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GOVERNMENT OF INDIA

MINISTRY OF RAILWAYS

WESTERN RAILWAY

BID DOCUMENT

INSTRUCTIONS TO TENDERERS FOR ELECTRONIC TENDERS AND GENERAL CONDITIONS OF TENDER

Indigenous Purchases

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100 GENERAL INSTRUCTIONS TO TENDERERS FOR ELECTRONIC TENDERS

0101 For & on behalf of The President of India, the PCMM Western Railway, Mumbai, India, (hereinafter referred to as the Purchaser), invites electronic bids from indigenous, established and reliable manufacturers or their authorised agents for the supply as set forth in the tender documents/schedule of requirement. Electronic tenders for the supply as set forth in the Notice Inviting Tender, 'Techno Commercial Bid Details' form and 'Financial Rate Page for Supply' form of the electronic tender is uploaded on the Indian Railways E-Procurement System website (www.ireps.gov.in), hereinafter referred to as IREPS website.

0102 E-Tender document consists of:

- **(i) Instructions to Tenderers for Electronic Tenders and General Conditions of Tenders**
- **(ii) IRS Conditions of Contract**
- **(iii) Special Conditions of Tender, if any**
- **(iv) Technical Specification along with drawings and annexure, if any.**
- **(v) Special Commercial conditions, if any**
- **(vi) NIT**

0103 The contracts and the supply will be governed by Instructions to Tenderers for Electronic Tenders and General Conditions of Tenders, IRS Conditions of Contract, Special Conditions of Tender, Technical Specification along with drawings, if any, and Special Commercial conditions.

0104 **Registration of Vendors on IREPS website**: IREPS website is maintained by CRIS. In order to participate in the electronic tenders issued by PCMM office WR, the vendors are required to obtain 'Class-III Digital Signature Certificate with Company Name' from any Certifying Authority' licensed by the Controller of Certifying Authorities (CCA). The details of the certifying authorities are available on CCA website www.cca.gov.in.

The vendors will also have to get themselves registered on IREPS website (www.ireps.gov.in). Vendors can submit their login registration request online by clicking on the New Vendors link available on Home Page of IREPS website, and after signing the same digitally using their own Digital Signature Certificate. Login registration to the web site is available on a free of charge basis. The registration request, after due verification, will be accepted and Password will be sent to them to their registered e-mail account. Detailed instructions regarding registration process are available in 'Users Manual for Vendors' which can be accessed through ‘Learning Centre’ link available on the Homepage of IREPS website. Vendors interested in participating against an electronic tender are advised in their own interest to obtain the digital signatures and get them registered on IREPS website well in advance of the tender closing date.PCMM office WR shall not provide any assistance to the vendor in this regard, and shall not be responsible for failure of the vendor to submit their offer against any electronic tender on this account.

0105 Offers received in the electronic tender box (virtual) available in the IREPS website (www.ireps.gov.in) will only be considered against electronic tenders. **Manual offers** delivered by post/fax or in person, or offers sent by e- mail or telex shall not be accepted against electronic tenders, even if such offers are received in time. All such offers shall be considered as invalid offers and **shall be rejected summarily**, without any consideration.

0106 The digital signature of the tenderer on the E-tender form will be considered as confirmation that the tenderer has read, understood and accepted all the documents referred to in Clause **0102** and **0103** above, unless specific deviation is quoted by the tenderer in the Technical deviation & Commercial Deviation templates in 'Techno-commercial Bid Details' form. Deviations quoted elsewhere in the tender form shall not be considered, and Purchaser's decision thereon shall be final and binding.

0107 All mandatory fields in pre -designed templates of 'Techno Commercial Bid Details' form and 'Financial Rate Page for Supply' form marked with asterisk (*) shall be filled in by the tenderer.

0108 The stores offered should be in accordance with stipulated drawings and specifications as given in the 'Techno Commercial Bid Details' form and 'Financial Rate Page for Supply' form and attachments attached with the electronic tender.

0109 Condition Regarding Financial Offer: Any financial element indicated in the remarks column of “Financial Rate Page” or elsewhere other than the specified place will not be taken into consideration for ranking/evaluation and will be summarily ignored. Tenderers are therefore advised not to enter any financial element in the remarks column of “Financial Rate Page”.

0110 Tenderers are required to quote in the same rate unit (i.e. Number, set etc.) as given in the tender schedule. Any deviation in this aspect shall render the offer to be summarily rejected as the comparative statement is generated by the system and such offers may not be com ble.

0111 Tenderers are advised to confirm "Compliance to special conditions of tender/ Checklist" in the template Special Conditions/Checklist for Bidders on 'Techno Commercial Bid Details' form by putting a tick mark in the check box provided against each Special Condition/Checklist, and in case of a "No" must furnish reason for non-compliance with that Special Condition/Checklist in the remark entry box provided therein. Tenderers may note that non- compliance to the Special Conditions/Checklist, without stating valid reasons in the relevant remark entry box may render the offer liable to be ignored.

200 SPECIFICATIONS: Specifications other than those issued by R.D.S.O. and indicated in Bid Documents may be obtained on payment from the following:

(i) Indian Railway Standard Specification from

(a) The Department of Publication, Civil Lines, Delhi-110054, India.

(b) Office of the High Commission of India, Publication Branch, India House, Aldwych London-WC2B 4NA

(ii) Indian Standards Specifications (ISI)from The Director General, Bureau of Indian Standards, Manak Bhawan, 9, Bahadur Shah Zafar Marg, New Delhi-110 001, India.

(iii) Specifications issued by RDSO is available on their website (https://www.rdso.indianrailways.gov.in)

However, the responsibility to get specification lies with the prospective bidder.

0201 COMPLIANCE WITH TECHNICAL SPECIFICATION:

(i) The Stores offered should be in accordance with specification and drawings stipulated in Techno Commercial Offer Form (TCO).The tenderer shall indicate his compliance or otherwise against each clause and sub-clause of the technical specifications.

(ii) Wherever, clause by clause compliance of technical specification, is required to be submitted by the tenderers, the tenderer shall, for this purpose, upload a separate statement of clause by clause compliance of technical specification **(Annexure-1)** duly filled in along with the e-offer.

(iii) **Conditions regarding Techno-Commercial Deviations:**

Technical and Commercial Deviations (if any) can be entered by the tenderers, only at appropriate places prescribed for entering Technical and Commercial Deviations, in "Techno-commercial offer" form. Copies of the alternative specification offered, if any, may be attached along with the offer. Whenever the tenderer deviates from the provisions of a clause/ sub-clause, he shall furnish his detailed justification for the same in the 'Remarks' column. The Purchaser, however, reserves the right to accept or reject these deviations and his decision thereon shall be final.

(iv) If the tenderer shall have any doubt as to the meaning of any portion or the conditions or of the specifications, drawings or plans, he shall contact the Purchaser in writing at the purchaser's address specified in Bid Invitation/tender document and such request should be received not later than two weeks prior to the date for Tender Closing. Tenderers are advised to see RDSO website for latest revision/ corrigendum of RDSO specification before opening of tender.

(v) Tenderers may note that Commercial Deviations mentioned in attachments shall not be considered.

0300 DOCUMENTS TO BE UPLOADED BY TENDERERS ON IREPS

0301 The tenderer shall provide and upload satisfactory evidence acceptable to the Purchaser to show that:

(i) The tenderer is a manufacturer or duly authorised by the manufacturer, who regularly manufactures the item(s) offered and has adequate technical knowledge and practical experience; or his authorized agent (**Annexure-2**).

(ii) The tenderer has adequate financial stability and status to meet the obligations under the contract for which he is required to submit a report from a recognized bank or a financial institution.

(iii) The tenderer has adequate plant and manufacturing capacity to manufacture and supply the item(s) offered within the delivery schedule indicated by the tenderer.

(iv) The tenderer has established a quality control system and organization to ensure that there is adequate control at all stages of the manufacturing process.

(v) Tenderers must clearly indicate whether they are registered with any of the Railways for supplying the quoted item, and if so, he must enclose a copy of the valid registration certificate.

0302 For purposes of Clause 0301, the tenderers should additionally upload:

(i) A performance statement as per **Annexure-2A** to be uploaded, giving a list of major supplies effected in last 3 years of the item(s) offered by the tenderer, giving details of the Purchaser's name and address, order no. and date and the quantity supplied and whether the supply was made within the delivery schedule;

(ii) A statement indicating details of equipment employed and quality control measures adopted by the tenderer or his principal as per **Annexure-6** to be uploaded**.**

0303 Tenderer not uploading the requisite information may note that his bid is liable to be ignored.

0304 In addition to the above, further information regarding his capacity/ capability, as required by bid document and any further information, if required by the Purchaser shall be promptly furnished by the tenderer.

0305 ***No Post tender correspondence for submission of additional documents shall be entered into/entertained after opening of Technical and/or Commercial offers. Even suo-moto post Tender Closing additional documents submitted by tenderers shall be treated as Null & Void. However, clarification on historical data/information may be asked.***

0400 Authorised Agent/Dealer/Distributor/Indian Representative etc:

0401 Only the manufacturers should quote and if they intend to quote through RIDs/Agents, authorization by the firm should be on a case to case basis i.e. tender specific, as per the proforma attached as **Annexure-2.**

0402 For the purchase orders placed on traders/agents for the items, peculiar to the Railways, traders/agents should indicate the source of supply and inspection to be carried out at manufacturer's premises, to ensure genuineness of quality of material. In case of items such as bearings, where inspection may be required to be carried out at RIDs/Agent's premises, the manufacturer shall also associate during the inspection, to ensure genuineness of quality of material.

0403 Traders/Dealers/ Agents are not eligible to avail the benefits, extended to MSE's under the Public Procurement Policy.

0404 For authorised dealers/agents, the inspection will be done at the manufacturers premises only. Manufacturer's Test and Guarantee certificate should be submitted with each lot of supply.

0405 Authorised agent quoting on behalf of a manufacturer will not be exempted from remitting Earnest Money Deposit (EMD) / Security Deposit (SD), owing to any of the exemptions applicable to the manufacturer represented by them.

0406 Consideration of Indian agent on behalf of the Principal/OEM:

(i) Only the manufacturers should quote and if they intend to quote throughRIDs/Agents, authorization by the firm should be tender specific, as per the proforma attached as **Annexure-2.**

(ii) In a tender, either the Indian agent on behalf of the Principal/OEM or Principal/OEM itself can bid but both cannot bid simultaneously for the same item/product in the same tender.

