

BITES Ltd. /Contract Policy Cell/Gurugram
E-Tendering Document for works Feb 2023

Correction Slip No. 9

(1) SECTION 1 - NOTICE INVITING TENDER AND INSTRUCTIONS TO TENDERERS

The existing Clause 12.15 may be deleted and replaced with the following:

12.15 Preference to Make in India:

(This clause shall be applicable for the tenders having estimated cost put to tender is equal to or more than Rs. 5.00 Lakhs)

To encourage 'Make in India' and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, Department of Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry, Government of India, issued Public Procurement (Preference to Make in India), Order 2017 (Latest order being Order No. P-45021/2/2017-PP (BE-II)-Part(4)Vol.II dated 19th July, 2024). The Order is applicable on the procurement of Goods, Works and Services. The Provisions of the Make in India Policy 2017 issued by Govt. of India, as amended from time to time, shall be followed for consideration of the present tender.

The salient features of the policy and specific provisions as applicable to this tender are indicated below. In case of any contradiction of the provisions mentioned herein below and the latest policy as mentioned above, the provisions of the policy issued by Department for Promotion of Industry and Internal Trade (Public Procurement Section) shall take precedence:

1. Definitions:

'Local content' means the amount of value added in India which shall be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.

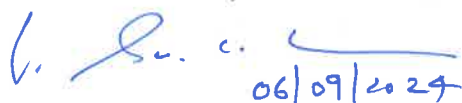
Explanatory notes for calculation of local content given above:

- a. Imported items sourced locally from resellers/distributors shall be excluded from calculation of local content.
- b. The license fees/royalties paid/ technical charges paid out of India shall be excluded from local content calculation.
- c. Procurement/Supply of repackaged/refurbished/rebranded imported products as understood commonly shall be treated as reselling of imported products and shall be excluded from calculation of local content. The definition of repackaged/refurbished/rebranded imported products is as follows;

'Refurbishing' means repair or reconditioning of an imported product does not amount to manufacture because no new goods come into existence.

'Repackaging' means repacking of imported goods from bulk pack to smaller packs would not ordinarily amount to manufacture of a new item.

'Rebranding' means relabeling or renaming or change in symbol or logo/makes or


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corporate image of a company/organization/ firm for an imported product would amount to rebranding.

- d. To ensure that imported items sourced locally from resellers/distributors are excluded from calculation of local content, RITES to obtain from bidders, the cost of such locally-sourced imported items (Inclusive of taxes) along with break-up on license/royalties paid/technical expertise cost etc. sourced from outside India. For items sold by bidder as reseller, OEM certificate for country of origin to be submitted.
- e. For contracts involving supply of multiple items, weighted average of all items to be taken while calculating the local content.

'Class-I local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content equal to or more than 50%, as defined under this clause.

'Class-II local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content more than 20% but less than 50%, as defined under this clause.

'Non - Local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than or equal to 20%, as defined under this clause.

'L1' means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.

'Nodal Ministry' means the Ministry or Department identified pursuant to Public Procurement (Preference to Make in India), Order 2017 (Latest order being Order No. P-45021/2/2017-PP (BE-II)-Part(4)Vol.II dated 19th July, 2024) in respect of a particular item of goods or services or works.

'Margin of Purchase Preference' means the maximum extent to which the price quoted by a "Class-I local supplier" may be above the L1 for the purpose of purchase preference.

'Procuring entity' means RITES Ltd.

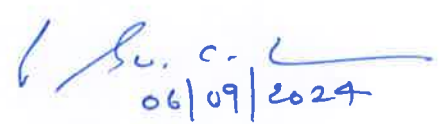
'Works' means all works covered in the scope of work in this tender.

1A. Special treatment for items covered under PLI Scheme

The manufacturers manufacturing an item under PLI scheme shall be treated as deemed Class II local supplier for that item unless they have minimum local content equal to or higher than that notified for Class-I local supplier for that item, provided the manufacturer has received incentive from the concerned PLI Ministry for the item. The above shall be applicable for the specific time period only, as notified by concerned PLI Ministry.

2. Eligible bidder in this tender: 'Class-I local supplier'

Notes for Guidance of Tender Preparing Authority and Tender document


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approving Authority:

Note 1- As per para 3 (a) of the 'Make in India', Policy issued vide No. P-45021/2/2017-PP (BE-II)-Part(4)Vol.II dated 19th July, 2024 only 'Class-I Local Supplier' are eligible to Bid for "Works" tenders where sufficient local capacity and competence is available, irrespective of the purchase value. Accordingly, only Class-I Local suppliers have been allowed to bid in this tender.

