

**NTPC LIMITED**  
**(Corporate Contracts-Planning & Systems Group)**

Ref. No.: CS-QS-C-819

Date 25.11.2020

**CIRCULAR NO. 819**

**Sub: Implementation of 'Public Procurement (Preference to Make In India), Order 2017' (PPP-MII Order) in contracts / procurement in NTPC – regarding**

It is the policy of the Government of India to encourage 'Make in India' and promote manufacturing and production of Goods and Services in India with a view to enhancing income and employment within country. In this regard, Department for Promotion of Industry and Internal Trade (DPIIT) had issued following orders:

- Public Procurement (Preference to Make in India), Order 2017' (PPP-MII Order) dated 15.06.2017
- Revised 'PPP-MII Order 2017' dated 28.05.2018
- Revised 'PPP-MII Order 2017' dated 29.05.2019

In addition, Ministry of Power (MoP), Government of India, had issued orders dated 20.12.2018 and 28.12.2018 specifying Minimum Local Content for various item(s)/ System(s) applicable for Power Sector.

Accordingly, CS-P&S Circular No. 770 dated 16.11.2018, Circular No. 779 dated 30.04.2019 and 801(R) dated 17.04.2020 were issued for Implementation of 'Public Procurement (Preference to Make in India), Order 2017 including subsequent revisions thereof and MoP orders as mentioned above.

In the meantime, MoP issued additional guidelines vide Order dated 17.03.2020 and a combined order dated 04.04.2020 in pursuance to aforesaid 'PPP-MII Order 2017'.

Subsequent to above orders, DPIIT vide order No. P-45021/2/2017-PP (BE-II) dated 4<sup>th</sup> June, 2020, have issued the revised Public Procurement (Preference to Make in India) Order 2017. Accordingly, Ministry of Power has issued Order dated 28.07.2020 (copy enclosed as **Appendix-I**) superseding its earlier orders dated 20.12.2018, 28.12.2018, 17.03.2020 and 04.04.2020.

Further, DPIIT vide order No. P-45021/2/2017-PP (BE-II) dated 16.09.2020, have issued the revised Public Procurement (Preference to Make in India) Order 2017.

In view of recent guidelines of DPIIT and MOP with regard to preference to Make In India, the provisions of Circular No. 779 and 801 (R) have further been reviewed. The revised guidelines superseding the aforementioned circulars are brought out hereunder:

**1.0 Definitions:**

a) '**Local content**' means the amount of value added in India which shall, unless

otherwise prescribed by the Nodal Ministry, be the total value of the goods, services or works procured (excluding net domestic indirect taxes) minus the value of imported content in the goods, services or works (including all customs duties) as a proportion of the total value, in percent.

- b) **'Class-I local supplier'** means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed.

**'Class-II local supplier'** means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for 'Class-II local supplier' but less than that prescribed for 'Class-I local supplier'.

**'Non-Local supplier'** means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than that prescribed for 'Class-II local supplier'.

- c) **'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.
- d) **'Margin of purchase preference'** means the maximum extent to which the evaluated bid price of a "Class-I local supplier" may be above the L1 for the purpose of purchase preference.
- e) **'Nodal Ministry'** means the Ministry or Department identified pursuant to PPP-MII order dated 16.09.2020 in respect of a particular item of goods or services or works.
- f) **Fraud Prevention Policy** – shall mean the policy related to prevention of fraud displayed on NTPC tender website <http://www.ntpctender.com>.
- g) **Policy & Procedure for Withholding & Banning of Business Dealings** – shall mean the policy related to Withholding & Banning of Business Dealings forming part of Bidding Document.
- h) **'Works'**, for the purpose of these guidelines, means all works including turnkey works and EPC works.
- i) **'Services'**, for the purpose of these guidelines, means all services which may include System Integrator Contracts depending upon the nature of package.

## 2.0 Eligibility of 'Class-I local supplier'/ 'Class-II local supplier'/ 'Non-local suppliers' for different types of procurement:

### 2.1 Procurement of Goods and / or Services or Works where there is sufficient Local Capacity

In procurement of all Goods and/or Services or Works in respect of which there is sufficient local capacity and local competition (list enclosed as **Annexure-I**), **only "Class-I Local Supplier"**, shall be eligible to bid irrespective of purchase value. In such

cases, bids of Class-II Local Suppliers and Non-Local Suppliers, if received, shall be out rightly rejected.

All tenders in such cases shall be issued adopting DCB mode of tendering, wherever open tendering is envisaged.

## **2.2 Procurement of Goods and / or Services or Works / Packages not covered by sub-para 2.1 above**

### **2.2.1 Tenders with estimated value of purchases less than Rs. 200 Crore (excluding taxes and duties)**

**2.2.1.1** In procurement of all Goods and / or Services or Works / Packages not covered by sub-para 2.1 above, and with estimated value of purchases less than Rs. 200 Crore (excluding taxes and duties), tenders on ICB (International Competitive Bidding) basis shall not be issued, wherever open tendering is envisaged, except with the approval of the competent authority as designated by Department of Expenditure (refer **Appendix-II**). **Only 'Class-I local supplier' and 'Class-II local supplier' shall be eligible to bid** in such tenders, except when tenders have been issued on ICB basis. Further in such cases, bids of Non-Local Suppliers, if received, shall be out rightly rejected.