(iii) If an agent submits a bid on behalf of the Principal/OEM, the same agent shall not submit a bid on behalf of another Principal/OEM in the same tender for the same item/product.

(iv) Purchaser if it so requires, may enlist Indian Agents who desire to quote directly on behalf of their Foreign Principals.(Amendment to Rule 152 of GFR 2017)

(v) The authorised agent's/distributor's price will not exceed the price at which the manufacturer would have quoted.

(vI) The amount of agency commission payable to the Indian agent will not be more than what is specified in the Agency agreement between the tenderer (i.e. the foreign principal) and the Indian agent. A certified photocopy of the Agency commission agreement must be submitted along with the offer.

(vII) The Indian agent will be required to submit a certificate, along with their Agency Commission Bill, confirming that the amount claimed as Agency Commission in the bill has been spent/will be spent strictly to render services to the foreign principal, i.e. M/s……. (i.e. the Contractor) in terms of Agency Agreement. The purchaser or their authorised agencies and/or any other authority of Government of India shall have rights to examine the books of the Indian Agent and defect or misrepresentation in respect of the afore indicated confirmation coming to light during such examinations will make the foreign principal (i.e. the contractor) and their Indian Agent liable to be banned/suspended from having business dealings with Indian Railways, following laid down procedure of such banning/suspension of business dealings.

0500 EARNEST MONEY DEPOSIT (EMD):

0501 Tenderers are required to deposit Earnest Money (EMD) equivalent to the amount mentioned in the tender document, on-line, only through payment gateway asavailable in IREPS. **Offers submitted without EMD shall be summarily rejected.**

0502 The Earnest Money Deposit (EMD) shall be deposited by all tenderers, subject to following exemptions:

(i) Other Railways and Government Departments,

(ii) PSUs owned by the Ministry of Railways and PSUs for the group of items that are manufactured by them.

(iii) Vendors appearing on the approved vendor list of RDSO/PUs/CORE for those specific items for which they are on the approved list, subject to approval status being valid on the date of tender closing.

(iv) Vendors registered with Railways for supply of those specific medicines, medical equipment and consumables for which they are on the approved list shall be exempted from submission of EMD for these items.

(v) In tender issued against PAC, OEM in whose favour PAC has been issued shall be exempted from submitting EMD. KVIC and ACASH shall be exempted from EMD for items supplied by them.

(vi) Micro and Small Enterprises (MSEs) registered under Udyam Registration*, valid on the date of Tender Closing will only be considered as MSE.

***** Traders/ Distributors/ Sole agents are excluded from exemption from submission of EMD.

0503 The tenderers falling under exempted categories mentioned **in Clause 0502** and claiming exemption shall upload scanned copy of requisite document, for tendered item. The offer of tenderers failing to upload scanned copy of requisite document shall be treated as "Offers received without Earnest Money" and **will be rejected.**

0504 Tenderer not falling in the exempted categories mentioned above, shall remit the Earnest Money, **only** through Payment Gateway Facility on the IREPS portal.

0505 The Earnest Money shall remain deposited with the Purchaser for the validity period of the offer plus 45 days, from the date of tender closing.

0506 No interest will be payable by the Purchaser on the Earnest Money.

0507 The Earnest Money deposited by the tenderer is liable to be forfeited, if the tenderer withdraws or amends or impairs or derogates from the bid in any respect within the period of validity of the bid.

0508 The Earnest Money of the successful tenderer will be returned after the Performance Guarantee wherever required, is furnished by the tenderer.

0509 The Earnest Money of the unsuccessful tenderers will be returned by the purchaser.

0510

(i) All vendors, exempted from submitting EMD, as per para 0502 above, irrespective of the type of tender i.e. Single, Limited or Open; shall be required to sign Bid Securing Declaration as per Annexure-3 to this document and upload a scanned copy of the same with their e-offer.

(ii) The bidder(s), who stand disqualified as per the declaration furnished by them (as per Annexure-3), will not be exempted from submitting EMD and SD for all tenders published during the period of their disqualification.

(iii) The conditions detailed in Para 0510 (i) & (ii)shall not be applicable to Govt. Departments/ other Railways / Railway PSUs / KVIC/ACASH and matters shall be taken up with them departmentally/administratively.

0600 SECURITY DEPOSIT (Contract Performance Guarantee Bond):

0601 Tenderers are advised to refer to the "Contract Type"in NIT header of Tender document to ascertain the type of tender. The Security Deposit (SD) / Performance Security for**"Goods" Tender .**The SD shall be deposited by all successful tenderers, subject to following exemptions:

(i) Contract cases of value up to Rs. 25 lakh.

(ii) Other Railways and Govt. Departments,

(iii) PSUs owned by the Ministry of Railways and PSUs for the group of items that are manufactured by them.

(iv) In tenders issued against PAC, OEM in whose favour PAC has been issued shall be exempted from submitting SD. KVIC and ACASHshall be exempted from SD for items supplied by them.

(v) Vendors appearing in the approved vendor lists of RDSO/ PUs/ CORE, subject to approval status being valid on the date of tender closing.

(vi) Vendors registered with Railways for up to the monetary limit and trade groups for which they are registered.

(vii) Vendors registered with Railways for supply of medicine, medical equipment and consumables shall be exempted from SD for these items up to their respective monetary limits & trade groups for which the tenderer is registered.

Note: Apart from claiming damages from vendors, in case of failure to comply with the contractual obligations, WR shall record poor performance of the vendors for taking suitable penal action as per extant instructions.

0602 Amount of Security Deposit (SD) shall be as indicated below:

Contract Value	SD (rounded off to nearest higher Rs 10/- (Ten)
Above Rs. 25 Lakh and up to Rs. 50 Crore	@ 5% of Contract Value subject to max Rs. 50 Lakh.
Above Rs. 50 Crore	Rs. 1 Crore.

0603 Railways may raise the upper ceiling of SD, up to 5% of the contract value in High Value Cases as specified in NIT.

0604 The bidder(s), who stand disqualified as per the declaration furnished by them (as per **Annexure-3** of Instructions to Tenderers), will not be exempted from submitting SD for all tenders published during the period of their disqualification.

0605 The successful tenderer shall have to deposit SD within 21 days of issue of Letter of Acceptance.

0606 The Security Deposit (SD) / Performance Security for "M&P and Mixed" Tenders:

(i) The successful tenderer shall, within 21 days after written notice of acceptance of tender has to deposit a sum equal to **5% of total value of contract**, rounded off to nearest higher Rs. 10/- (ten), as security for satisfactory fulfilment of the contract excluding Operational Cost & AMC/CAMC Charges after warranty and any other similar charges (wherever applicable).

(ii) For items like machinery and Plant, Costly equipment, capital spares, the tenderer will have to furnish a warranty Bank Guarantee of 10% of Material value to cover their warranty obligation. The Format of the Warranty bank guarantee is given in **Annexure-4.**

0607 The Security money can be deposited in any of the following forms:

Deposit receipts, Pay orders, Demand Drafts, Guarantee Bonds issued by Nationalised or Scheduled Commercial Banks, Bonds of Indian Railway Finance Corporation and KRCL Bonds, Government Securities and Deposits in the Post Office Saving Banks, Government Securities at 5% below the market value, Deposits in National Saving Certificates. Payment of Security money in the form of pay order/demand draft shall be made in favour of the PFA WR.

0608 The Guarantee Bonds/Bank Guarantee should be submitted in the prescribed form as per **Annexure-5**.

0609 Security Deposit shall remain valid for a minimum period of 60 days beyond the expected date of completion of all contractual obligations of the supplier. If contractual obligations are not over within the stipulated time, the contractor has to extend validity of security deposit suitably well before expiry of SD validity.

0610 In the event of successful tender(s) **failing to deposit/submit Security Deposit (SD)** in acceptable form within the prescribed period as aforesaid, the EMD submitted by such successful tenderer(s) shall be automatically adjusted towards SD, in cases EMD amount is adequate to meet the SD amount. In cases where available EMD amount is less than required SD and the successful tenderer does not deposit the balance SD amount within stipulated time, then EMD shall be forfeited and it will be considered withdrawal of offer by the tenderer and the case will be dealt with accordingly.

In such cases, it shall be lawful for the Purchaser to recover from Contractor, the said amount or part thereof, from the pending/future bills of the Contractor, under any contract with the Purchaser or the Government or any person contracting through the Purchaser or otherwise.

0611 Whenever SD has been exempted, for any reason, and the supplier fails to supply goods as per conditions of contract, as amended time to time, Purchaser shall have right to levy damages from the supplier for failing to comply with the contractual conditions, not by way of penalty, an equal amount equal to SD amount, as would have been applicable if the contract was with a non-exempted vendor. These damages shall be treated as recoveries outstanding against the vendor and dealt with accordingly.

In such cases, it shall be lawful for the Purchaser to recover from Contractor, the said amount or part thereof, from the pending/future bills of the Contractor, under any contract with the Purchaser or the Government or any person contracting through the Purchaser or otherwise.

0612 In cases of failure by contractor, in contracts, where separate DP has been stipulated for different lots/activities, Railways may cancel the contract for defaulted part by forfeiting SD commensurate to that lot/activity.

0613 On the performance and completion of the contract in all respects the Performance Guarantee Bond will be returned to the contractor without any interest.

0614 In case of default of supplier to execute the contract successfully, the Security deposit shall be forfeited and risk purchase may not be initiated.

0615 Wherever SD is not taken, risk purchase shall not be applicable. However, Action will be taken as para 0501 (i) above and the bad performance of the firm will be noted for future purchases.

0616 The Contract Performance Guarantee Bond executed in India shall be in accordance with the Indian Stamp Act, as amended from time to time, for adequacy of the Stamp Duty.

0617 The bank details of WR for the purpose of Bank Guarantee (BG) is as under**:**

Account Name: Principal Financial Adviser (PFA), Western Railway

Account No.:11037435983, IFSC Code - SBIN0001821.

0700 SUBMISSION OF ELECTRONIC BIDS/OFFERS:

0701 The tenderers may submit online electronic offers on IREPS website at the address www.ireps.gov.in, after logging into the website using their login ID, Password and Digital Signature.

0702 Techno-Commercial Bid details: tenderer should fill the details required in the forms provided by IREPS system and upload necessary documents.

