



सी० एस० आई० आर० – भारतीय रासायनिक जीवविज्ञान संस्थान
CSIR-INDIAN INSTITUTE OF CHEMICAL BIOLOGY
(COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH)
 4, Raja S. C. Mullick Road, Jadavpur, Kolkata – 700032 India
 Phone : +91 33 2483-1982 Epabx: +91 33 2499-5837/5788
 Fax: + 91 33 2473-1985 / 2483-5197
 Website: <http://www.iicb.res.in> Email :purchase@iicb.res.in



भण्डार एवं क्रय प्रभाग/Stores & Purchase Div.

सूचना/NOTICE

सं०/No. IICB/Pur/SPO/GFR/2020-21

दिनांक/Date:- 27.07.2020

Sub.:- Restrictions under Rule 144 (xi) of the General Financial Rules (GFRs), 2017 pertaining to Public Procurement.

Ref.:- OM vide F.N. 6/18/2019-PPD dated 23.07.2020 issued by Public Procurement Div., Department of Expenditure, Ministry Of Finance, Govt. of India.

In pursuant of the above referred OM issued by the Govt. of India all suppliers/vendors/manufacturers/authorized distributors/Indian Agents of foreign manufacturers are hereby informed the followings for compliance:-

[I] Requirement of Registration:-

1. Any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in **Annexure -I**.
2. This Order vide OM bearing No. **F.N. 6/18/2019-PPD dated 23.07.2020 issued by Public Procurement Div., Department of Expenditure, Ministry Of Finance, Govt. of India** shall not apply to (i) cases where orders have been placed or contract has been concluded or letter /notice of award/acceptance (LoA) has been issued on or before the date of above referred OM of Ministry of Finance (i.e. 23.07.2020); and (ii) cases falling under **Annexure-II**.

[II] Transitional cases:- Following criteria will be applicable as mandatory eligibility criteria to all the enquiries of CSIR-IICB floated through NIC's CPP Portal or otherwise.

1. Tenders where no contract has been concluded or no LoA has been issued so far shall be handled in the following manner:-
 - (a) In tenders which are yet to be opened, or where evaluation of technical bid or the first exclusionary stage (i.e the first stage at which the qualifications of tenderers are evaluated and unqualified bidders are excluded) has not been completed. No contracts shall be placed on bidders from such countries shall be dealt with as if they are non-compliant with the tender conditions and the tender shall be processed accordingly.
 - (b) If the tendering process has crossed the first exclusionary qualificatory stage: If the qualified bidders include bidders from such countries, the entire process shall be scrapped and initiated *do novo*. The *de novo* process shall adhere to the conditions prescribed in the order vide OM bearing No. **F.N. 6/18/2019-PPD dated 23.07.2020 issued by Public Procurement Div., Department of Expenditure, Ministry Of Finance, Govt. of India**
 - (c) As far as practicable, and in cases of doubt about where a bidders falls under

paragraph [I], a certificate shall be obtained from the bidder whose bid is proposed to be considered or accepted, in terms of [III (iii)], [IV] and [V] read with Para [I(1)] of this notice.

- All bidders of this category (Transitional cases pertaining to IICB's tender enquiry) will submit the certificate on their letter head indicating IICB's tender enquiry No. and date as per enclosed proforma at **Annexure-III/Transitional cases**).

[III] Definitions:-

- (i) "Bidder" for the purpose of the Order (including the term "tenderer", "consultant", "vendor" or "service provider" in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.
- (ii) "Tender" for the purpose of this notice will include other forms of procurement, except where the context requires otherwise.
- (iii) "Bidder from a country which shares a land border with India" for the purpose of this Order (i.e. OM bearing No. **F.N. 6/18/2019-PPD dated 23.07.2020 issued by Public Procurement Div., Department of Expenditure, Ministry Of Finance, Govt. of India** means:-
 - a) An entity incorporated, established or registered in such a country; or
 - b) A subsidiary of an entity incorporated, established or registered in such a country; or
 - c) An entity substantially controlled through entities incorporated, established or registered in such a country; or
 - d) An entity whose beneficial owner is situated in such a country; or
 - e) An Indian (or other) agent of such an entity; or
 - f) A natural person who is a citizen of such a country; or
 - g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.

[IV] "Beneficial Owner" for the purpose of paragraph [III(iii)] above will be as under:-

- (i) In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person(s), has a controlling ownership interest or who exercises control through other means.
Explanation –
 - a. "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five percent of shares or capital or profits of the company;
 - b. "Control" shall include the right to appoint the majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
- (ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
- (iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
- (iv) Where no natural person is identified (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
- (v) In case of a trust, the identification of beneficial owner(s) shall include

identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control of ownership.

