dated March 13, 2020

OFFICE MEMORANDUM

Subject: Public Procurement (Preference to Make in India) Order 2017 –
Action points Para 9(iii), 9(v), 9(vi) and 9(vii) emerged during CoS meeting
held on 21.02.2020 – regarding.

The undersigned is directed to refer to the minutes of Committee of Secretaries (CoS) meeting held under the Chairmanship of Cabinet Secretary on 21.02.2020.

2. After detailed deliberations, the Committee recommended inter alia the following:

9(iii) "All Ministries/Departments may ensure that they publish their procurement projections for the next 3-5 years for their high value goods and commonly procured goods. The projections may be shared with DPIIT, D/o Commerce and GeM. Stakeholder meetings may be held by the Ministries/Departments to inform domestic manufacturers of these projections. DPIIT may monitor the publication of these projections and report status details of publication to the cabinet Secretariat".

9(v) "It is clarified that if a country does not procure globally particular sector, Indian manufacturers are being excluded in that particular country and the reciprocity clause as per clause 10(d) of the PPP-MII Order 2017 may be invoked".

9(vi) "Clause 10(c) of the PPP-MII Order 2017 may be invoked when restrictive practices are employed which have a direct or indirect effect of barring Indian companies from participating in public procurement of any country. These include not allowing participation of foreign companies in general and Indian companies in specific in public procurement insistence on restrictive conditions such as registration in the procuring country/execution of projects of specific value in the procuring country etc".

9(vii) "All Ministries/Departments may ensure that tender documents state that Clause 10(d) of the PPP-MII Order 2017 will be invoked wherever applicable. In case of invocation of the reciprocity clause under clause 10(d) of the PPP-MII Order 2017, single bids can be accepted. In order to control tender pricing, benchmarking of prices may be done".

2. Public Procurement (Preference to Make in India) Order, 2017 (PPP-MII Order) amended as on 29.05.2019 may be accessed at <https://dipp.gov.in/public-procurements>

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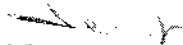
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FILE NO. P-4502/152/2019-DE-II

3. In view of the above, all Ministries / Departments are requested to kindly comply with the above recommendations and send an action taken report to this Department latest by 24.03.2020 by email (in pdf and MS Word formats) to pps-dipp@gov.in, dvsp.varma@nic.in and rajesh.gupta66@gov.in for placing before forthcoming CoS meeting.

4. This issues with the approval competent authority.


(D.V.S.P. Varma)
Under Secretary to Govt. of India
Tele: 23061257

To

Secretaries of all Ministries / Departments of Government of India

SECRET

No. 082/2/4/2016-CA.IV/CA.V(Vol. II)
GOVERNMENT OF INDIA/BHARAT SARKAR
CABINET SECRETARIAT/MANTRIMANDAL SACHIVALAYA
RASHTRAPATI BHAVAN

New Delhi, dated 27th February, 2020

Subject: Procurement in the Indian Railways.

Please find enclosed herewith, a copy of the minutes of the meeting of Committee of Secretaries (CoS) held at 03.00 P.M. on 21st February, 2020 in the Committee Room of Cabinet Secretariat, Rashtrapati Bhawan, New Delhi, on the above subject. Action taken on the recommendations may kindly be uploaded on e-Samiksha Portal.

Encl: Doc. No. (C.A.V): 15/2020

सचिव (उ.सं.अ.वा.वि.)

Secretary (P.A.U.)

आवृत्ति सं./Copy No.

दिनांक/Date

P-199970

28/2/20

To

1. Chairman, Railways Board
2. CEO, NITI Aayog
- ✓ 3. Secretary, Deptt. for Promotion of Industry and Internal Trade
4. Secretary, D/o Expenditure
5. Secretary, D/o Commerce
6. CEO, Government e-Marketplace

Copy forwarded to:

1. Principal Secretary to Prime Minister
2. Principal Advisor to Prime Minister

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 (Amrapali Kata)
 Deputy Secretary
 Tele No: 23013507

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SECRET

Copy NO. 3

No. 082/2/4/2016. CA.IV/CA.V(Vol.II)
GOVERNMENT OF INDIA/BHARAT SARKAR
CABINET SECRETARIAT/MANTRIMANDAL SACHIVALAYA
RASHTRAPATI BHAVAN