In ICB tenders, 'Non-local suppliers' shall also be eligible to bid along with 'Class-I local suppliers' and 'Class-II local suppliers'.

In all such cases from Sites/ Regions/ SSCs/ Corporate Centre, the provisions for evaluation and purchase preference as specified in para 4.0 below shall be applicable.

**2.2.1.2** In exceptional cases where tenders to be issued on ICB (International Competitive Bidding) basis, approval of the competent authority as designated by Department of Expenditure, shall be obtained as per the following procedure:

- (a) In case of adopting ICB mode of tendering for packages for which package list is yet to be approved, approval for adopting ICB mode of tendering from designated authority as referred in Para 2.2.1.1 shall be obtained by the concerned Indenting deptt. before the process of Package list approval.
- (b) Further, in cases, where Package List has already been approved prior to issuance of this order and mode of tendering for a package(s) has been specified as ICB and the tender is yet to be issued, the bids shall be invited on DCB basis for such package(s). However, in case, it is felt utmost necessary to adopt ICB mode of tendering for such package(s), necessary approval from designated authority as referred in Para 2.2.1.1 for the same shall be obtained by concerned Indenting department.
- (c) In case of Goods, Services or Works/Packages not forming part of the Contract Package List, approval from designated authority as referred in Para 2.2.1.1 shall be obtained by the concerned Indenting Deptt.

In all such cases, the proposal shall also be routed through the concerned C&M Deptt. and Finance Deptt.

**2.2.2 Tenders with estimated value of purchases as Rs. 200 Crore or more (excluding taxes and duties)**

Procurement of Goods, Services or Works/Packages not covered by sub-para 2.1 above and with estimated value of purchases Rs. 200 Crore or more (excluding taxes and duties) shall be done adopting DCB mode of tendering, wherever open tendering is envisaged. In such cases, both Local (Class-I & Class-II) and Non-Local suppliers are eligible to bid.

However, in exceptional cases, where it is felt that the goods, services or works/Packages of required quality / specifications etc. may not be available in the country, or sufficient capacity or competition does not exist domestically, and it is necessary to invite bids through International Competitive Bidding (ICB), same may be done after recording necessary reasons, as per following procedure:

- (a) In case of adopting ICB mode of tendering for packages for which package list is yet to be approved, approval for adopting ICB mode of tendering shall be obtained by the indenting department from concerned Functional Director recording reasons thereof. In such cases, the proposal shall also be routed through the concerned C&M Deptt. and Finance Deptt. The approval shall be forwarded to concerned Package List Committee for inclusion in the Package List.

Further, in cases, where Package List has already been approved prior to issuance of this order and mode of tendering for a package(s), has been specified as ICB and the tender is yet to be issued, the bids shall be invited on DCB basis for such package(s). However, in case, it is felt utmost necessary to adopt ICB tendering for such package(s), approval for the same shall be taken by Indenting department from Concerned Functional Director recording reasons for adopting ICB tendering. In such cases, the proposal shall also be routed through the concerned C&M Deptt. and Finance Deptt.

- (b) In case of Goods, Services or Works/Packages not forming part of the Contract Package List, approval shall be obtained by the Indenting Deptt. from Concerned Functional Director. In such cases, the proposal shall also be routed through the concerned C&M Deptt. and Finance Deptt.

In all such cases from Sites / Regions / SSCs / Corporate Centre, the provisions for evaluation and purchase preference as specified in para 4.0 below shall be applicable.

To ascertain the availability of sufficient domestic bidders, past participation data of bidders may be followed, wherever available. In case of tenders where New Technology

/ Procurement is envisaged, Expression of Interest (Eoi) may be floated to ascertain the availability of domestic bidders.

- 2.3** In procurement of Works/Packages which interalia contain item(s) listed in **Annexure-I**, Bidder/ its Sub-vendors must be Class-I local supplier for such Item(s) in case such item(s) are Self Manufactured/ Bought-out.

**Separate guidelines issued by Corporate Engineering Department regarding provisions to be included in Tender Specifications to ensure that such item(s), wherever applicable, are supplied/sourced from Class-I Local supplier only may be referred..**

### **3.0 Margin of Purchase Preference**

The margin of purchase preference shall be 20%.

### **4.0 Purchase Preference**

Purchase preference shall be given to 'Class-I local supplier' in all Procurements / Tenders (including ICB tenders) in the manner specified hereunder :

#### **4.1 Procurements where MSE benefits are not applicable**

- (i) In all procurements where MSE benefits are not applicable and **where splitting of quantity/divisibility of tender has been specified in the bidding documents**, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:
- Among all qualified bids, the lowest evaluated bid will be termed as L1. If L1 is 'Class-I local supplier', the contract for full quantity will be awarded to L1.
  - If L1 is not a 'Class-I local supplier', 50% of the order quantity shall be awarded to L1. Thereafter, the lowest evaluated bidder among the 'Class-I local supplier' will be invited to match the lowest evaluated bid (L1) price for the remaining 50% quantity subject to the Class-I local supplier's evaluated price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the lowest evaluated bid (L1) price. In case such lowest eligible 'Class-I local supplier' fails to match the lowest evaluated bid (L1) price or accepts less than the offered quantity, the next higher 'Class-I local supplier' within the margin of purchase preference shall be invited to match the lowest evaluated bid (L1) price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.
- (ii) In all procurements where MSE benefits are not applicable and **which are not divisible in nature and the same has been specified in bidding documents**, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as

well as 'Non-local supplier', as per following procedure:

- Among all qualified bids and substantially responsive bids, the lowest evaluated bid will be termed as L1. If L1 is 'Class-I local supplier', the contract will be awarded to L1.
  - If L1 is not 'Class-I local supplier', the lowest evaluated bidder among the 'Class-I local supplier', will be invited to match the lowest evaluated bid (L1) price subject to Class-I local supplier's evaluated price falling within the margin of purchase preference, and the contract shall be awarded to such 'Class-I local supplier' subject to matching the lowest evaluated bid (L1) price.
  - In case such lowest eligible 'Class-I local supplier' fails to match the lowest evaluated bid (L1) price, the 'Class-I local supplier' with the next higher evaluated bid within the margin of purchase preference shall be invited to match the lowest evaluated bid (L1) price and so on and contract shall be awarded accordingly. In case none of the 'Class-I local supplier' within the margin of purchase preference matches the lowest evaluated bid (L1) price, the contract may be awarded to the L1 bidder.
- (iii) "Class-II local supplier" will not get purchase preference in any procurement.
- (iv) For the purpose of matching of lowest evaluated bid (L1) price, the Class-I local supplier would have to necessarily reduce all components of the quoted price on pro-rata basis. The reduction should not apply on the evaluation loading on account of functional guarantees and other loadings (if any, which are not dependent on quoted price). Further, the Contract shall be awarded on such revised/ reduced quoted price. The summation of the revised / reduced quoted price and the evaluation loading on account of functional guarantees and other loadings (if any) shall be equal to the lowest evaluated bid (L1) price.

**Notes:**

- *In case of procurement of Goods/Services/Works, other than System/Turnkey Packages, it shall be clearly specified by the Indenter in the Purchase Requisition/ Specifications whether the tender is divisible / quantities can be split or not. C&M coordinator shall check the same prior to issuance of tender and specify the same in the Bidding documents.*
- *In case of item-wise tenders, where evaluation is done for each item and each item is awarded to L1 bidder for that item, the aforesaid procedure shall be followed item-wise.*
- *In case of Reverse Auction (RA), the Purchase Preference for Class-I local suppliers shall be applicable on the lowest evaluated bid price after RA. The order in which the Class-I Local Suppliers shall be given an opportunity to match lowest evaluated bid (L1) price after RA will be in the order of their rank determined based on the evaluated bid price after RA.*

## 4.2 Procurements where MSE benefits are applicable

In order to encourage MSE vendors as per Policy of GOI for giving **preference to MSEs**, it has been decided to give preference to MSE vendors first and then invite Class-I local suppliers to match the L1 Price. Accordingly, the following methodology shall be followed:

(i) **In case of tenders, where preference to MSE is applicable and where splitting of quantity is not possible and the same is specified in bidding documents:**

The following procedure shall be followed:

- Among all qualified and substantially responsive bids, the lowest evaluated bid will be termed as L1.
- If L1 bid is from an MSE, the contract will be awarded to L1.
- If L1 Bid is not from a MSE, the lowest evaluated bidder among the MSEs, will be invited to match the lowest evaluated bid (L1) price subject to MSE's evaluated bid price falling within the fifteen (15%) of the lowest evaluated bid (L1) price and the contract shall be awarded to such MSE subject to matching the lowest evaluated bid (L1) price. In case such lowest eligible MSE fails to match the lowest evaluated bid (L1) price, the MSE with the next higher evaluated bid within fifteen (15%) of the lowest evaluated bid (L1) price shall be invited to match the lowest evaluated bid (L1) price and so on and contract shall be awarded accordingly.
- In case none of the MSEs within the fifteen (15%) of the lowest evaluated bid (L1) price matches the lowest evaluated bid (L1) price, then the contract may be awarded to the L1 bidder, if L1 bid is from a Class-I local supplier.
- If L1 Bid is neither from a Class-I local supplier nor from MSEs, the lowest evaluated bidder among the Class-I local suppliers, will be invited to match the lowest evaluated bid (L1) price subject to Class-I local supplier's evaluated bid price falling within the margin of purchase preference (i.e. 20%) and the contract shall be awarded to such Class-I local supplier subject to matching the lowest evaluated bid (L1) price. In case such lowest eligible Class-I local supplier fails to match the lowest evaluated bid (L1) price, the Class-I local supplier with the next higher evaluated bid within the margin of purchase preference shall be invited to match the lowest evaluated bid (L1) price and so on and contract shall be awarded accordingly. In case none of the Class-I local suppliers within the margin of purchase preference (i.e. 20%) matches the lowest

evaluated bid (L1) price, then the contract may be awarded to the L1 bidder.