[V] “Agent” for the purpose of this order is a person employed to do any act for another, or to represent another in dealings with third persons.

[VI] Sub-contracting in works contracts:-

In works contracts, including turnkey contracts, contractors shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. The definition of “Contractor from a country which shares a land border with India” shall be as in paragraph [III(iii)] above. This shall not apply to sub-contracts already awarded on or before the date of above referred OM of Ministry of Finance (i.e. 23.07.2020).

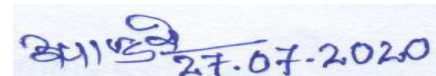
[VII] Certificate regarding compliance:-

A certificate shall be taken from bidders in the tender documents regarding their compliance with **OM vide F.N. 6/18/2019-PPD dated 23.07.2020 issued by Public Procurement Div., Department of Expenditure, Ministry Of Finance, Govt. of India.** If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate termination and further legal action in accordance with law.

[VIII] Validity of registration:-

In respect of tenders, registration should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly registered at the time of acceptance/placement of order, registration shall not be a relevant consideration during contract execution.

This notice is issued for implementation with immediate effect with the approval of the Director, CSIR-IICB.

 27.07.2020

भण्डार व क्रय अधिकारी / **Stores & Purchase Officer**

Encl.:- As above.

1. OM vide F.N. 6/18/2019-PPD dated 23.07.2020 issued by Public Procurement Div., Department of Expenditure, Ministry Of Finance, Govt. of India.
2. Annexure-I
3. Annexure-II
4. Annexure-III/Transitional Cases

F.No.6/18/2019-PPD
Ministry of Finance
Department of Expenditure
Public Procurement Division

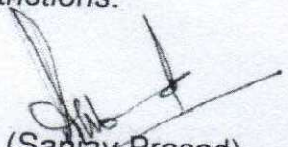
161, North Block,
New Delhi
23rd July, 2020

Office Memorandum

Subject: Insertion of Rule 144 (xi) in the General Financial Rules (GFRs), 2017

Rule 144 of the General Financial Rules 2017 entitled 'Fundamental principles of public buying', has been amended by inserting sub-rule (xi) as under:

Notwithstanding anything contained in these Rules, Department of Expenditure may, by order in writing, impose restrictions, including prior registration and/or screening, on procurement from bidders from a country or countries, or a class of countries, on grounds of defence of India, or matters directly or indirectly related thereto including national security; no procurement shall be made in violation of such restrictions.


(Sanjay Prasad)
Joint Secretary (PPD)
Email ID: js.pfc2.doe@gov.in
Telephone: 011-23093882

- To,
- (1) Secretaries of All Ministries/ Departments of Government of India
 - (2) Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi

F.No.6/18/2019-PPD
 Ministry of Finance
 Department of Expenditure
 Public Procurement Division

161, North Block,
 New Delhi
 23rd July, 2020

Order (Public Procurement No. 1)

Subject: Restrictions under Rule 144 (xi) of the General Financial Rules (GFRs), 2017

Attention is invited to this office OM no. 6/18/2019-PPD dated 23rd July 2020 inserting Rule 144 (xi) in GFRs 2017. In this regard, the following is hereby ordered under Rule 144 (xi) on the grounds stated therein:

Requirement of registration

1. Any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in **Annex I**.
2. This Order shall not apply to (i) cases where orders have been placed or contract has been concluded or letter/notice of award/ acceptance (LoA) has been issued on or before the date of this order; and (ii) cases falling under **Annex II**.

Transitional cases

3. Tenders where no contract has been concluded or no LoA has been issued so far shall be handled in the following manner: -
 - a) *In tenders which are yet to be opened, or where evaluation of technical bid or the first exclusionary qualificatory stage (i.e. the first stage at which the qualifications of tenderers are evaluated and unqualified bidders are excluded) has not been completed: No contracts shall be placed on bidders from such countries. Tenders received from bidders from such countries shall be dealt with as if they are non-compliant with the tender conditions and the tender shall be processed accordingly.*
 - b) *If the tendering process has crossed the first exclusionary qualificatory stage: If the qualified bidders include bidders from such countries, the*

entire process shall be scrapped and initiated *de novo*. The *de novo* process shall adhere to the conditions prescribed in this Order.

- c) As far as practicable, and in cases of doubt about whether a bidder falls under paragraph 1, a certificate shall be obtained from the bidder whose bid is proposed to be considered or accepted, in terms of paras 8, 9 and 10 read with para 1 of this Order.