0703 Tenderers should show discounts in the “Financial Rate Page” only, instead of anywhere else in the offer, as the comparative statement is generated by the system. Discounts not shown at designated place **will be summarily ignored** for assigning inter-se ranking of offers. Discounts with conditions attached to early payment, Quantity, Inspection agency, early Receipt notes etc., will be ignored for calculating inter-se position by the system. However, Railways may avail these discounts, if otherwise, the firm's offer is found to be acceptable.

0704 Tenderers may note that the IREPS software is continuously being upgraded and the user interface may be subject to changes. Tenderers are advised to keep themselves updated with the latest changes. No claim shall be entertained from a tenderer, on account of non-familiarity with the IREPS website.

0705 The electronic offers shall be digitally signed by the tenderer. To ensure confidentiality and security, the offers will be auto encrypted using the highest level of digital security before transmission on internet channels. Such electronic offers are received in a time locked electronic tender box, where they remain encrypted till opening of the tender, after stipulated due date/time.

0706 Every online valid bid submitted duly digitally signed and received before closing date & time of tender shall be acknowledged by the system and HTML receipt will be generated indicating bid ID as well as date and time of receipt of the bid.

0707 Revised bids: Tenderers can revise their techno-commercial bid and/or financial bid any time before the stipulated closing date and time of tender and in such case, the last revised offer submitted at a later time and date shall be considered as the valid offer, superseding all the previously submitted offers for that item/items of the tender.

0708 The tenders are uploaded in IREPS website well in advance of closing time to give sufficient time to the tenderers to participate in the tender. **Tenderers are advised in their own interest to submit their offers well in advance before the tender closing time. WR shall not be responsible for non-participation of vendors due to any technical problems such as network connectivity etc. on the Tender Closing date.**

0709 Tenderers shall not be required to be present in the Railways office for any E-Tender Closing process. They can obtain a totally transparent bid tabulation statement by logging on to the website after the tender has been opened electronically after the due date and time.

0710 In open/advertised tenders, **a**ll the participating vendors who have submitted valid electronic offers can view their own offer details as well as the tender tabulation statement, on IREPS website, after Tender Closing.

0800 ELIGIBILITY CRITERIA AND QUALIFYING REQUIREMENTS OF TENDERERS:

0801 If a tenderer is not registered with Western Railway or is not an approved source for the tendered item, with Western Railway/ Other Railways Production Units/CORE /RDSO/ICF/RCF/CLW/DLW etc., the tenderer shall provide a satisfactory evidence acceptable to the Purchaser to show that:

- **(i)** Tenderer is an established manufacturer, who regularly manufactures the items offered and has adequate technical knowledge and practical experience;
- **(ii)** Tenderer has adequate financial stability and status to meet the obligations under the contract for which it is required to submit a report from a recognized bank or a financial institution and last three years financial balance sheet / profit & loss statement. (Last three FY years will be reckoned from the date of tender closing)
- **(iii)** Tenderer has adequate plant and manufacturing capacity to manufacture the items offered and supply within the delivery schedule offered by Tenderer;
- **(iv)** Tenderer has established a quality control system and organisation to ensure that there is adequate quality control at all stages of the manufacturing process.

0802 For purpose of Para 0801, the tenderer should additionally upload:

- **(i)** A performance statement as in **Annexure-2A**, giving a list of major supplies affected in the recent past, of the items offered by the tenderer, giving details of the purchaser's name and address, contract Number and date, quantity supplied and consignee's certificate/receipt note/Inspection note in support of having executed the contract satisfactorily. While doing so the tenderer should submit self-attested Xerox copy of such documents i.e. Purchase order, Inspection Certificate, Receipt Note etc.
- **(ii)** A statement indicating details of equipment possessed and skilled manpower employed and quality control measures adopted etc. as in **Annexure-6.**

0803 The tenderer shall clearly indicate whether he is registered with PCMM, Western Railway for the quoted item and if so he must quote the registration number along with monetary limit, if any. If the tenderer is a MSE, the tenderer must upload a photocopy of a valid UDYAM registration certificate. In case, the tenderer is approved by RDSO/PUs/CORE /ICF/RCF/CLW/DLW etc. for the quoted item, a Photostat copy of the approval must be uploaded with the offer.

0804 For items reserved for procurement from approved sources to be procured from CORE/ICF/RCF/CLW/DLW/MCF etc.:

(i) As per the policy of procurement, bulk purchase (Minimum 80% of Net Procurable Quantity) will be made only from Approved Vendors i.e., those vendors appearing in directory of approved vendors of CLW, BLW, PLW, RCF, ICF, MCF and CORE as available on UVAM only shall be considered for such ordering i.e. Approved Sources (eligible for bulk/regular orders) either before or on the date of tender closing, to manufacture and supply the item. The tenderers are to upload copies of such approval letters along with their offers. The status of the firm will be reckoned as on the date of Tender Closing and not thereafter. But, in case of removal/suspension/banning etc. after opening of tender, such changes shall be taken into account while considering the offers.

(ii) The quantities to be ordered on approved vendors will be decided considering factors such as past performance, capacity of bidder, delivery requirement in the tender, quantity under procurement, nature of item, outstanding order load etc. and the tender conditions. The tenderers should upload undertaking indicating the Outstanding order Load along with their offer. Developmental Vendors shall be eligible for developmental order of 20% of NPQ in regular tenders. Total quantity to be ordered on developmental sources shall be limited up to 20% of NPQ in regular tenders.

(iii) Whenever tender is floated with purchase restriction from sources approved by nominated authorities and there exists a suspected cartel situation by approved sources or the rates available from approved source/sources are adjudged unreasonably high, despite fair efforts as permissible, the purchaser reserves the right to place orders on firms outside the approved vendor list, without any restrictions.

(iv) Wherever there is no Approved vendor for an item, in the Vendor list/directories and where tender conditions stipulates bulk ordering on approved sources only, in such cases, the same tender condition would apply for placement of bulk orders to firms not in approved list without any quantity restrictions. However, the quantities to be ordered on such firms will be decided on factors like past performance, capacity, delivery requirements, quantity under procurement, nature of item, outstanding order load etc. and the tender conditions in fair, transparent and equitable manner.

(iv) The Developmental order can be given up to 20% of Net Procurement Quantity (NPQ) on unregistered /un-tried firms whom Railway is prima-facie satisfied that they are capable of executing the order. This 20% quantity will be within the NPQ. However, there may be some cases of procurement of materials where Railways may not be willing to undertake the risk of the failure on the part of the supplier on whom the developmental orders have been placed. In such cases, Railway may go in for increased purchase quantity in consultation with Finance and keeping in view budgetary and other aspects so that 100 percent order could be placed on registered / approved suppliers and quantity not more than 20% of NPQ could be placed as a developmental order outside the NPQ.

(v) Where there are not more than three Indian Suppliers categorised as approved Vendor for a particular item, developmental vendors can be considered for placement of bulk order without any quantity restrictions. However, while considering such vendors, factors including past performance, capacity, delivery requirements, quantity under procurement, nature of items outstanding order load etc. shall be considered in a transparent manner, subject to rates being reasonable. Quantity allocation among eligible vendors shall be based on pre decided tender criteria, such orders shall be treated as bulk orders.

0805 FOR ITEMS RESERVED FOR PROCUREMENT FROM RDSO APPROVED SOURCES:

(i) The RDSO approved vendors shall be categorised into following two

categories:

(a) Developmental Vendors: Such vendors shall include vendors found by RDSO as capable to develop the item under consideration. Such vendors shall be listed as developmental vendors by RDSO in the RDSO vendor directory. Pre-defined requirements for being qualified as an approved source shall be made available by RDSO on their website. New/ Untried vendors shall approach RDSO for registration/ approval. The list of vendors under development by RDSO shall be published by RDSO in the same Vendor Directory, duly indicating the quantity and service period to be attained for categorization as an approved vendor. Such information should also be made available by RDSO on their website.

(b) Approved Vendors: Sources categorised as approved vendors by RDSO.

(ii) Ordering on the vendors Assessed/Developed / Approved by RDSO:

(a) Approval Status to be taken as on tender Closing date: The status of the vendor (Le. approved or developmental vendor) shall be reckoned as on the date of tender Closing and not thereafter. However, cases of downgrading/ removal/ suspension/ banning etc., after opening of tender, shall be taken into account while considering the offers.

(b) Orders on developmental vendors shall be developmental orders and treated as such, specifically, with regard to applicability of liquidated damages for delayed supplies and levy of general damages.

(iii) Quantity Allocation:

(a) Developmental Vendors shall be eligible for developmental order of 20% of NPQ in regular tenders. Total quantity to be ordered on developmental sources shall be limited up to 20% of NPQ in regular tenders.

(b) Approved Vendors shall be eligible for bulk order (minimum 80%), as per predefined tender conditions.

(c) Where there are not more than three Indian Suppliers categorised as Approved Vendor for a particular item, developmental vendors can be considered for placement of bulk order without any quantity restrictions. However, while considering such vendors, factors including past performance, capacity, delivery requirements, quantity under procurement, nature of item, outstanding order load etc. shall be considered in a transparent manner, subject to rates being reasonable. Quantity allocation among eligible vendors shall be based on pre decided tender criteria. Such orders shall be treated as bulk orders.

(iv) Orders on developmental vendors shall be developmental orders and will not amount to splitting. Splitting of quantity for bulk order shall be governed by instructions as contained in letter no. 99/RS(G)/779/2 pt. dated 11/02/2016.

0806 A bidder shall be considered as Indian Supplier if:

(i) The entity is incorporated in India **OR**

(ii) A majority of its shareholding or effective control of the entity is exercised from India **OR**

(iii) More than 50% of the value of the item being supplied/quoted has been added in India.

(iv) If the tendering firm(s) is not approved by any of the Nodal agency viz. RDSO/CORE/ICF/RCF/CLW/BLW etc., then they must submit their credential details e.g. Machinery and Plant, Adequate Testing Equipment/Facilities for maintaining quality standards, Quality Assurance Programme, Technical capability, Technical Manpower, adequate capacity, Financial status etc

(v) Additionally, all unapproved tenderers/un-registered/untried firm who wish to participate for developmental orders, must upload attested photocopies of the

Supply orders, inspection certificates and receipt notes/certificates related to the maximum quantity of the material under procurement, successfully supplied by them, in the preceding three years to any Zonal Railway/Railways Production Unit/ Western Railway. Such tenderers are to note that non-submission of such documents shall be taken as their not having such past performance and their offers shall be considered further as per extant rules and no back reference in this regard will be made to them.