Encl: Doc. No. (C.A.V): 15/2020**Minutes of the Meeting**

Date of Meeting : 21.02.2020
Time of Meeting : 3.00 p.m.
Venue : Committee Room, Cabinet Secretariat

PRESENT

1. Shri Rajiv Gauba, Cabinet Secretary
2. Dr. V.P. Joy, Secretary (C), Cabinet Secretariat
3. Shri Vinod Kumar Yadav, Chairman, Railway Board
4. Dr. Guruprasad Mohapatra, Secretary, Deptt. for Promotion of Industry and Internal Trade
5. Dr. T. V. Somanathan, Secretary, D/o Expenditure
6. Shri Anup Wadhawan, Secretary, D/o Commerce
7. Shri P.C. Sharma, Member (Material Management), Railway Board
8. Shri Vishwesh Chaube, Member (Engineering), Railway Board
9. Shri Rameshwar Prasad Gupta, Spl. Secretary, NITI Aayog
10. Shri Giridhar Aramane, Additional Secretary, Cabinet Secretariat
11. Ms. Rasika Chaube, Additional Secretary, M/o Steel
12. Shri Talleen Kumar, CEO, Government e-Marketplace
13. Shri Arun Goel, Joint Secretary, D/o Commerce
14. Shri S.K. Saha, Advisor, NITI Aayog
15. Shri A.S. Yadav, Executive Director, Railway Board
16. Shri Manoj Kumar Gupta, Executive Director, Railway Board
17. Shri A.K. Khandelwal, EDTK(MC), Railway Board
18. Ms. Amrapali Kata, Deputy Secretary, Cabinet Secretariat

Subject: Procurement in the Indian Railways.

A meeting was held under the chairmanship of Cabinet Secretary on 21.02.2020 at 03.00 P.M. in the Committee Room, Cabinet Secretariat, Rashtrapati Bhawan to consider the subject mentioned above.

2. Initiating the discussion, the Chairman Railway Board stated that the procurement process for goods and works in the Indian Railways has been digitized end to end. The total annual procurement of Indian Railways is Rs 1.54 lakh crore (2018-19) with goods procurement amounting to Rs 72600 Cr; works procurement amounting to Rs 74000 Cr and service procurements amounting to Rs 2000 Cr. Procurement on GeM was restricted to common use goods and services and amounted to Rs 72 Cr in 2017-18; Rs 588 Cr in 2018-19; and Rs 600 Cr in 2019-20 (till 15.02.2020). Several reasons to explain the low quantum of procurement on GeM including lack of demand aggregation; challenges of

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handling multiple consignees etc. were presented by Chairman Railway Board. It was stated that efforts are underway to work with GeM so that it may cater to the the needs of Indian Railways.

3. The Executive Director, Railway Board stated that indigenization efforts are being made through developmental tenders; developmental orders; partnerships with Indian firms; and foreign manufacturers setting up units in India. Further, global tenders are called only in case of local capacity/ capability/ competition. Other efforts to encourage Make in India include a Phased Manufacture Program where items are procured under technology transfer or license; insistence on a joint venture with Indian firms for works with foreign members; and insistence on 50% minimum local content. Zonal Railways and Production Units have been advised to upload procurement projections for next 3-5 years.

4. The Executive Director, Railway Board stated that the requests made by M/s Plasser and M/s Bharat Forge for invocation of clause 10(d) of Public Procurement (Preference to Make in India) Order, 2017 (PPP-MII Order, 2017) had been examined and it was found that China does not call for Railways related global tenders as their domestic manufacturing capacity is sufficient to meet its needs. The vendors were unable to produce any documentation of specific targeting against India and it was felt that invoking the clause 10(d) may increase the cost of procurement significantly. It was observed that not calling for tenders in which Indian companies can participate is itself a restrictive practice and needs to be countered by reciprocal action.

5. The Executive Director, Railway Board stated that four UNESCO certified Mountain Railways lines have been identified for privatization and the feasibility study of asset monetization is to be completed by the end of March 2020. Monetization of Karnail Singh Stadium, Delhi has been found viable and the transaction advisor is expected to be finalized by 30.06.2020. A total of 50 railway stations have been identified for monetization. Of these the monetization of 2 stations is expected to be completed in 2020, tenders have been awarded for 4 stations, RFQs have been issued for 6 and RFQs for the remaining 38 will be invited by September 2020. 100 routes have been identified for introduction of private operations of passenger trains and the RFQs will be issued in March 2020.