(ii) **In case of tenders, where preference to MSE is applicable and where splitting of quantity is possible & condition pertaining to splitting of quantity is specified in tender documents:**

- Among all qualified and substantially responsive bids, the lowest evaluated bid will be termed as L1.
- If L1 bid is from an MSE who is also a Class-I local supplier, the contract will be awarded to L1.
- **If L1 bid is from an MSE who is not a Class-I local supplier**
  - ✓ 50% of the order quantity shall be awarded to L1.
  - ✓ Thereafter, the lowest evaluated bidder among the Class-I local suppliers including MSEs (who are also Class-I local suppliers) will be invited to match the lowest evaluated bid (L1) price for the remaining 50% quantity subject to the Class-I local supplier's evaluated bid price falling within the margin of purchase preference (i.e. 20%) and contract for that quantity shall be awarded to such Class-I local supplier subject to matching the lowest evaluated bid (L1) price.
  - ✓ In case such lowest eligible Class-I local supplier fails to match the lowest evaluated bid (L1) price or accepts less than the offered quantity, the next higher Class-I local supplier within the margin of purchase preference shall be invited to match the lowest evaluated bid (L1) price for remaining quantity and so on, and contract shall be awarded accordingly.
  - ✓ In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.
- **If L1 bid is from a Class-I local supplier who is not an MSE**
  - ✓ 75% of the order quantity shall be awarded to L1.
  - ✓ Thereafter, all qualified MSE bidder(s), whose Evaluated Bid Price is within the range of 15% of the lowest evaluated (L1) price shall be eligible for an opportunity to match the lowest evaluated (L1) price. If more than one MSE bidders agree to match the lowest evaluated (L1) price, they will be considered for award of up to 25% (collectively) of the order value and, for the purpose of award of contract, the same shall be equally divided amongst the MSE bidders who have agreed to match the lowest evaluated (L1) price.



- ✓ In case some quantity is still left uncovered, then such balance quantity may also be ordered on the L1 bidder.
- **If L1 bid is from a bidder who is not a Class-I local supplier and not an MSE,**
  - ✓ 50% of the order quantity shall be awarded to L1.
  - ✓ Thereafter, all qualified MSE bidder(s), whose Evaluated Bid Price is within the range of 15% of the lowest evaluated (L1) price shall be eligible for an opportunity to match the lowest evaluated (L1) price. If more than one MSE bidders agree to match the lowest evaluated (L1) price, they will be considered for award of up to 25% (collectively) of the order value and, for the purpose of award of contract, the same shall be equally divided amongst the MSE bidders who have agreed to match the lowest evaluated (L1) price.
  - ✓ Thereafter, the lowest evaluated bidder among the Class-I local suppliers including MSEs (who are also Class-I local suppliers) will be invited to match the lowest evaluated bid (L1) price for the remaining quantity [50% of the ordered quantity less quantity awarded on MSEs] subject to the Class-I local supplier's evaluated bid price falling within the margin of purchase preference (i.e. 20%) and contract for that quantity shall be awarded to such Class-I local supplier subject to matching the lowest evaluated bid (L1) price.
  - ✓ In case such lowest eligible Class-I local supplier fails to match the lowest evaluated bid (L1) price or accepts less than the offered quantity, the next higher Class-I local supplier within the margin of purchase preference shall be invited to match the lowest evaluated bid (L1) price for remaining quantity and so on, and contract shall be awarded accordingly.
  - ✓ In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.
- (iii) "Class-II local supplier" will not get purchase preference in any procurement.
- (iv) For the purpose of matching of lowest evaluated bid (L1) price, the Class-I local supplier / MSEs would have to necessarily reduce all components of the quoted price on pro-rata basis. The reduction should not apply on the evaluation loading on account of functional guarantees and other loadings (if any, which are not dependent on quoted price). Further, the Contract shall be awarded on such revised/ reduced quoted price. The summation of the revised / reduced quoted price and the evaluation loading on account of functional guarantees and other loadings (if any) shall be equal to the lowest evaluated

bid (L1) price.

**Notes:**

- *In case of procurement of Goods/Services/Works, other than System/Turnkey Packages, it shall be clearly specified by the Indenter in the Purchase Requisition/ Specifications whether the Contract is divisible/quantities can be split or not. C&M coordinator shall check the same prior to issuance of tender and specify the same in the Bidding documents.*
- *In case of item-wise tenders, where evaluation is done for each item and each item is awarded to L1 bidder for that item, the aforesaid procedure shall be followed item-wise.*
- *In case of Reverse Auction (RA), the Purchase Preference for Class-I local suppliers shall be applicable on the lowest evaluated bid price after RA. The order in which the Class-I Local Suppliers shall be given an opportunity to match lowest evaluated bid (L1) price after RA will be in the order of their rank determined based on the evaluated bid price after RA.*

#### **4.3 Procurements where contract is to be awarded to multiple bidders**

In tenders where contract is awarded to multiple bidders subject to matching of L 1 rates or otherwise, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- a) In case of procurement of item(s) as per Annexure-I (List of items where there is sufficient local capacity and competition), only Class I local suppliers shall be eligible to bid. As such, the multiple suppliers, who would be awarded the contract, should be 'Class I Local suppliers' only.
- b) In other cases, 'Class II local suppliers' and 'Non local suppliers' may also participate in the bidding process along with 'Class I Local suppliers' as per provisions of Para 2.2 above.
- c) If 'Class I Local suppliers' qualify for award of contract for at least 50% of the tendered quantity in any tender, the contract may be awarded to all the qualified bidders as per award criteria stipulated in the bid documents. However, in case 'Class I Local suppliers' do not qualify for award of contract for at least 50% of the tendered quantity, purchase preference should be given to the 'Class I local supplier' over 'Class II local suppliers'/ 'Non local suppliers' provided that their quoted rate falls within 20% margin of purchase preference of the highest quoted bidder considered for award of contract. It is to be ensured that the 'Class I Local suppliers' taken in totality are considered for award of contract for at least 50% of the tendered quantity.
- d) First purchase preference has to be given to the lowest quoting 'Class-I local

supplier', whose quoted rates fall within 20% margin of purchase preference, subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. If the lowest quoting 'Class-I local supplier', does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to next higher 'Class-I local supplier', falling within 20% margin of purchase preference, and so on.