0900 EVALUATION CRITERIA & RATE, TAXES AND DUTIES:

0901 Tenderers are required to carefully see the **"**Evaluation criteria" mentioned in the tender.

0902 Tenderer must fill and submit the Financial Offer Form i.e. Rate form, as available with E-tender. Tenderer's attention is also drawn towards Para 0109 regarding filling in financial elements.

0903 The inter-se ranking of firms (financial tabulation statement), after opening of tender, shall be generated by system, based on the evaluation criteria of tender and the financial offers submitted by firms.

0904 Currency of Offer: The price should be quoted only in Indian Rupees. The offers submitted in other currencies shall not be considered.

0905 The Purchaser will not pay separately for transit insurance and the supplier will be responsible till the entire stores contracted to arrive in good condition at destination, where the tenderer intends to insure the goods, the insurance charges should be clearly indicated separately in the break-up. The ultimate consignee, will advise the tenderer within 30 days of the arrival of goods at the destination, any loss/damage, etc., of goods and it shall be the responsibility of the tenderer to lodge the necessary claim on the carrier and on insurer and pursue the same.

0906 Goods and Services Tax (GST):

(i) Tenderers will examine the various provisions of The Central Goods and Services Tax Act, 2017 (CGST)/Integrated goods and Services Tax Act, 2017(IGST)/Union Territory Goods and Services Tax Act, 2017(UTGST)/ respective state's State Goods and Services Tax Act (SGST) also, as notified by Central/State Govt & as amended from time to time and applicable taxes before bidding.

(ii) Tenderers will ensure that full benefit of Input Tax Credit (ITC) likely to be availed by them is duly considered while quoting rates.

(iii) All the bidders / tenders should ensure that they are GST compliant and their quoted tax structure/rates are as per GST Law. In case a tenderer quotes GST rate other than the applicable GST rate for the tendered item, the inter-se ranking shall be considered as per quoted GST rate in the offers , and,

a) If the quoted GST rate is less than the applicable GST rate, the contract will be placed at quoted GST rate. The shortfall in GST shall be borne by the tenderer.

b) if the quoted GST rate is higher than the applicable GST rate, the contract will be placed at applicable GST rate.

(iv) The successful tenderer who is liable to be registered under CGST/IGST/UTGST/SGST Act shall submit GSTIN along with other details required under CGST/IGST/UTGST/SGST Act to Railway at time of submission of Bid or immediately after award of contract or at time of submission of bill, without which no payment shall be released to the

contractor. Such contractor shall be responsible for deposition of applicable GST to the concerned authority.

(v) The un-registered bidders (tenderer not liable to be registered under CGST/IGST/UTGST/SGST Act) will quote their rates inclusive of GST as applicable for the relevant category of goods/services. Railways shall deduct the applicable GST, from his/their bills under reverse charge mechanism (RCM) and deposit the same to the concerned authority. The decision of Railways regarding the applicable rate of GST shall be final and binding.

(vi) The successful contractor shall be required to furnish following details for claiming payment from Railways.

(a) Name, address and GST Identification Number (GSTIN) of the supplier for each state.

(b) Date of issue of the invoice,

(c) Name, address and GSTIN, of the recipient (IR)

(d) Address of the delivery,

(e) HSN code (for goods) or Accounting Code of service,

(f) Description of goods or services along with Contract Reference No. and/ or Bill No.

(e) Quantity and unit,

(f) Total value of Supply of goods and/or services,

(g) Taxable value of supply of goods and/or services taking into account discount or abatement, if any,

(h) Rate of tax (Central GST, State GST, Inter State GST, Union Territory GST or cess),

(i) Amount of tax charged in respect of taxable goods or services (CGST,SGST, IGST, UTGST or cess),

(j) Place of supply along with along the name of State (in case of a supply in the course of inter-State trade or Commerce),

(k) Whether the tax is payable on a reverse charge basis. This field must separately be identified as the recipient of services/Goods supplied is liable to pay taxes without adjustments. Credit can be claimed later on. (This list is already in the public domain).

(l) Signature or digital signature of the supplier or his authorised representative.

0907 STATUTORY VARIATIONS:

Any statutory variation in existing Govt. Taxes/duties or imposition of new Taxes/duties is liable to be admissible, within the original delivery period only subject to production of documentary evidence and Govt. notifications.

1000 e-Reverse Auction:

1001 Procedure for award of contracts through Reverse Auction:

(i) The procedure discussed herein shall be fully implemented through IREPS. Any reference to Reverse Auction in these instructions shall imply e-RA.

(ii) Conduct and reporting of Reverse Auction shall be as per extant policy.

(iii) Each tender should clearly specify essential technical and commercial parameters in a transparent manner. No deviation to such essential Technical & Commercial conditions shall be permitted to the vendors in the electronic bid form.

1002 Technical Bid and Initial Price Offer:

(i) Bidders shall be simultaneously required to electronically submit a Technical & Commercial Bid and Initial Price Offer, offers found eligible for bulk order shall be categorised as Qualified for Bulk Order for the purpose of RA and

offers found eligible for Developmental order shall be categorised as Qualified for Developmental Order for the purpose of RA.

(ii)) Offers not complying with essential technical & commercial requirements of the tender shall be declared as Ineligible for award of contract.

(iii) Initial Price Offer of only those bidders categorised as Qualified for Developmental Order or Qualified for Bulk Order, shall be opened and tabulated by system separately, category wise, Extant instruction for electronic tabulations shall apply for tabulation of Initial Price Offers.

1003 Financial Bid:

Financial Bid shall comprise of Final Price Offer obtained through Reverse Auction. Following conditions and procedure shall be followed in selection of bidders for conduct of Reverse Auction:

(i) Selection of vendors for Reverse Auction for award of Contract in Works and Services tenders and bulk ordering in Stores Tenders:

<table>
<tr><th>Number of tenderers Qualified for Award of Contract/Bulk Order</th><th>Number of Tenders to be selected for Reverse Auction</th><th>Remarks</th></tr>
<tr><td>< 3</td><td>Nil*</td><td rowspan="3">The bids disallowed from participating in the Reverse Auction shall be the highest bidder(s) in the tabulation of Initial Price Offer. In case the highest bidders quote the same rate, the Initial Price Offer received last, as per time log of IREPS, shall be removed first, on the principle of last in first out, by the IREPS system itself.</td></tr>
<tr><td>3 to 6</td><td>3</td></tr>
<tr><td>More than 6</td><td>50% of Vendor Qualified for Bulk Order/award of contract (rounded off to next higher integer)</td></tr>
</table>

Note:

(a) *If the number of bidders qualified for Bulk Order/Award of Contract in less than three, RA shall not be done and tender may be decided on the basis of Initial Price Offer(s).

(b) In case of Stores Tenders, selection of vendors for Reverse Auction for Developmental ordering: Offers Qualified for Development Order, with initial price offer lower than the highest price offer of a vendor Qualified for Bulk Order and selected for Reverse Auction after elimination, shall be allowed to participate in RA. (As per Rly Bd's L/No. RS(M)/2011/ EPS/01 Pt. dated 18-10-2019).

(c) MSE Criteria : All MSEs (Micro & Small Enterprises) found Qualified for Bulk/Development Order/Award of Contract but could not be selected for Reverse Auction as per criteria stipulated in Para 1003 (i) and Para 1003 (i) Note (b) above, but are within the range of 15% of lowest Initial Price Offer of the bidders qualified for bulk order shall be permitted to participate in the Reverse Auction, irrespective of their inter-se ranking on the basis of Initial Price Offer. Such MSEs shall be over and above the number of vendors selected for Reverse Auction, as per Para 1003 (i) and Para 1003 (i) Note (b) above. In case of Stores Tenders, lowest initial price bid shall

mean lowest initial price bid of a vendor qualified for bulk order. However, in case all the bidders qualifying for bulk as well as for developmental order (before applying elimination criteria) are within MSE category, this clause shall not apply.(As per Rly Bd's L/No. RS(M)/2011/EPS/01 Pt. dated 18-10-2019).

(d) Make in India Criteria: All bidders eligible for benefits under Public Procurement (Preference to Make in India) Order-2017, found Qualified for Bulk / Developmental order/Award of Contract and are within the specified range of price preference, under the Make in India Policy, of lowest Initial Price offer of the vendor qualified for bulk order shall be permitted to participate in the Reverse Auction, irrespective of their inter-se ranking on the basis of Initial Price offer. Such bidders shall be over and above the number of vendors selected for Reverse Auction, as per Para 1003 (i) and Para 1003 (i) Note (b) above. However, if all the bids qualified for bulk order as well as for developmental order (before applying elimination criteria) also qualify under "Make in India Order,-2017" criteria, this clause shall not apply.(As per Rly Bd's L/No. RS(M)/2011/EPS/01 Pt. dated 18-10-2019).

(ii) During the Reverse Auction process, bidders shall not be allowed to bid a rate higher than the lowest Initial Price Offer.

(iii) Reverse Auction among bidders categorised as Qualified for Developmental Order and Qualified for Bulk Order shall be conducted concurrently on IREPS/Suitable Platform in Stores tenders.

1004 In case of Stores Tenders, quantity to be covered on developmental orders shall be limited to 20% of net procurable quantity. Developmental Orders shall be placed in terms of Railway Board Letter No. 99/RS(G)/709/1/Pt. Dated 13.01.2015.In such cases, the quantity covered on developmental orders may be within or outside NPQ, which may be decided by TC/TAA, before conduct of Reverse Auction.

1005 After obtaining the final price offers through Reverse Auction, the lowest bid of only those bidders who had participated in the Reverse Auction shall be considered for ordering. The offers of bidders which were eliminated from Reverse Auction shall be tabulated separately and shall not be considered for any ordering. All the relevant policies of the Government of India at the relevant time shall be applicable. (As per Rly Bd's L/No. RS(M)/2011/EPS/01 Pt. dated 18-10-2019).

1100 DELIVERY TIME & SCHEDULE

1101 The basic consideration and the essence of the contract shall be the strict adherence to the time schedule for the supply of item(s) offered.

1102 The time and the date specified in the contract for the delivery of the stores and equipment shall be deemed to be the essence of the contract and delivery must be completed not later than the date so specified. The attention of the tenderers is invited to Clauses regarding liquidated damages and default in the Instruction to Tenderers and General Conditions and IRS Conditions of Contract by which the contract shall be governed.