6. The CEO GeM stated that meetings had been held with Indian Railways to understand their requirements and 52 action items had been identified of which GeM would have resolved 26 items by the end of February 2020. An analysis had been done of the tenders issued by the Indian Railways and it was found that goods worth Rs 7500 cr which were available on GeM had been procured using other platforms. It was suggested that this list be shared with Indian Railways to enable them to modify their procurement processes.

7. Secretary D/o Promotion of Industry & Internal Trade (DPIIT) suggested that there is a need to track the procurements of 20-30 largest CPSEs/CPSUs to increase procurement on GeM. Further, it was suggested that the exercise of projecting future procurement must include both high value projects/goods and commonly procured goods.

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8. Secretary D/o Expenditure suggested that tender documents should state that Clause 10(d) of the PPP-MII Order 2017 will be invoked wherever applicable. Procuring administrative units must understand that in case of invocation of the reciprocity clause under clause 10(d) of the PPP-MII Order 2017, single bids can be accepted. In order to control tender pricing, benchmarking of prices may be done.

9. After detailed deliberations, the CoS recommended the following:

- i. It was observed that the utilization of GeM by the Indian Railways is minimal. CEO GeM may work with Indian Railways on adapting GeM and its service structures to the needs of the Indian Railways. Chairman Railway Board may ensure enhancement in the coverage of procurement on GeM to all goods and services purchases, except project procurements.
- ii. CEO GeM may analyse the procurement of the 50 largest (in terms of procurement) CPSEs/CPSUs and identify gaps where procurement is not being done on GeM. CEO, GeM may ensure that all line Ministries/Departments are informed of the availability of items commonly procured by them. A report may be prepared by CEO, GeM and shared with the line Ministries/Departments and Cabinet Secretariat.
- iii. All Ministries/Departments may ensure that they publish their procurement projections for the next 3-5 years for their high value goods and commonly procured goods. The projections may be shared with DPIIT, D/o Commerce and GeM. Stakeholder meetings may be held by the Ministries/ Departments to inform domestic manufacturers of these projections. DPIIT may monitor the publication of these projections and report status details of publication to the Cabinet Secretariat.
- iv. Indian Railways may implement the clause 10(d) of the PPP-MII Order 2017 in true spirit to encourage domestic manufacturing.
- v. It is clarified that if a country does not procure globally in a particular sector, Indian manufacturers are being excluded in that particular country and the reciprocity clause as per clause 10(d) of the PPP-MII Order 2017 may be invoked.
- vi. Clause 10(d) of the PPP-MII Order 2017 may be invoked when restrictive practices are employed which have a direct or indirect effect of barring Indian companies from participating in public procurement of any country. These include not allowing participation of foreign companies in general and Indian companies in specific in public procurement; insistence on restrictive conditions such as registration in the procuring country/execution of projects of specific value in the procuring country etc.
- vii. All Ministries/Departments may ensure that tender documents state that Clause 10(d) of the PPP-MII Order 2017 will be invoked wherever applicable. In case of invocation of the reciprocity clause under clause 10(d) of the PPP-MII Order 2017, single bids can be accepted. In order to control tender pricing, benchmarking of prices may be done
- viii. Chairman, Railway Board may identify cases of inverted duty structure which may be discouraging domestic manufacturing and ensure rectification in coordination with D/o Commerce and D/o Revenue.

- ix. D/o Revenue make proactively identify cases of inverted duty structures creating competitive disadvantage to Indian manufacturing and take steps to rectify them.
 - x. Chairman, Railway Board may compress the proposed deadlines for completion of the asset monetization process. The Departmental Asset Monetization team may be strengthened and private sector consultants may be utilized to ensure expeditious completion of asset monetization.
 - xi. Chairman, Railway Board may re-examine the scale of asset monetization particularly with respect to stations and routes and expand it significantly. Detailed timelines and milestones of asset monetization may be prepared for station redevelopment in consultation with NITI Aayog and shared with the CoS. Entrustment of the station redevelopment projects for all 50 identified stations may be completed within 6 months.
 - xii. Cabinet Secretariat may schedule a follow-up CoS meeting in a month to examine the steps taken to increase procurement on GeM and status of asset monetization.
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