Note 2- In case of special works which can allow participation of Class-II Local Supplier/ Non- Local Supplier besides Class-I Local suppliers, cases shall be dealt as per the provisions of 'Make in India Policy". Accordingly, the provisions of this clause 12.15 shall be prepared by Tender Preparing Authority and shall be checked by Tender document approving authority before according approval. For this purpose, Para 3A along with its Sub-paras of Public Procurement (Preference to Make in India), Order No. P-45021/2/2017-PP (BE-II)-Part(4)Vol.II dated 19th July, 2024 may be read carefully.

Note 3- Mandatory sourcing of items, with sufficient local capacity and competition, from Class-I local suppliers in SI/EPC/Turnkey Contracts/Service Tenders

- a. The items, notified as having sufficient local capacity and competition, shall mandatory be sourced from Class-I local suppliers in SI/EPC/Turnkey Contracts/ Services tenders. This provision will be applicable only for those items which have been notified by the Nodal Ministry as Class I i.e. having sufficient local capacity and competition, with specific HSN codes.
- b. Notwithstanding above, if in any project, it is considered that it is not practically feasible to source such items from Class I local suppliers, it may take relaxation from such stipulation with the approval of Secretary of the administrative Ministry/ Department concerned or with the approval of the Competent Authority specified by the Administrative Ministry/Department, on case-specific basis.

For RITES, Administrative ministry is 'Ministry of Railways'. Railway Board has notified the specific items for which sufficient local capacity and local competition exist through various letters/orders, which are available on Railway Board website (Railway Board Directorates → Stores → Circulars → Subject wise Circular → Make_In_India). Tender Preparing Authority and Tender document approving Authority are advised to follow the same with up-to-date amendments as notified by Railway Board from time to time. Railway Board has issued the latest letter No. 2020/RS(G)/779/2/Pt.1 (E3322671) dated 20.08.2024, which is available on its website.

Note 4- Minimum local content: The 'local content' requirement to categorize a supplier as 'Class-I local supplier' is minimum 50%. For 'Class-II local supplier', the 'local content' requirement is minimum 20%. Nodal Ministry/ Department may prescribe only a higher percentage of minimum local content requirement to categorize a supplier as 'Class-I local supplier'/'Class- II local supplier'. For the items, for which Nodal Ministry/ Department has not prescribed higher minimum local content notification under the Order, it shall be 50% and 20% for 'Class-I local supplier'/'Class-II local supplier' respectively. Railway Board has notified minimum local content more than 50% for specific items through various letters/orders, which are available on Railway Board website (Railway Board Directorates → Stores → Circulars → Subject wise Circular → Make_In_India). Tender Preparing Authority and Tender document approving Authority are advised to follow the same with up-to-date amendments as notified by Railway Board from

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3. Purchase Preference

In the present tender only 'Class-I local supplier', shall be eligible to bid irrespective of purchase value.

4. Type of this Tender/Work: Works


5. The minimum local content for this tender shall be equal to or more than 50%.

6. Verification of local content:

- (a) The 'Class-I local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the item offered meets the local content requirement for 'Class-I local supplier'. They shall also give details of the location(s) at which the local value addition is made.
- (b) In cases of procurement for a value in excess of Rs. 10 crores, the 'Class-I local supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.

Note- Bidder's attention is invited to Para XV in Proforma 1

- (c) The bidder shall give self-certification for local content in the quoted item (goods/works/services) at the time of tendering. However, at the time of execution of the project, for all contracts above INR 10 Crore, the contractor/supplier shall be required to give local content certification duly certified by cost/ chartered accountant in practice. For cases where it is not possible to provide certification by Cost/Chartered Accountant at the time of execution of project, the supplier shall be permitted to provide the certificate for local content from Cost/ Chartered Accountant after completion of the contract, within time limit acceptable to the RITES. In case the contractor/ supplier does not meet the stipulated local content requirement and the category of the supplier changes from Class-I to Class-II/ Non-local or from Class-II to Non-local, a penalty upto 10% of the contract value may be imposed. However, contract once awarded shall not be terminated on this account.
- (d) Complaints about local content declarations/verification of local content shall be processed/addressed as per Public Procurement (Preference to Make in India), Order No. P-45021/2/2017-PP (BE-II)-Part(4)Vol.II dated 19th July, 2024.