1103 The delivery period shall be reckoned from the date of issue of PO/Letter of Advance Acceptance/Letter of Acceptance.

1104 Liquidated Damage on delayed supply :

Recovery of liquidated damage (LD) shall be levied **0.5% (half percent) of the price of the stores per week** or part of the week during which delivery is accepted and the upper limit for recovery of LD in supply contracts is 10% of the value of contract irrespective of the delays, unless otherwise provided specifically in the contract.

1200 WARRANTY:

1201 The Contractors shall warrant that everything to be furnished to the purchaser under this contract shall be of the highest grade, free of all defects and faults in design, material, workmanship and manufacture, and shall be consistent with the established and generally accepted standards for goods of the type ordered and in full conformity with the contract specification, drawing or sample, if any and shall, if operable, operate properly.

1202 The contractor, if asked, shall furnish a Warranty Guarantee Bond in the proforma attached (**Annexure-4)** from a Nationalised Indian Bank or Scheduled Commercial Bank in India before claiming balance payment within the period specified in the contract for an amount equivalent to 10% or as specified, of the value of the contract including Operational Cost/Charges (whatever applicable) during Warranty Period; and excluding Operational Cost & AMC/CAMC Charges after warranty and any other similar charges (whatever applicable). This Bond shall be valid for a period equal to warranty period + 90 days.

1203 Handling of rejection of pre-inspected item and warranty rejections:

The methodology of handling rejections are dealt with below:-

(i) Two kinds of rejection occur in case of pre-inspected supplies made by vendors.
- **(a)** Pre-inspected material rejected by consignee at the time of receipt
- **(b)** Material rejected in warranty.

The methodology of handling these rejections are dealt with below:

In case of rejection of **pre-inspected goods and warranty rejections** at consignee end, the material rejection advice/rejection memo should be sent by consignee to all concerned i.e. firm, purchaser, pre-inspecting agency, paying authority as per the contract etc. without fail.

(ii) ***Financial recovery*****:** In case payment has been made to the firm for the material, the concerned paying authority as per contract, shall note the rejection advice details in its recovery register for effecting recovery of payments made, as the case may be.

(iii) If the firm desires to have joint inspection, joint inspection of rejected material will be held with pre-inspecting agency and the firm. In case of failure of either of the two parties to associate with joint inspection, the joint inspection should be held by the consignee with whichever of the two parties comes for joint inspection. Irrespective of whether the party(ies) attend joint inspection or not, the modality of joint inspection etc will have to be completed within **21 days** of communication of rejection advice to the supplier. In cases of rejection of imported material and warrantee rejection, the time limit will be **45 days**.

(iv) Firm may be permitted to collect the rejected goods only after the firm has deposited the payments already made by Railway (if any) to the firm or equivalent amount has been recovered for this purpose.

(v) In case of **replacement supply** against the rejected goods, the same should be pre-inspected by the same pre-inspecting agency who passed the material earlier. No inspection charge will be paid by the Railway to the inspection agency for the replacement supply.

(vi) However, in case of component level rejection in an pre-inspected item (which is an assembly) the replacement supply of that component can be accepted based on the firm's internal inspection certificate/guarantee certificate and final inspection by consignee.

1204 Warranty quantity replacement: The warranty quantity replacement will be accounted for under warranty R-note by the officer (which raised the warranty claim).

1205 Financial recovery (if any made) against the warranty failure will be refunded to the firm on warranty quantity replacement.

1206 Inspection of the replacement supply against warranty rejection:

(i) For cases of replacement supply against warranty failure, the replacement supply should normally be inspected by the same inspection agency which inspected and passed the original supply. Thus any change in inspecting authority for the warranty replacement will necessitate a formal amendment in contract.

(ii) However in case the warranty failure is of a component of an assembly supplied, the component can be accepted on the firm's own Guarantee Certificate/internal inspection certificate and consignee's final inspection.

1207 Place of warranty replacement: For warranty replacement, in order to ensure correct accountal of warranty replacement, the place of warranty replacement will be the depot which received the original supply. In case the depot is not available/closed, the place of warranty replacement may be the end-user's place as indicated in warranty claim notice to the firm.

At the option of the depot officer/end-user, rectification of the material rejected may be permitted within railway premises by the firm only after the firm has refunded the payment (if already made by Railway) or equivalent amount has been withheld for this purpose. However, from the date of communication of rejection advice, the rectification activity has to be completed within 21/45 days for indigenous/imported material respectively. If more time is taken beyond this, applicable ground rent will be levied on the firm.

1300 LOCAL CONDITIONS:

It will be imperative on each tenderer to fully acquaint themselves with all the local conditions and factors, which would have any effect on the performance of the contract and on the cost of the stores. In his own interest, the tenderer should familiarise with The Income Tax Act, 1961, The Companies (amendment) Acts, 2002, The Customs Act, 1962 and other related Laws in force in India. The purchaser shall not entertain any request for clarifications from the tenderer regarding such local conditions. No request for the change of price, or time schedule of delivery of stores shall be entertained after the bid is accepted by the Purchaser.

1400 TIME PREFERENCE CLAUSE:

It should be noted that if a contract is placed on a tenderer with higher price as a result of invitation of tender, in preference to a lower acceptable offered price, in consideration of offer of earlier delivery, the contractor will be liable to pay the Government the difference between the contract rate and that of the lowest acceptable tender on the basis of final price i.e. ultimate destination including GST, all elements of freight and other incidentals, in case of failure to complete supplies in terms of such contract within the date of delivery specified in tender and incorporated in the contract. This is in addition and without prejudice to other rights under the terms of contract.

1500 ENSURING LEGAL APPLICABILITY OF LAWS /RULES:

All tenderers will be responsible for the legality of the offer and ensuring the implementations of various acts/laws as prevalent in India. Any tax/duty/levy, if not specifically mentioned in offer and contract would be borne by the firm.

1600 PAYMENT TERMS:

(i) Payment terms will be as specified in NIT.

(ii) Payment through Letter of Credit (LC) for Domestic Supplies.

a) There is an option for the supplier/contractor to take payment from Railways through letter of credit (LC) arrangement, in tenders invited having estimated value of Rs 10 lakhs and above.

b) The LC will be a sight LC.

c) The bidder, at the time of bidding itself, shall exercise an option, in favour of taking payment due against the said tender, through LC arrangement. The option so exercised, shall be an integral part of the bidder's offer.

d) Option once exercised shall be final and no change shall be permitted, thereafter, during execution of contract.

e) The incidental cost @ 0.15% of LC value, towards issue of LC and operation thereof shall be borne by the supplier/contractor and shall be recovered from their bills.

f) State Bank of India through Its branches shall be the Banker for Railways for opening domestic letters of credit for the ensuing year. The arrangement would cover all such contracts finalised against tender issued during the said period and shall extend till final execution of these contracts.

g) The schedule of payment liability arising in the contract shall be established by the Railways based on the prescribed delivery schedule/stages of supply.

h) The acceptable, agreed upon document for payments to be released under the LC so opened, shall be a Document of Authorization.

i) The supplier/ contractor shall submit their bills for completed supply to the bill processing authority mentioned in supply/ contract agreement to issue Document of Authorisation to enable supplier/ contractor to claim the authorised amount from their Banker.

j) The Accounts Officer responsible for passing the claim will issue the Document of Authorization.

k) The supplier/ contractor shall take print out of the Document of Authorisation available on IREPS portal and present his claim to his banker (advising bank) for necessary payments as per LC terms and conditions. The claim shall comprise LC Document of Authorisation, Bill of Exchange and Invoice.

l) The bank shall also recover any amount as may be advised by the Railways against the contractor/supplier.

m) The Contractor/Vendor shall indemnify and save harmless, the Railways, from and against all losses, claims and demands of every nature and description brought or recovered against the Railways by reason of any act or omission of the Contractor/Vendor, his agents or employees, in relation to the Letter of Credit (LC). All sums payable/borne by Railways on this account shall be considered as reasonable compensation and paid by Contractor/Vendor.

1700 POLICY ON MICRO AND SMALL ENTERPRISES (MSE):

In pursuance of the Public Procurement Policy on MSE, it has been decided that: -

(i) Tender sets shall be provided free of cost to MSEs registered with the agencies mentioned below. MSEs registered with the UDYAM only will be exempted from payment of earnest money in tenders. Participating MSEs quoting a price within price band of L1+15% shall be allowed to supply a portion of the requirement by bringing down their price to L1 price in situation where L1 price is from someone other than a MSE and such MSEs can be together ordered at least 25% of the total procurement value. 4% of procurement of goods and services will be from MSEs owned by Scheduled Castes or Scheduled Tribes (SC/ST) entrepreneurs and 3% from woman owned MSEs, within the above mentioned 25% reservation for MSEs.

(ii) In the event of failure of such MSEs to participate in the tender process or meet tender requirements and L1 price, sub-target of procurement earmarked from MSEs owned by SC/ST/ Women entrepreneurs shall be met from other MSEs.

1701 MSE who are interested in availing themselves of these benefits will enclose with their offer the proof of their being MSE registered with UDYAM only.

1702 **(i)** In exercise of Para 16 of Public Procurement Policy for Micro and Small Enterprises order 2012, the condition of prior turnover and prior experience with respect to Micro and Small Enterprises in all Public Procurement may be relaxed subject to meeting of quality and technical specifications.

(ii) Prior turnover and prior experience in Public Procurement to all Start-ups(whether Micro & Small Enterprises(MSEs) or otherwise) may be relaxed, subject to meeting of quality and technical specifications in accordance with the relevant provisions of GFR 2017 or latest.

(iii) However, there may be circumstances (like procurement of items related to Public safety, health, critical security, Operation and equipment etc.) where procuring entities may prefer the vendors to have prior experience rather than giving orders to new entitles. For such procurement, wherever adequate justification exists, the procuring entities may not relax the criteria of prior experience/turnover for the Start-ups.

(iv) Traders/ distributors/ sole agents are excluded from the purview of Public Procurement Policy for MSEs Order, 2012 and benefits mentioned above will not be applicable to them.