Incorporation in tender conditions

4. In tenders to be issued after the date of this order, the provisions of paragraph 1 and of other relevant provisions of this Order shall be incorporated in the tender conditions.

Applicability

5. Apart from Ministries / Departments, attached and subordinate bodies, notwithstanding anything contained in Rule 1 of the GFRs 2017, this Order shall also be applicable
- a. to all Autonomous Bodies;
 - b. to public sector banks and public sector financial institutions; and
 - c. subject to any orders of the Department of Public Enterprises, to all Central Public Sector Enterprises; and
 - d. to procurement in Public Private Partnership projects receiving financial support from the Government or public sector enterprises/ undertakings.
 - e. Union Territories, National Capital Territory of Delhi and all agencies/ undertakings thereof

Definitions

6. "Bidder" for the purpose of this Order (including the term 'tenderer', 'consultant' 'vendor' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.
7. "Tender" for the purpose of this Order will include other forms of procurement, except where the context requires otherwise.
8. "Bidder from a country which shares a land border with India" for the purpose of this Order means

- a) An entity incorporated, established or registered in such a country; or
- b) A subsidiary of an entity incorporated, established or registered in such a country; or
- c) An entity substantially controlled through entities incorporated, established or registered in such a country; or
- d) An entity whose *beneficial owner* is situated in such a country; or
- e) An Indian (or other) agent of such an entity; or
- f) A natural person who is a citizen of such a country; or
- g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above

9. "Beneficial owner" for the purpose of paragraph 8 above will be as under:

- (i) In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person(s), has a controlling ownership interest or who exercises control through other means.
Explanation—
 - a. "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;
 - b. "Control" shall include the right to appoint the majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
- (ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
- (iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
- (iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;

(v) In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

10. "Agent" for the purpose of this Order is a person employed to do any act for another, or to represent another in dealings with third persons.

Sub-contracting in works contracts

11. In works contracts, including turnkey contracts, contractors shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. The definition of "contractor from a country which shares a land border with India" shall be as in paragraph 8 above. This shall not apply to sub-contracts already awarded on or before the date of this Order.

Certificate regarding compliance

12. A certificate shall be taken from bidders in the tender documents regarding their compliance with this Order. If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate termination and further legal action in accordance with law.

Validity of registration

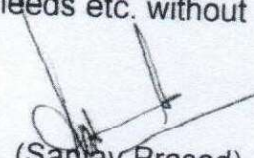
13. In respect of tenders, registration should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly registered at the time of acceptance / placement of order, registration shall not be a relevant consideration during contract execution.

Government E-Marketplace

14. The Government E-Marketplace shall, as soon as possible, require all vendors/ bidders registered with GeM to give a certificate regarding compliance with this Order, and after the date fixed by it, shall remove non-compliant entities from GeM unless/ until they are registered in accordance with this Order.

Model Clauses/ Certificates

15. Model Clauses and Model Certificates which may be inserted in tenders / obtained from Bidders are enclosed as **Annex III**. While adhering to the substance of the Order, procuring entities are free to appropriately modify the wording of these clauses based on their past experience, local needs etc. without making any reference to this Department.


(Sanjay Prasad)
Joint Secretary (PPD)
Email ID: js.pfc2.doe@gov.in
Telephone: 011-23093882

To

- (1) Secretaries of All Ministries/ Departments of Government of India for information and necessary action. They are also requested to inform these provisions to all procuring entities.
- (2) Secretary, Department of Public Enterprises with a request to immediately reiterate these orders in respect of Public Enterprises.
- (3) Secretary DPIIT with a request to initiate action as provided under Annex I
- (4) Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi

6

Annex I: Competent Authority and Procedure for Registration

- A. The Competent Authority for the purpose of registration under this Order shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT)*.
- B. The Registration Committee shall have the following members*:
- i. An officer, not below the rank of Joint Secretary, designated for this purpose by DPIIT, who shall be the Chairman;
 - ii. Officers (ordinarily not below the rank of Joint Secretary) representing the Ministry of Home Affairs, Ministry of External Affairs, and of those Departments whose sectors are covered by applications under consideration;
 - iii. Any other officer whose presence is deemed necessary by the Chairman of the Committee.
- C. DPIIT shall lay down the method of application, format etc. for such bidders as stated in para 1 of this Order.
- D. On receipt of an application seeking registration from a bidder from a country covered by para 1 of this Order, the Competent Authority shall first seek political and security clearances from the Ministry of External Affairs and Ministry of Home Affairs, as per guidelines issued from time to time. Registration shall not be given unless political and security clearance have both been received.
- E. The Ministry of External Affairs and Ministry of Home Affairs may issue guidelines for internal use regarding the procedure for scrutiny of such applications by them.
- F. The decision of the Competent Authority, to register such bidder may be for all kinds of tenders or for a specified type(s) of goods or services, and may be for a specified or unspecified duration of time, as deemed fit. The decision of the Competent Authority shall be final.
- G. Registration shall not be granted unless the representatives of the Ministries of Home Affairs and External Affairs on the Committee concur*.
- H. Registration granted by the Competent Authority of the Government of India shall be valid not only for procurement by Central Government and its agencies/ public enterprises etc. but **also for procurement by State Governments and their agencies/ public enterprises etc. No fresh registration at the State level shall be required.**