**Notes:**

- *The procedure for purchase preference to 'Class-I local supplier'/MSE shall be stipulated based on tender specific criteria for award of contract amongst different bidders, within the broad policy guidelines stipulated in paras above.*
- *In case of procurement of Goods/Services/Works, other than System/Turnkey Packages, wherever the contract(s) is to be awarded to multiple bidders, the same shall be clearly specified by the Indenter in the Purchase Requisition/ Specifications, along with the maximum quantity that can be sourced from any single supplier. C&M coordinator shall check the same prior to issuance of tender and specify the same in the Bidding documents.*
- *In case of item-wise tenders, where evaluation is done for each item and each item is awarded to multiple bidders, the aforesaid procedure shall be followed item-wise.*
- *In case of Reverse Auction (RA), the Purchase Preference for Class-I local suppliers shall be applicable on the lowest evaluated bid price after RA. The order in which the Class-I Local Suppliers shall be given an opportunity to match lowest evaluated bid (L1) price after RA will be in the order of their rank determined based on the evaluated bid price after RA.*

**5.0 Minimum Local Content**

- 5.1** The local content requirement to categorize a Bidder/Supplier as 'Class-I local supplier' is minimum 50%. For 'Class-II local supplier', the 'local content' requirement is minimum 20%.

In case Ministry of Power (MoP) prescribes a higher percentage of minimum local content requirement to categorize a supplier as 'Class-I local supplier'/ 'Class-II local supplier' for certain items / packages, the 'local content' shall be as per the prescribed requirement in respect of such items / packages. A list of such items / packages shall be issued separately (in case MoP prescribes/issues the same).

**Till such time as MoP has not prescribed higher minimum local content requirement, it shall be 50% and 20% for 'Class-I local supplier' and 'Class-II local supplier' respectively.**

In case of clubbing of one or more items / packages in a tender and where the evaluation is done on cumulative basis rather than on item-wise / package-wise basis, the purchase preference shall be provided to Class-I Local supplier as elaborated above in para 4.0 provided he meets the Local content requirement for all the items/packages.

Example: In case Packages of Coal Handling Plant, Ash Handling Plant, Water Treatment Plant/Pre-treatment Plant etc. are clubbed together and tendered as a single package, then the Class-I Local supplier meeting the local content requirement for each of these packages shall be given purchase preference.

**Note:** Projects on EPC basis, Main Plant, SG/STG Island, BoP turnkey packages, etc. shall not be considered as clubbing of packages.

- 5.2** For procurements of items pertaining to other sectors not falling under MoP, guidelines as issued by the respective Nodal Ministry shall be followed. In such cases, the indenting department shall intimate the concerned C&M department regarding the value of Minimum Local Content for each item/package to categorize a Bidder/Supplier as 'Class-I local supplier'/ 'Class-II local supplier'/ 'Non-local supplier'.
- 5.3** For Tenders pertaining to Renewable Energy sector, separate guidelines issued by Corporate RE Department shall be applicable.

## **6.0 Items manufactured under license/ technology collaboration agreements**

- 6.1** Equipment used in the power sector which are manufactured under license from foreign manufacturers holding intellectual property rights and where there is a transfer of technology agreement are listed as under **Annexure-II**. Contractors/ Suppliers of such domestically manufactured goods, equipment and materials are exempted from meeting the stipulated Minimum Local Content requirement and shall be considered as Class-I local suppliers.
- 6.2** In procurement of all goods and/or services or works (other than those listed in Annexure-I) beyond the notified threshold value, in respect of which MoP has notified that there is substantial quantity of public procurement and an upper threshold value of procurement beyond which foreign companies shall enter into a Joint Venture/ Association/Collaboration with an Indian company to participate in the tender, following may be appropriately specified in case of DCB tenders, in the Qualifying Requirements:

*“Foreign companies may enter into Joint Venture/Association/Collaboration with an Indian company to participate in the tender.”*

Further, following shall be appropriately specified in the tender documents:

*“Contractors/ Suppliers having Joint Venture/Association/Collaboration with Foreign companies for manufacturing of item(s) to be supplied under the contract, in India are exempted from meeting the stipulated Minimum Local Content requirement and shall be considered as Class-I local suppliers.”*

A Declaration to this effect shall be sought in the Bidding documents, for allowing exemption from meeting the Local Content to such Bidders.

**A list of such items along with detailed guidelines shall be issued separately (in case such list is published by MoP).**

## **7.0 Verification of Local Content:**

**7.1** The 'Class-I local supplier'/ 'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to provide self-certification that the Item offered meets the local content requirement for 'Class-I local supplier'/ 'Class-II local supplier' and shall give details of the location(s) at which the local value addition is made.

**7.2** In cases of procurement for the value in excess of INR 10 crore, the 'Class-I local supplier'/ 'Class-II local supplier' shall also 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 during execution prior to submission of last bill for payment.

In case aforesaid Certificate furnished by Contractor/Vendor is not in line with the declaration in respect of Local Content in their bid, same shall be treated as false declaration.