1800 PURCHASE PREFERENCE TO MAKE IN INDIA POLICY: Added after Annexures.

1900 ITEMS RESERVED FOR MSEs/KVIC/ACASH etc.:

(a) If and as mentioned in the eligibility criterion in tender for the item(s) which are reserved for procurement from MSEs or Khadi Village Industries Corporation (KVIC)/ACASH etc. the purchaser reserves the right to procure the entire quantity from such vendors for that item. MSE who are interested in availing themselves of these benefits will enclose with their offer valid UDYAM registration certificate issued by Ministry of Micro, Small and Medium Enterprises (MSME), failing which the offer is liable to be ignored.

(b) In case no suitable offer is received from such vendors for this item, Railway reserves the right to procure these item(s) from other firms.

2000 EFFECT AND VALIDITY OF BID:

2001 Validity required for bids is indicated in NIT. Firms are advised to keep their offer valid

till the date specified in NIT.

2002 Bids shall be deemed to be under consideration immediately after they are opened and until such time the official intimation of award of contract is made by the Purchaser to the tenderer. While the bids are under consideration, tenderers and or their representatives or other interested parties are advised to refrain from contacting the Purchaser by any means. Purchaser may obtain clarifications on the bids by requesting for such information, from any or all the tenderers, in writing, as may be considered necessary. Tenderers will not be permitted to change the substance of their bids, after the bids have been opened.

2100 TERMS OF DELIVERY:

(a) Mode of dispatch should be preferably by road / personal courier service, directly to the respective consignee. For such mode of despatch, the date of receipt of material by consignee will be taken as date of delivery.

(b) Transit Insurance for risk in transit should be arranged by the supplier, since risk in transport in all such cases rests with the supplier in terms of IRS conditions.

2200 CRITERIA FOR SPLITTING OF TENDER QUANTITY:

2201 In case of no prior decision to split the order:

(i) The tendered quantity may be distributed among other bidders also, if after due processing, it is discovered that the quantity to be ordered is more than what L-1 alone is capable of supplying and there was no prior decision to split the quantities. The quantity being finally ordered will be distributed among the

other bidders in a manner that will be fair, transparent and equitable. The manner of splitting will take specific note of the following parameters:

(a) Past Performance of bidders
(b) Capacity of bidders
(c) Delivery requirements in the tender
(d) Quantity under procurement
(e) Vital/safety nature of the items

In the absence of any differentiation on the above parameters, the manner of splitting will be based on the stipulation given in para below.

(ii) In case of pre-decided split ordering (splitting of tender quantity specifically mentioned in special conditions of tender):

Railways may decide in advance to have more than one source of supply on account of delivery requirement in tender, past performance and capability of bidders, quantity under procurement and vital/safety nature of items.

Following provisionsshall be applicable in all such cases of pre-decided split ordering:

(a) The purchaser reserves the right to distribute the procurable quantity on one or more than one of the eligible tenderers. Zone of consideration of such eligible tenders will be the right of the Purchaser. The zone of consideration will be a dynamic mix of inter-se position of firms, supply performance of the firms, quantity being procured, criticality of and lead time of supply of the item, number of established suppliers, their capacity etc.

(b) Whenever such splitting of the procurable quantity is made, the quantity distribution will depend (in an inverse manner) upon the differential of rates quoted by the tenderers (other aspects i.e. adequate capacity- cum-capability, satisfactory past performance of the tenderers, outstanding order load for the Railway making the procurement, quoted delivery schedule vis-à-vis the delivery schedule incorporated in the tender enquiry etc. being same/similar) in the manner detailed in the table below:

Price differential between L1 and L2	Quantity distribution ratio between L1 and L2
Up to 3%	60:40
More than 3% and up to 5%	65:35
More than 5%	At least 65% on the L1 tenderer. For the quantity to be ordered on the L-2 tenderer, TC/TAA shall decide.

In the phrase '*differential rates quoted by the tenderers'*, the quoted rate would mean:

When no price negotiation has been called for, the original rates as obtained at the time of Tender Closing. However, the rate of the highest eligible tenderer within the zone of consideration has to be per se reasonable.

When price negotiation has been called for, the reference L1 rate for

assessment of ratio will be the original rate of L1 firm (suitable for bulk quantity) - say firm "A" – as obtained at the time of Tender Closing.

(c) If splitting of quantity is required to be done by ordering on tenders higher than the L2 tenderer, then the quantity distribution proportion amongst the tenderers will be decided by transparent/logical/equity based extrapolation of the model as indicated in the above para.

2202 In case of pre-decided splitting, the purchaser may decide not to split the ordered quantity on the merit of the individual case.

(i) For cases where the Rlys/PUs had entered into ToT/JV agreements, the following clause should be stipulated as tender conditions:
As the Rly has entered into ToT/JV agreement with a number of firms, they reserve the right to place orders on all such ToT/JV agreement partners. However, for ratio/proportion of quantity distribution among such agreement partners, conditions as detailed in Para 2201 (ii)(b) shall apply with the exception that the aspect of 'per-se reasonability' will not be applicable.

(ii) In the case of inadequate capacity-cum-capability, dissatisfactory past performance, large quantity of outstanding orders (liquidation of which will taken very long time) etc., the Purchaser shall have the right to distribute the procurable quantity amongst tenderers with due consideration to these constraints and in such a manner that would ensure timely supply of material in requisite quantity to meet the needs of operation, maintenance, safety etc. of the Railways, regardless of inter-se ranking of the tenderers and in a fair and transparent manner with due conformity to the principles of Natural Justice and Equity.

(iii) If splitting of quantity is required to be done by ordering on tenderers higher than the L-2 tenderer, then the qty. distribution proportion amongst the tenderers will be decided by transparent / logical /equity based extrapolation of the model as indicated in Para 2201 (ii) b) above.

(iv) Once the rate of L-1 firm (whether original, negotiated or counter offered and subsequently accepted) is reasonable, the purchaser may (in case of splitting of quantities) simultaneously counter offer to L-2, L-3 etc (whose rates are not per-se reasonable), the rate of L1 firm. Such counter offer(s) to L2, L3 will not be deemed to be negotiation. In the event of rejection of such counter offer(s), the purchaser will reserve their right to decide on the quantity distribution ratio / proportion.

2203 Ordering on developmental sources shall not construe splitting of procurable quantities.

2300 CARTEL FORMATION:

(i) The Tenderers are expected to quote most competitive prices freely.

(ii) Wherever all or most of the approved firms quote equal rates and cartel formation is suspected, the purchaser reserves the right to place order on one or more firms with exclusion of the rest, without assigning any reasons thereof. The selection of one or more firms may be on the basis of past performance records, capability, capacity, quality performance, after sales service response etc subject to rates being considered reasonable.

(iii) Firms are expected to quote for a quantity not less than 50% of the tendered quantity. Offers for quantity less than 50% of tendered quantity will be considered unresponsive and liable to be rejected in case Cartel Formation is suspected. Railways however reserve the right to order on one or more firms for any quantity.

(iv) The firms who quote in the cartel are warned that their names may be deleted from the list of approved sources.

(v) Wherever there is suspected Cartel formation from approved sources, the Railways reserves the right to place orders on new sources.

2400 ACCEPTANCE OF THE TENDER:

(i) The purchaser is not bound to accept the lowest or any offer nor to assign any reason for doing so and reserves the right to accept any offer in respect of the whole or any portion of the item specified in the tender and contractor shall be required to supply at the rate quoted. The rates quoted by the tenderers for the full quantity would be taken as valid even for part quantity.

(ii) Wherever necessary by the purchaser, the quantity to be ordered can be split by the purchaser amongst two or more sources for ensuring better availability of material keeping in view the vital/critical nature of item, quantity to be procured, delivery requirements, capacity of the firms and past performance of the firms, in fair, transparent and equitable manner.

(iii) Acceptance of bid may be communicated by **e-acceptance through IREPS**/e- mail/Speed post/Registered post/FAX & such acceptance of bid shall be deemed to conclude the contract.

(iv) **Withdrawal of offer by lowest bidde**r:- Para 7.5.11(f) of Manual for procurement of Good 2022 issued by Ministry of Finance, Department of Expenditure as under will be applicable as "I*f the bidder, whose bid has been found to be the lowest evaluated bid withdraws or whose bid has been accepted, fails to sign the procurement contract as may be required, or fails to provide the security as may be required for the performance of the contract or otherwise withdraws from the procurement process, the Procuring Entity shall re-tender the case"*

2500 MARKING OF MATERIAL:

The tenderer should agree to indicate the Manufacturers Name, Month and Year of manufacturing by casting/ stamping/ etching/ embossing, at an appropriate place of each piece supplied, without affecting the functional utility and structural stability of the components/ material. However, if the same is not possible because of a component/ item being small in size or any other reason whatsoever, the tenderer should indicate the same in their offer.

2600 INSPECTION CLAUSE:

Inspection will be as stipulated in NIT/Third Party Inspection (TPI) clause. **(The Railway Board Letters No.2022/RS(G/779/8 dated 04.01.2023, 2022/RS(G)/779/8 (E 3391974) Dt.18.03.2024 & No. 2022/RS(G)/779/8 (E 3391974) dt.20.05.2024 or latest may be referred for detailed terms & conditions.)** The TPI clause is as below:

2601 In terms of IRS conditions of contract, following specific provisions shall apply in cases of supply of pre-inspected goods through empanelled TPI agencies:

(i) Unless otherwise stated in the tender schedule, goods procured are required to be pre-inspected before dispatch by the Third Party Inspection (TPI) Agency appointed by Railways at its sole discretion. The TPI Agency appointed shall be indicated in the Purchase Order. It is agreed that the Railway's right to appoint the TPI Agency of its choice is absolute. Railway also reserves the right to change the TPI Agency at any time through issue of modification advice against the Purchase Order.

(ii) Online inspection calls shall be placed by the Supplier on IREPS after the Goods are ready for inspection.

(iii) In Purchase Orders requiring Stage Inspection, Suppliers shall place online inspection call for a particular stage after achieving readiness required at that stage duly mentioning the stage number. The Inspection for a particular stage

shall be initiated only after Inspection has been carried out for all the previous stages, as may be applicable.

(iv) The Third Party Inspection Agency appointed by Railways shall examine the online inspection call and may, within 48 hrs (excluding national holidays), seek additional information, if any, from the Supplier. The Supplier shall within one calendar day (excluding Sundays and national holidays) furnish the required information/documents to the TPI Agency to enable them to register inspection call. In case of incomplète information even after providing opportunity to Supplier to furnish information, the call shall not be registered and Supplier shall be advised of observations through the online system to address the observations and place fresh inspection call. The inspection call may also be rejected by TPI Agency if sufficient time for carrying out the inspection and release of IC before the end of delivery period is not available.