- I. The Competent Authority is empowered to cancel the registration already granted if it determines that there is sufficient cause. Such cancellation by itself, however, will not affect the execution of contracts already awarded. Pending cancellation, it may also suspend the registration of a bidder, and the bidder shall not be eligible to bid in any further tenders during the period of suspension.
- J. For national security reasons, the Competent Authority shall not be required to give reasons for rejection / cancellation of registration of a bidder.
- K. In transitional cases falling under para 3 of this Order, where it is felt that it will not be practicable to exclude bidders from a country which shares a land border with India, a reference seeking permission to consider such bidders shall be made by the procuring entity to the Competent Authority, giving full information and detailed reasons. The Competent Authority shall decide whether such bidders may be considered, and if so shall follow the procedure laid down in the above paras.
- L. Periodic reports on the acceptance/ refusal of registration during the preceding period may be required to be sent to the Cabinet Secretariat. Details will be issued separately in due course by DPIIT.

[*Note:

- i. In respect of application of this Order to procurement by/ under State Governments, all functions assigned to DPIIT shall be carried out by the State Government concerned through a specific department or authority designated by it. The composition of the Registration Committee shall be as decided by the State Government and paragraph G above shall not apply. However, the requirement of **political and security clearance as per para D shall remain and no registration shall be granted without such clearance.**
- ii. Registration granted by State Governments shall be valid only for procurement by the State Government and its agencies/ public enterprises etc. and shall not be valid for procurement in other states or by the Government of India and their agencies/ public enterprises etc.]

Annex II: Special Cases

- A. Till 31st December 2020, procurement of medical supplies directly related to containment of the Covid-19 pandemic shall be exempt from the provisions of this Order.
- B. *Bona fide* procurements made through GeM without knowing the country of the bidder till the date fixed by GeM for this purpose, shall not be invalidated by this Order.
- C. *Bona fide* small procurements, made without knowing the country of the bidder, shall not be invalidated by this Order.
- D. In projects which receive international funding with the approval of the Department of Economic Affairs (DEA), Ministry of Finance, the procurement guidelines applicable to the project shall normally be followed, notwithstanding anything contained in this Order and without reference to the Competent Authority. Exceptions to this shall be decided in consultation with DEA.
- E. This Order shall not apply to procurement by Indian missions and by offices of government agencies/ undertakings located outside India.

Certificate

**[To be submitted by the bidding/participating firm in their letter Head]
(Certificate is to be addressed to the Director, CSIR-IICB)**

[For details for OM bearing No. F.N. 6/18/2019-PPD dated 23.07.2020 issued by Public Procurement Div., Department of Expenditure, Ministry Of Finance, Govt. of India and IICB's Notice bearing No. IICB/Pur/SPO/GFR/2020-21 dated 27.07.2020 may be referred to CSIR-IICB's website <http://www.iicb.res.in>]

To

**The Director
CSIR-Indian Institute of Chemical Biology (IICB)
4, Raja S. C. Mullick Road,
Jadavpur
Kolkata - 700 032.**

Sir

With reference to IICB's tender Enquiry bearing No.
dated this is certified that:-

- (i) I have read the OM bearing No. F.N. 6/18/2019-PPD dated 23.07.2020 issued by Public Procurement Div., Department of Expenditure, Ministry of Finance, Govt. of India and the Notice bearing No. IICB/Pur/SPO/GFR/2020-21 dated 27.07.2020 of CSIR-IICB pertaining to clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I hereby certify that bidder M/s.
is not from such a country and is eligible to be considered.
- (ii) If our bid is accepted as per certificate given by us as Point No. (i) above is found to be false, this would be a ground for immediate termination and further legal action in accordance with law by the procuring entity (i.e. CSIR-IICB on behalf of CSIR, New Delhi) may be taken.

For and on behalf of M/s.

[Seal of the firm]

Place:-

Date:-