**7.3** In cases of procurement of item(s) listed at **Annexure-II**, if the item(s) offered by Supplier are manufactured in India under license from foreign manufacturers holding intellectual property rights and where there is a transfer of technology agreement as mentioned at para 6.0 above, the supplier shall be required to provide in the Bid, self-certification / declaration to this effect for availing exemption from meeting the Minimum Local Content requirement.

**7.4** False declarations will be dealt in line with the Fraud Prevention Policy and Policy & Procedure for Withholding and Banning of Business Dealings of NTPC.

**7.5** In case of false declaration / violation of the provision of PPP-MII Order, if a bidder has been debarred / banned by NTPC, then the fact and duration of debarment should be promptly brought to the notice of the Member-Convenor of the Standing Committee (as per para 16 of PPP-MII Order) and the Department of Expenditure through Ministry of Power, GOI.

- 7.6 A supplier who has been debarred / banned by any other procuring entity for violation of PPP-MII Order shall not be eligible for preference under this circular for duration of the debarment. A confirmation in this regard shall be sought from the Bidder along with the bid.

## 8.0 Complaints on implementation of the PPP-MII Order

Complaints pertaining to Implementation of PPP-MII Order shall be dealt by a Committee to be constituted on a case to case basis by the C&M Deptt. (or concerned tender issuing Deptt.).

The Committee shall have members, not below the level of AGM, from C&M (or concerned tender issuing Deptt.), Engg/Indenting Deptt. and Finance. The Committee shall submit its recommendations for the approval of ED(CC&M) (or, Head of concerned tender issuing Deptt.) /Head of SSC, for cases pertaining to Corporate Centre/SSC(including Site), and dispose of the cases after approval of its recommendations.

## 9.0 Specifications in Tenders and Qualifying Requirements

- 9.1 It shall be ensured by the Indenting Departments that the eligibility conditions / QR in respect of previous experience fixed in any tender or solicitation Bidders should not require proof of supply in other countries or proof of exports for Indian Bidders.
- 9.2 Further, eligibility conditions including on matters such as turnover, production capability and financial strength should not result in unreasonable exclusion of 'Class-I local supplier'/ 'Class-II local supplier' who would otherwise be eligible beyond what is essential for ensuring quality or creditworthiness of the supplier.
- 9.3 A list of common restrictive/discriminatory conditions against the local suppliers is enclosed at **Appendix-III** to this circular. **Separate guidelines issued by Corporate Engineering Department, to ensure that no future tender specifications include such restrictive and discriminatory conditions against local suppliers**, may be referred.
- 9.4 Specifying foreign certifications/ unreasonable technical specifications/ brands/ models in the bid document is restrictive and discriminatory practice against local suppliers. If foreign certification is required to be stipulated because of non-availability of Indian Standards and/or for any other reason, the same shall be done only after written approval of Secretary, Power or any other Authority having been designated such power by Secretary, Power.

## 9.5 Reciprocity Clause

In case MoP 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., for appropriate reciprocal action, following procedure shall be followed:

- i. Entities of countries which have been identified by MoP as not allowing Indian companies to participate in their Government procurement for any item related to Power Sector shall not be allowed to participate in procurement of such item(s), except for the list of items published by the MoP permitting their participation.

**A list of such items, as well as list of items permitting participation, along with the detailed guidelines shall be issued separately (in case such list is published by MoP).**

## **10.0 General guidelines to be adopted in Tender Documents**

- 10.1 In order to further encourage Make in India initiative and promote manufacturing and production of goods and services in India, MoP vide order dated 28.07.2020 has issued general guidelines to be adopted selectively in an appropriate manner in the tender documents, which are listed at **Annexure-III**. These general guidelines consist of both technical and commercial conditions and are to be adopted selectively.
- 10.2 Wherever it is considered necessary to adopt the commercial conditions contained in the aforesaid guidelines partially / exhaustively in the tender documents, same may be done with the approval of the Head of the concerned C&M department, on a case to case basis.
- 10.3 **Technical conditions contained in the aforesaid guidelines shall be adopted in Technical Specifications/Qualifying Requirements in accordance with separate guidelines issued by Corporate Engineering Department.**
- 11.0 **Further, the following modifications are proposed to be incorporated in the bidding documents:**
- 11.1 **Modify the following paragraph in the detailed NIT / IFB (for future tenders only):**

### **Existing Provision:**

*"NTPC shall allow purchase preference, as indicated in the bidding documents, to bids from local suppliers as defined in the bidding documents. The bidders may apprise themselves of the relevant provisions of bidding documents in this regard before submission of their bids."*

### **Modified Provision:**

**For Goods/Services/Works covered under para 2.1 above**

*'Class-I local suppliers' only are eligible to participate in this tender, as defined in the bidding documents/ Public Procurement (Preference to Make in India), Order 2017 and its subsequent amendments/ revisions issued by DPIIT. The bidders may apprise themselves of the relevant provisions of bidding documents in this regard before submission of their bids."*

**OR**

**For Goods/Services/Works covered under para 2.2.1 above**

*'Class-I local suppliers' and 'Class-II local suppliers' only are eligible to participate in this tender, as defined in the bidding documents/ Public Procurement (Preference to Make in India), Order 2017 and its subsequent amendments/ revisions issued by DPIIT. The bidders may apprise themselves of the relevant provisions of bidding documents in this regard before submission of their bids."*

**OR**

**For Goods/Services/Works/Packages covered under para 2.2.2 above**

*"Bids from 'Class-I local supplier' as defined in the bidding documents/ Public Procurement (Preference to Make in India), Order 2017 and its subsequent amendments/ revisions issued by DPIIT shall be eligible for purchase preference. The bidders may apprise themselves of the relevant provisions of bidding documents in this regard before submission of their bids."*

**11.2 Modify the Attachment regarding "Declaration on Local Content" of Techno Commercial Bid in Section-II (ITB) under relevant clause:**

"Attachment ...\*... : Declaration on Local Content **(NOT APPLICABLE IN CASES COVERED UNDER PARA 11.9 BELOW)**

Declaration regarding Local Content as per the Employer's format, for granting of purchase preference.