(v) Supplier shall be allowed to withdraw inspection call placed, without any cost, before the inspection call has been registered by the Third-Party Inspection Agency. Once the inspection has been scheduled by the TPI Agency, withdrawal of the inspection call shall not be permitted.

(vi) Inspection lee/charges will be paid directly by Railways to Third Party Inspection Agencies.

(vii) However, charges/expenses specifically provided for in IRS Conditions of Contract shall be borne by the Supplier.

(viii) Inspection charges paid or due to be paid by Railways to the TPI Agency shall be recovered from Suppliers in following cases:

a) In case of rejection of Goods during the pre-despatch inspection (including stage inspection rejection) by Third Party Inspection Agency, the charges recovered shall be equal to inspection charges payable to the inspecting agency as specified in **Para (d)** below.

b) When the Authorised Inspector of Third-Party Inspection Agency, on visit to Supplier premises for inspection, finds that Goods offered are not yet ready for inspection, Inspection call shall be cancelled by Authorised inspector by issuing call cancellation certificate. Similarly, in case of Stage Inspection, when the Authorised Inspector of Third Party Inspection Agency, on visit to Supplier premises for inspection, finds that readiness for Stage Inspection to be conducted has not been achieved, Inspection call shall be cancelled by Authorised inspector by issuing call cancellation certificate for Stage Inspection. The Call Cancellation Charges shall be recovered from Supplier as specified in para 2.8.4 below.

c) Inspection Certificate revalidation or re-inspection: If the Supplier fails to deliver the pre-inspected Goods as per the terms of the purchase order within the validity period of Inspection Acceptance Certificate, the TPI Agency, on request of Supplier, may, based on the merits of the case, decide to either re-validate the Inspection Acceptance Certificate or re-inspect the Goods against fresh inspection call to be placed by the Supplier. Decisions of the TPI agency in this respect shall be binding on the supplier. In such cases, the revalidation or re-inspection charges (as applicable) to be recovered from Supplier shall be as specified in para 2.8.4 below.

d) To summarise, following charges shall be recovered from Supplier:

Situation	Charges to be recovered from the Supplier (plus GST extra)
At the time of physical visit call is cancelled due to: Goods are not ready for inspection OR Goods,raw materials, components or sub components, as the case may be, are not yet ready for inspection, in cases involving Stage inspection (Call Cancellation through issue of Call Cancellation Certificate)	**Y/2, subject to a maximum of Rs 11000/-**
Goods, raw materials, components or sub components, as the case may be, rejected in Stage Inspection excluding the Final Stage, in cases involving stage inspection.	**Y**
Goods rejected in final Stage, in cases involving stage inspection	**2Y**
Goods rejected in inspection, in cases without stage inspection	**Y**
a) Inspection Certificate Re-validation b) Re- inspection	(a) Rs. 5000 or full inspection charges, whichever is lower . (b) "Y". **Where, Y = X/100 of total value of Goods inspected as per Purchase Order, Where X is the percentage inspection charges of the concerned PO Value slab for Product Inspection.**

2603 Applicable inspection charges in percentage of PO value and slab-wise is as under for information of Suppliers:

PO Value Slab Inspection charges (X)	PO Value Slab Inspection charges (X)
From Rs. 5 lakhs up to 1 Cr	0.5220 % + GST extra
Above Rs. 1 Cr up to 25 Cr	0.116 %+GST extra
Above Rs. 25 Cr up to 100 Cr	0.053 %+GST extra
Above Rs. 100 Cr up to 500 Cr	0.035 %+ GST extra

Note: (i) Purchase Order Value for the purpose of calculating the inspection charges shall mean total value of Goods ordered specifically indicated in the Purchase Order as total order value, and includes freight, packing, forwarding, taxes and duties etc. used in arriving at total order value but excludes any components or items not included specifically in calculation of total order value. The inspection charges shall be calculated using Value of Goods Inspected based percentage charges and GST applicable on inspection charges for the corresponding PO Value Slab.

For avoidance of doubt and as an illustration, if the PO Value for 100 Nos of Item A is Rs. 50 Lakhs and a lot consisting of 25 nos. is offered for inspection. The inspection charges for the lot being inspected shall be = (0.5220/100)x(25/100)x50,00,000 = Rs. 6525 only+ GST Extra.

(ii) For inspection of Goods by Third Party Inspection Agency where Purchase Order value is below Rs. 5 lakh, the inspection charges in such cases will be those applicable for PO valuing Rs. S Lakhs.

(iii) For inspection of Goods by Third Party Inspection Agency where Purchase Order value is above Rs 500 Cr, the inspection charges in such cases will be fixed separately by the purchaser subject to a maximum of 0.035 % + GST extra**.**

2604 When pre-inspected Goods get rejected at consignee end joint inspection will be held as per procedure below. Moreover, in case of rejection of Goods on Joint Inspection, the replacement supply against the rejected lot of Goods shall normally be inspected by the same Third Party Inspection Agency, which inspected and passed the original supply, unless purchaser under special circumstances decides to get the lot inspected by some other inspection agency/consignee and decision of purchaser in this respect shall be binding on supplier.

2605 Procedure for Joint Inspection:

(i) If Goods, pre-inspected by TPI Agency, gets rejected at Consignee end after receipt by consignee, the material rejection advice/rejection memo will be sent by consignee through online system to all concerned i.e. Vendor, TPI Agency, Procuring Entity and Paying Authority and to such others as required.

(ii) Before rejected goods are returned to the supplier, the consignee after or at the time of issue of rejection advice, at his discretion, shall call for a Joint Inspection between consignee, Vendor and TPI Agency. Such Joint Inspection shall be conducted at a place as mentioned in the notice for Joint Inspection.

(iii) The joint inspection is to be carried out by the consignee with the representatives of the inspecting agency.

(iv) In case where either the firm or the representative of the inspecting authority do not turn up for Joint Inspection, Joint Inspection shall be done with whosoever of the two is available. In case neither firm nor inspection agency attend, consignees' decision to accept or reject such goods shall be final and binding.

(v) A Joint Inspection report shall be signed by the Party(ies) attending the Joint Inspection. Failure to attend Joint Inspection shall not be an excuse to dispute the findings of Joint Inspection.

(vi) Irrespective of the outcome of Joint Inspection, the TPI Agency will not be entitled for any fee or charges, whatsoever, for attending such Joint Inspection. In case of rejection of Goods on Joint Inspection, the TPI Agency shall not be entitled for inspection charges for the quantity of Goods rejected. The inspection charges, if and to the extent already paid, shall be recovered from the TPI Agency.

2700 COST OF TEST & RE-INSPECTION CHARGES:

In addition to clause of IRS conditions of contract, the following re-Inspection charges will require to be paid by the contractor to the inspecting agency:

(i) Failure to offer material for inspection:

Situation	Inspection Charges
Before the visit of Inspecting Engineer (IE)	**50% of the Inspection charges up to maximum of Rs.11000/-**
After Visit of Inspecting Engineer (IE)	**Twice the charge payable**
Material is re-inspected due to rejection of material at firm's premises OR due to non-dispatch	**100% Inspection Charge + Actual Test Charges.**

(ii) Wherever testing is required to be done by the inspecting agency outside the manufacturer's all testing will be done by the inspecting agency either in its own laboratory/laboratories approved by it or in NABL accredited laboratory.

(iii) Further, parts & fittings of rolling stock except raw materials, which have been found rejected during inspection and which could not be rectified, are required to be defaced by the inspecting authority to avoid recycling of such rejected materials and to avoid ultimate failure of assets. All such rejected materials of rolling stock should be mechanically defaced to prevent sale to Railways again.

(iv) Purchaser shall bear the travel, boarding, lodging and other miscellaneous expenses of the Inspecting officials.

2800 POWERS OF INSPECTING OFFICER:

In addition to carry out inspections as per specifications and conditions of contract, Inspector shall have the right to mark the rejected stores with a rejection mark, so that they may be easily identified if re-submitted for inspection. The Inspecting Officer's decision as regards the rejection shall be final and binding on the contractor.

2900 PAYMENT THROUGH ECS/NEFT:

(i) The tenderer should give consent in a mandate form for receipt of payment through ECS / NEFT (**Annexure-9)** by attaching a scanned copy of the same in PDF format in the template Attach Documents on 'Techno Commercial Bid Details' form.

(ii) Tenderer should provide the details of Bank A/C in line with RBI guidelines for the same. These details will include Bank Name, Branch Name & Address, Account Type, Bank A/C No., and Bank & Branch Code as appearing on the MICR cheque issued by the bank.

(iii) Tenderer should attach a certificate from their bank certifying the correctness of all above-mentioned information.

(iv) In case of non-payment through ECS/ NEFT or where ECS / NEFT facility is not available; payment may be released through cheque, depending upon merit. However, payment through ECS/NEFT is preferable.

(v) View Bills' Status: A new feature has been provided in IREPS website, to enable Vendors to view the status of their Bills for Payment submitted to Indian Railways. The status can be viewed by clicking on the **View Bills Status** link on their Bidder Home page. Bills status can be viewed only after mapping an IREPS account with the party code allotted by the Accounts department. Mapping can be done by clicking on **Map Accounts Deptt. Party Code** link on the Bidder Home page.

3000 QUANTITY OPTION CLAUSE:

The provision of + (plus) 30% Option Clause shall be inserted in tenders as a Special Condition of Contract with a minimum purchase value of Rs. 1.5 Crores, for fixed quantity contracts, for procurements of materials of which the requirements are of continuing nature However, railways are not debarred from inclusion of + (plus) quantity option clause in tenders for fixed quantity contracts valuing below Rs 1.5 Crores, wherever so required in the railways own interest provided the requirements of such material are of continuing nature. For running contracts, IRS Conditions of Contract on contractual quantity variations will apply.

3001 Where the + (plus) 30% quantity option leads to fractional quantities, these may be rounded off to the next higher number, if the fraction obtained is 0.5 or more.

3002 Option Clause can be exercised anytime within the Delivery period, by giving reasonable notice.

(i) Reasonable notice as mentioned above is only for the purpose of allowing the contractor suitable time to make necessary arrangements for the supplies and not for seeking any consent from the contractor towards exercise of the contractual option clause. To this end, a reasonable delivery schedule for the enhanced ordered quantity stipulated in the relevant Modification Advice to the contract will suffice.

