

अलकेश कुमार शर्मा, आई.ए.एस.
सचिव
Alkesh Kumar Sharma, I.A.S.
Secretary



सत्यमेव जयते
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आज़ादी का
अमृत महोत्सव

इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी मंत्रालय
भारत सरकार
Ministry of Electronics &
Information Technology (MeitY)
Government of India

DO No. 10(13)/2022-EG-II
Dated: 25th August 2022

Dear Secretary,

Sub: Preventive/restrictive conditions in Cloud RFPs.

It has come to notice that some of the published bids/tenders/RFPs for procurement of cloud services are including restrictive and non-generic conditions like inclusion of cloud service provider to be in the 'Gartner Magic Quadrant' and also very high turnovers contrary to the guidelines in the Procurement of Goods & Services Manual. It may be kindly noted that Gartner Magic Quadrant is a research methodology published by M/s Gartner, Inc a foreign company illustrating the graphical competitive positioning of Cloud Infrastructure and Platform Service Providers as Leaders, Visionaries, Niche Players and Challengers.

2. These specific conditions/requirements are not as per the needs of the project/customer. Such restrictive practices not only impede the domestic service providers from participating in the various cloud RFPs but also provide undue advantage to certain large companies.

3. It may be noted that MeitY never recommends such types of prohibitive and restrictive practices as these clauses do not add any value in the cloud procurement to the end user departments. MeitY has empaneled the CSPs after following all due processes, which are based on compliance to international standards like ISO 27001, ISO 27017, ISO 27018, ISO 20000, and best security practices. These CSPs have been empaneled after successful completion of the STQC audit. Further, MeitY has also published procurement guidelines that are sufficient to gauge the capabilities of any cloud service provider.

4. Further, these these restrictive clauses are in non-compliance to the GFR, CVC guidelines and various standing instructions. DPITT in its letter dated 20.06.2019 has actually listed 'Gartner Magic Quadrant' as restrictive and discriminatory condition against the domestic/local suppliers (copy enclosed).

5. It is, therefore, requested that such restrictive conditions/clauses should not be included in the cloud procurement RFPs. Also, the turnover requirements should be as per the guidelines in the Procurement Manual of Goods & Services issued by the Ministry of Finance. This would not only provide equal opportunities and level playing field to all the empaneled domestic cloud service providers for participating in various bids but also help in better discovery of prices.

Best Regards,

Yours sincerely,

(Alkesh Kumar Sharma)

Encl: As above.

Secretaries of all the Central Ministries/ Departments

F.No. P-45021/121/2018- (B.E.-II)
Government of India
Ministry of Commerce & Industry
Department for Promotion of Industry & Internal Trade
(Public Procurement Section)

Udyog Bhawan, New Delhi
Dated June 20, 2019

OFFICE MEMORANDUM

Subject: Restrictive and discriminatory conditions against the local suppliers in violation of Public Procurement (Preference to Make in India) Order, 2017 - Regarding

Undersigned is directed to draw your kind attention to the Public Procurement (Preference to Make in India) Order, 2017 (PPP-MII Order) issued by Department for Promotion of Industry and Internal Trade. Copy of the Order (as revised on 29.5.2019) is attached.

2 The order aims to promote domestic value addition in public procurement. The policy provides purchase preference to domestic manufacturers and service providers, who comply with local content requirements, in public procurement activities over entities merely importing to trade or assemble items. The Order is applicable on procurement of goods services and works (including turnkey works) by a Central Ministry/ Department, their attached/subordinate offices, autonomous bodies controlled by the Government of India and Government companies.

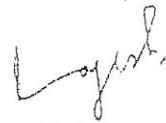
3 The Central agencies undertake massive public procurement every year. However, the benefits of this procurement, at times, do not accrue to the domestic industry even where it is technically and financially competitive due to restrictive and discriminatory conditions being imposed against domestic players. This Order is meant to address these concerns and thereby spur employment and incomes in the country.

4 A number of grievances regarding violation of provisions of the Order by various Central agencies have been received. It has been noted that many central government

agencies are including restrictive and discriminatory conditions against the local suppliers in the bid documents. Some of the common examples of restrictive and discriminatory conditions against the local suppliers are enclosed as Annexure "A".

5. It is requested to kindly publicize "common examples of restrictive and discriminatory conditions against the local suppliers" amongst all agencies under your control and direct them to ensure that their tenders don't include restrictive and discriminatory conditions against the local suppliers.

6. This issues with the approval of competent authority



(Rajesh Gupta)
Director

Tel. : 011-23063211

E-mail: rajesh.gupta66@gov.in

Encl. : As above

To

All Ministries/Departments

Annexure "A"

Common examples of restrictive and discriminatory conditions against the local suppliers

- Restrictive and Discriminatory Eligibility Criteria/ Tender Conditions
 - ✓ Mandatory Presence in Gartner Magic Quadrant - IT and Telecom Products
 - ✓ Mandatory USFDA/ European CE – Medical Devices
 - ✓ Excessive Turnover requirement – Rs. 1000 Cr for procurement of Rs. 70 Cr
 - ✓ Excessive past Experience – 10 years, Export experience to G8 countries
 - ✓ Additional requirement of Bank Guarantee for Local Supplier
 - ✓ Delayed Payment Terms to Local suppliers

- Restrictive and Discriminatory specifications - Foreign Brands specified
 - ✓ CISCO, NEC, Alcatel, Siemens – Telecom Products
 - ✓ HP, Dell, Lenovo – IT products
 - ✓ OTIS, Mitsubishi, Schindler, Kone, Johnson - Lifts

- Restrictive and Discriminatory specifications - Pre-approved foreign brands in works/turnkey projects
 - ✓ Local manufacturers not included in pre-approved list.

- Restrictive and Discriminatory specifications - Specification tailor made to suit foreign products
 - ✓ Foreign technical standards indicated in the specification
 - ✓ Technical parameters to favour foreign products viz. (-)25 degree temperature compatibility for EPBX equipment being procured for airport in Central India