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(e) In case of false declaration by Class-I local supplier or submission of false certificate, Banning of Business Dealings shall be done with defaulter as per the Guidelines given in Sub-clause 11.2B.

7. Exemption in sourcing of spares and consumables of closed systems:

Procurement of spare parts, consumables for closed systems and Maintenance/Service contracts with Original Equipment Manufacturer/Original Equipment Supplier/Original Part Manufacturer shall be exempted from Public Procurement (Preference to Make in India), Order 2017 (Latest order being Order No. P-45021/2/2017-PP (BE-II)-Part(4)Vol.II dated 19th July, 2024).

8. Reciprocity Clause

Reciprocity Clause as mentioned in Public Procurement (Preference to Make in India), Order 2017 (Latest order being Order No. P-45021/2/2017-PP (BE-II)-Part(4)Vol.II dated 19th July, 2024) shall be applicable in this Tender.

Entities of countries which have been identified by the nodal Ministry/Department as not allowing Indian companies to participate in their Government procurement for any item related to that nodal Ministry shall not be allowed to participate in Government procurement in India for all items related to that nodal Ministry/ Department, except for the list of items published by the Ministry/ Department permitting their participation.

Note to Tender Preparing Authority and Tender document approving Authority:


Tender Preparing Authority and Tender document approving Authority may kindly read provisions of Reciprocity Clause as given in Public Procurement (Preference to Make in India), Order 2017 (Latest order being Order No. P-45021/2/2017-PP (BE-II)-Part(4)Vol.II dated 19th July, 2024). Para 10 (d) (i) of Public Procurement (Preference to Make in India), Order No. P-45021/2/2017-PP (BE-II)-Part(4)Vol.II dated 19th July, 2024 is reproduced below for the attention of Tender Preparing Authority and Tender document approving Authority .

“When a Nodal Ministry/Department identifies that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, due to restrictive tender conditions which have direct or indirect effect of barring Indian companies such as registration in the procuring country, execution of projects of specific value in the procuring country etc., it shall provide such details to all its procuring entities including CMDs/CEOs of PSEs/PSUs, State Governments and other procurement agencies under their administrative control and GeM for appropriate reciprocal action.”

9. Manufacture under license/ technology collaboration agreements with phased indigenization: *Applicable/*Not Applicable (*Strike out whichever is not applicable)

Note to Tender Preparing Authority and Tender document approving Authority:

Tender Preparing Authority and Tender document approving Authority may kindly see if this provision is applicable to the subject tender and if this provision is applicable, the same may be provided in the subject tender. For information of Tender Preparing Authority and Tender document approving Authority, the Para no. 13 and 13A of Public Procurement (Preference to Make in India), Order 2017 (Order No. P-45021/2/2017-PP (BE-II)-Part(4)Vol.II dated 19th July, 2024) are reproduced below:


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“Para No. 13: 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.

Para No. 13A: In procurement of all goods, services or works in respect of which there is substantial quantity of public procurement and for which the nodal ministry has not notified that there is sufficient local capacity and local competition, the concerned nodal ministry shall notify an upper threshold value of procurement beyond which foreign companies shall enter into a joint venture with an Indian company to participate in the tender. Procuring entities, while procuring such items beyond the notified threshold value, shall prescribe in their respective tenders that foreign companies may enter into a joint venture with an Indian company to participate in the tender. The procuring Ministries/Departments shall also make special provisions for exempting such joint ventures from meeting the stipulated minimum local content requirement, which shall be increased in a phased manner.”

No. RITES/CPC/Correction Slip No. 9 (E-Tendering Document for Works)

Date: 06.09.2024

The above Correction Slip No. 9 to RITES E-Tendering Document for Works, February-2023 is issued with the approval of the competent authority.



(Murali Krishna Krovvidi)
GGM/CPC

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1. Secy. to CMD/DP/DT/DF for kind information CMD/DP/DT/DF please.
2. CVO for kind information please.
3. All Country Heads, Vertical Heads, Regional Heads & PU/Sub-Unit/RIO Heads
4. GM/IT for getting uploaded on RITES website under Tenders → Standard Tender Document & GCC for Works → Standard E-Tender Document for Works Feb-23 (Correction slip No. 9) and on RITES ESS portal/ CPC Documents Tab