In case a bidder does not submit the aforesaid declaration or statement/any declaration like 'later', 'to be furnished later', 'NA' etc. are indicated by the bidder, then the Bidder is liable not to be considered as a local supplier and may not be eligible for any purchase preference"/ **\*\*\*"its bid is liable to be considered non-responsive and may be rejected"**.

Further, Bidder shall be required to submit a certificate from the statutory auditor or cost auditor (in the case the bidder is a company) or from a practicing cost accountant or practicing chartered accountant (in respect of bidders other than companies) giving the percentage of local content during execution prior to submission of last bill for payment.#

In case aforesaid Certificate furnished by Contractor/Vendor is not in line with the



declaration in respect of Local content in their bid, same may be treated as false declaration and may be dealt in line with the Fraud Prevention Policy of NTPC.

\* C&M coordinator to mention the Attachment No.

**\*\*This shall be applicable only in those procurement cases mentioned at para 2.2.1 above (i.e. for tenders where only 'Class-I local supplier' and 'Class-II local supplier' are eligible to bid).**

#This shall be applicable only in Procurement and Contract cases with estimated value (excluding taxes & duties) in excess of INR 10 Crore.

11.3 **Add the following Attachment of Techno-commercial Bid in Section-II (ITB) under relevant clause (APPLICABLE ONLY IN CASES OF PROCUREMENT OF ITEM(S) LISTED AT ANNEXURE-II) :**

“Attachment ...\*...: Declaration for exemption from meeting the Minimum Local Content

Declaration regarding exemption from meeting the Minimum Local Content, as per the Employer's format.

In case a bidder does not submit the aforesaid declaration or statement/any declaration like 'later', 'to be furnished later', 'NA' etc. are indicated by the bidder, then the bidder may not be considered eligible for exemption from meeting the Minimum Local Content.

\*C&M coordinator to mention the Attachment No.

- 11.4 Replace Annexure-II to BDS (“*Preference to Make in India and granting of purchase preference to Class-I local suppliers*”) with Annexure-II(Rev.01) to BDS as enclosed at **ANNEXURE-IV** to this circular.
- 11.5 Format of Attachment for “declaration regarding Local Content” to be added to Bid Form is enclosed at **ANNEXURE-V** to this circular.
- 11.6 Format of Attachment for “declaration regarding exemption from meeting the Minimum Local Content” to be added to Bid form is enclosed at **ANNEXURE-VI** to this Circular.
- 11.7 **The clause references mentioned above may be modified as per package specific requirement.**
- 11.8 **Declaration regarding Local Content /Exemption on Local Content requirement for the package or for each item (s) (for tenders having item wise evaluation) should be obtained using Attribute feature in SRM / GTE feature in GePNIC/ similar feature in other E-tendering portals, wherever possible.** In this case, provisions of para 11.2 & 11.3 above may be suitably modified while incorporating the same in the Bidding document.

Wherever it is not feasible to seek the aforesaid Declarations using Attribute / GTE/similar feature in other E-tendering portals, declarations may be sought in the format enclosed at Annexure-V and Annexure-VI.

In case a bidder does not submit the aforesaid declaration or statement/any declaration like 'later', 'to be furnished later', 'NA' etc. are indicated by the bidder in the Attachment or there is a discrepancy which can be rectified, then the bidder may be given an opportunity to resubmit the declaration / rectify the deficiency within a stipulated time, failing which the Bidder will not be considered as a local supplier (Class-I/Class-II) and evaluation may be done accordingly.

11.9 Declaration / Attachment regarding Local Content may be dispensed with in **tenders having Package Evaluation** for following cases:

- i) Tenders covered under para 2.1 above
- ii) Tenders on DCB basis covered under para 2.2.1 above
- iii) Following types of tenders on DCB basis covered under para 2.2.2 above:
  - a) Civil works
  - b) Consultancy and Non-consultancy Services
  - c) Petty Contracts viz. Manpower Deployment, Annual Maintenance Contracts, Housekeeping, Facility Management Services, etc.
  - d) Any other tender wherein majority of the goods/services/works is sourced from within India only, based on inputs from Indenting Deptt. E.g. Transportation contracts, Pellet procurement, etc.

In such cases, the following para may be suitably incorporated in the Bid Form:

11.9.1 **For cases mentioned at para 11.9(i) and 11.9(iii) above**

**Quote**

*(i) We confirm that we fulfill the requirements of Local content for Class-I local supplier.*

The details of the location(s) at which the local value addition are as under:

Sl. No.	Description of Goods & Services	Details of the location(s) at which the local value addition is made

*(ii) We confirm that we fulfill the requirements of Local content for Class-I local supplier for Item(s) mentioned at clause no. 41 of GTR in Technical Specifications, as applicable. We further confirm that in case such item(s) are bought-out for us, we shall source the same from Class-I local supplier only.*

*#We undertake that a certificate from the statutory auditor or cost auditor (in the case the bidder is a company) or from a practicing cost accountant or practicing chartered accountant (in respect of bidders other than companies) certifying the percentage of local content shall be submitted by us prior to submission of our last bill for payment.*

*##We further confirm that we are presently not debarred / banned by any other procuring entity for violation of 'Public Procurement (Preference to Make in India), Order 2017' (PPP-MII Order) dated 15.06.2017 and its subsequent revisions / amendments issued by Department for Promotion of Industry and Internal trade (DPIIT)."*

***\*[Applicable in packages with estimated value (excluding taxes & duties) exceeding INR 10 Crores.]***

***##In case a Bidder has been banned/debarred by any other procuring entity for violation of 'Public Procurement (Preference to Make In India), Order 2017' (PPP-MII Order) dated 15.06.2017 and its subsequent revisions / amendments issued by Department of Industrial Policy and Promotion (DIPP), the same may be declared by Bidder by striking off para above and declaring the details of banning using additional sheets.***

***Bidder may also enclose additional sheets in similar format (if required), for providing details pertaining to local value addition.***

**Unquote**

**11.9.2 For cases mentioned at para 11.9(ii) above**

**Quote**

***\*(i) We confirm that we fulfill the requirements of Local content for Class-I local supplier.***

**OR**

***\*(i) We confirm that we fulfill the requirements of Local content for Class-II local supplier.***

The details of the location(s) at which the local value addition is made are as under:

Sl. No.	Description of Goods & Services	Details of the location(s) at which the local value addition is made

(ii) *We confirm that we fulfill the requirements of Local content for Class-I local supplier for Item(s) mentioned at clause no. 41 of GTR in Technical Specifications, as applicable. We further confirm that in case such item(s) are bought-out for us, we shall source the same from Class-I local supplier only.*

*#We undertake that a certificate from the statutory auditor or cost auditor (in the case the bidder is a company) or from a practicing cost accountant or practicing chartered accountant (in respect of bidders other than companies) certifying the percentage of local content shall be submitted by us prior to submission of our last bill for payment.*

*##We further confirm that we are presently not debarred / banned by any other procuring entity for violation of 'Public Procurement (Preference to Make in India), Order 2017' (PPP-MII Order) dated 15.06.2017 and its subsequent revisions / amendments issued by Department of Industrial Policy and Promotion (DIPP)."*

***\*Bidder to strike-off whichever is not applicable***

***#[Applicable in packages with estimated value (excluding taxes & duties) exceeding INR 10 Crores.]***

***##In case a Bidder has been banned/debarred by any other procuring entity for violation of 'Public Procurement (Preference to Make In India), Order 2017' (PPP-MII Order) dated 15.06.2017 and its subsequent revisions / amendments issued by Department of Industrial Policy and Promotion (DIPP), the same may be declared by Bidder by striking off para above and declaring the details of banning using additional sheets.***

***Bidder may also enclose additional sheets in similar format (if required), for providing details pertaining to local value addition.***

***Unquote***

**Note:** In case a Bidder doesn't submit the Bid form or submits incomplete/partially filled Bid Form, the bidder may be given an opportunity to resubmit the same within a stipulated time.

## **12.0 Requirement of Procurement Projections**

Procurement projections of NTPC consisting of CAPEX/OPEX shall be prepared / updated every year for the next 5 years and the same shall be uploaded on NTPC website/ ntpctender.com. A Committee consisting of members at AGM/DGM level from CC&M, Corporate Engg, Corporate OS, PP&M, Corporate Planning, and SSC-P&S shall be constituted to prepare / update Procurement projection every year. The member from Corporate Planning Deptt. shall be the convener of the Committee. The Procurement projection prepared by the Committee shall be approved by a Committee of EDs consisting of ED (Engg), ED(CC&M), ED(PP&M) & ED (OS).

### **13.0 Applicability of the guidelines**

13.1 The above guidelines are applicable for all tenders / procurements issued by Corporate Centre, Regions / Shared Service Centers, Stations and Projects except the following tenders / packages:

- i) ICB Tenders to be invited for Mega Power Projects where Price Preference of 15% is applicable on imported goods.
- ii) Any item / package where specific guidelines / notifications have been issued by Nodal Ministry to exempt the item / package from implementation of the said PPP-MII Order.
- iii) Single tenders and OEM /OES cases

13.2 The above guidelines shall not be applicable in case of small procurements having estimated value less than INR 5 Lakh excluding Taxes and Duties. Further, it shall be ensured by indenting departments that procurement is intentionally not split to reduce the estimated value of procurement less than INR 5 Lakh for the purpose of avoiding the provisions of this Circular.

**14.0** This circular issues with the approval of Competent Authority for implementation by all concerned and comes into force with immediate effect for all tenders invited from Corporate Centre / SSCs / Regions / Sites in cases where NIT / IFB are yet to be issued or Techno-Commercial bids (in case of Single Stage Two Envelope bidding) / Price bids (in case of Two Stage bidding) are yet to be opened.

**15.0** This Circular issues with the approval of the Competent Authority and comes into force with immediate effect. This circular supersedes Circular No. 779 dated 30.04.2019 and 801(R) dated 17.04.2020.

**(Praween K. Singh)**  
**GM (CS-P&S)**