(ii) In a contract that provides for quantity option clause, in case Delivery Period is extended either for the full ordered quantity or a part quantity which remained unsupplied on the date of expiry of the original delivery period, then during the extended delivery period also, quantity variations can be made on the total ordered quantities.

3100 e-WAY BILL:

Ministry of Finance vide Notification No. 12/2018-Central Tax dated 07.03.2018 Central Goods & Service Tax (Second Amendment) Rules, 2018 has notified the revised guidelines of E-Way Bill. Relevant rules regarding transportation by goods train over Indian Railways are quoted below:

(i) As per Rule 138(2A), where the goods are transported by railways, the e-Way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B of Form GST EWB-01.

(ii) Provided that where the goods are transported by goods train, the Railways shall not deliver the goods unless the E-Way Bill required under these rules is produced at the time of delivery.

(iii) As per Rule 138 (14)(e) No E. Way Bill is required to be generated where the consignor of goods is Central Government / Government of any State or a Local Authority for transport of goods by rail.

(iv) As per Rule 138 (14) (m) where empty cargo containers are being transported, no E.Way Bill is required to be generated.

(v) As per Rule 138A.1 (a) the person in charge of conveyance shall carry the invoice or bill of supply or delivery challan as the case may be. Copy of any of these documents shall be provided by the person offering goods for transportation in goods-train by Indian Railways. Document number specified to be filled in the Form of GST E.Way Bill -01 will be Railway Receipt number or Forwarding Note Number issued by Railways.

3101 It may be noted that the Ministry of Railways has represented to MOF regarding Rule 138(2A) which mandates that Railway shall not deliver the goods unless the E-Way

Bill, required under these rules, is produced at the time of delivery. Till such time a decision is conveyed from Ministry of Finance, following may be followed:

(i) A copy of E-Way Bill, shall be taken and kept in record by the Goods Clerk.

(ii) In case customer is unable to supply above, an undertaking may be taken from customer that either he is not required to generate E.Way Bill under extant law, or that in case of non-compliance he is solely responsible for all legal and financial consequences for all acts of omissions & commission and that Railway is unconditionally indemnified in such a situation. The date of effect and validity of these guidelines shall be subject to the notification issued by the Ministry of Finance, Government of India.

3102 The responsibility of generation of e-way bills in respect of any consignment booked through parcel lies solely with the Consignor/Consignee even if they are unregistered. Any consignor booking goods through parcel shall give an undertaking (in the prescribed format) that e-way bill be generated and produced by consignor / consignee before taking delivery of the consignment failing which the consignment will not be delivered to him.

3103 Delivery of consignment/parcel shall not be granted to the consignee without production of e-way bill. In the case where the consignee does not produce an e-way bill on account of value of the consignment being less than Rs. 50,000/- he shall give an undertaking (in the prescribed format). In this regard, it was further clarified vide Board's letter No. 2017/TC(FM)/11/10 dated 27.02.2019 that these instructions shall be applicable for both leased as well non-leased parcel traffic.

E-Way Bill - Undertaking:

I, (name of Consignor/Firm/Company) having GSTIN number , hereby undertake to generate online E-way bill for the above mentioned consignment offered for transportation to Indian Railways, as per extant rules/guidelines notified by Central Board of Excise & Custom, Ministry of Finance. I, hereby also undertake that I shall be wholly responsible for the compliance of E-way Bill rules/laws and for details (including all commissions and omissions) given in the E-way bill. I, hereby take sole responsibility/liability for any legal and financial consequences and to indemnify Railway in case of any eventuality. I, hereby declare that the undersigned has the authority to give this undertaking solely/on behalf of the name of Consignor/Firm/Company/…….…. GSTIN ……..……

Name …….

Authorised Signatory

Seal of Firm/Company

3200 FAILURE & TERMINATION:

(i) If the Contractor fails to deliver the stores or any instalment thereof within the period fixed for such delivery in the contract or as extended or at any time repudiates the contract before the expiry of such period the Purchaser may without prejudice to his other rights may take action as per IRS conditions of Contract.

(ii) The Purchaser may cancel the contract or portion thereof and forfeit the security deposit (in cases where SD has been taken from the contractor) OR may impose **Penalty @10% of outstanding value of contract subject to maximum amount of applicable SD** (in cases where SD has not been taken from the contractor).

3300 SAFETY MEASURES:

3301 The Contractor should take all precautionary measures to ensure the protection of his own personnel moving about or working on the railway premises and should conform to the rules and regulations of the Railway as well as to relevant labour laws of Government in force.

3302 The Contractor should abide by all railway regulations in force from time to time and ensure that the same are followed by his representative, agents or sub-contractor or workmen.

3303 The Contractor should ensure that unauthorised, careless or inadvertent operations of installed equipment, which may result in accident to staff and/or damage to equipment, do not occur.

3304 The Contractor should keep the Purchaser indemnified and harmless against all actions, suits, claims, demands costs charges or expenses arising in connection with any accident, death or injury; sustained by any person or persons within the railway premises and any loss or damage to railway property sustained due to the acts or omissions of the Contractor irrespective of whether such liability arises under the workmen's compensation act or the fatal accidents act or any other statute in force from time to time.

3400 SECRECY:

(i) The Contractor shall take all reasonable steps necessary to ensure that all persons employed in any work in connection with the contract, have full knowledge of the Official Secrets Act and any regulations framed there under.

(ii) Any information obtained in the course of the execution of the contract by the contractor, his servants or agents or any person so employed, as to any matter whatsoever which would or might be directly or indirectly, of use to any enemy of India, must be treated secret and shall not at any time be communicated to any person.

(iii) Any breach of the aforesaid conditions shall entitle the Purchaser to cancel the contract and to purchase or authorise the purchase of the stores at the risk and cost of the contractor in accordance with the conditions of contract. In the event of such cancellation, the stores or parts manufactured in the execution of the contract shall be taken by the Purchaser at such price as he considers fair and reasonable and the decision of the Purchaser as to such price shall be final and binding on the Contractor.

3500 FORCE MAJEURE CLAUSE:

(i) In the event of any unforeseen event directly interfering with the supply of stores arising during the currency of the contract, such as war, revolutions, hostilities, acts of the public enemy, civil commotion, sabotage; fires; floods, explosions, epidemics, quarantine restrictions, strikes, lockouts or acts of God, the contractor shall, within a week from the commencement thereof; notify the same in writing to the Purchaser with reasonable evidence thereof. However, it should not be used by a party to escape liability for bad performance.

(ii) If a Force Majeure situation arises, the supplier shall promptly notify the purchaser in writing of such conditions and the cause thereof within fourteen (14) days of occurrence of such event with reasonable evidence thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

(iii) If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period exceeding ninety days, either party may by giving 14 days' notice to the contractor in writing, at its option terminate the contract without any financial repercussion on either side. In case of such termination, no damage shall be claimed by either party against the other, save and except those which had occurred under any other clause of this contract prior to such termination.

(iv) Purchaser will also be entitled to take recourse under Force Majeure should such conditions arise.

3600 NEGOTIATIONS:

3601 When conducting negotiations, the firm(s) will be informed about the parameter(s) of the original offer on which revision(s) of original offer is/are solicited and his signature taken in token thereof. In the negotiated offer, any variation by the firm(s) on such aspect(s) of offer on which revision was not solicited during negotiations, will render the negotiated offer unfit for consideration.

3602 Negotiations will be conducted as per extant instructions on the matter. However, there could be a case where, subsequent to conduct of negotiation, the offer of the approved vendor becomes lower than the offer of the developmental vendor(s), whose offer(s) were originally lower than the offer of the vendor, with whom negotiation has been conducted. In such cases, quantity distribution shall be with respect to the original rates quoted in the tender. Any counter offer, consequent upon such negotiation with approved vendors, made to developmental vendor(s) shall not constitute negotiation.

3700 JURISDICTION OF COURTS:

The courts at the place where the contract is signed, shall alone have jurisdiction to decide any dispute arising out of or in respect of the contract.

3800 FALL CLAUSE:

Fall Clause will be applicable only in case of Rate Contracts. The Fall Clause will be as below:

(i) The price charged for the stores supplied under the Contract by the contractor shall in no event exceed the lowest price at which the contractor sells the stores or offer to sell stores of identical description to any persons/organisations including the purchaser or any Department of Central Government or any Railway Office or any Railway undertaking, as the case may be, during currency of the contract. The lower price will be applicable to supplies made after the date of coming into force of such reduction or sale or offer to sell at a reduced rate

(ii) If at any time during the said period the contractor reduces the sale price, sells or offers to sell such stores to any persons, organisations including the purchaser or any Department of Central Government or any Railway Office or any Railway Undertaking as the case may be at a price lower than the price chargeable under the contract, they shall forthwith notify such reduction or sale or offer of sale to the purchaser and the price payable under the contract for the stores supplied after the date of coming into force of such reduction or sale or offer of sale, shall stand correspondingly reduced.

(iii) The Contractor shall furnish the following certificate to the concerned Accounts Officer along with each bill for payment of supplies made against the contract. "I/We certify that there has been no reduction in sale price of the stores of description identical to the stores supplied to the Government under the contract herein and such stores have not been offered / sold by me/us to any person / organisation including the purchaser or any Department of

Central Government or any Railway Office or any Railway Undertaking as the case may be, up to the date of bill, at a price lower than the price charged to the Government under the contract.

3900 SPECIAL INSTRUCTIONS FOR MACHINERY & PLANT (M&P) ITEMS INCLUDING MEDICAL EQUIPMENTS:

3901 Technical Compliance:

The tenderers shall give para/ clause wise comments on the technical specification to indicate whether the equipment offered fully meets the tender specifications. The offer shall be accompanied with complete details of technical parameters/ brochure/ pamphlets for quoted equipment with model number, if any.

3902 Authorization letter:

In case the tenderer is an agent of the manufacturer, such tenderer should clearly indicate the same and also enclose authorization certificate from the manufacturer to this effect (specific to the tender) and also mention the place where the equipment will be offered for pre-inspection before dispatch.

3903 Validity:

The offer should be kept valid for 120 days from the date of closing of the tender.

3904 After Sales Service:

The tenderers should confirm that they will render quick after-sales service during the warranty period of the machine and advise details of their after sales network / office which will render the said service.

3905 Comprehensive Annual Maintenance Contract (CMC):

(a) The Complete Equipment/ M&P shall be covered by CMC for a period of **five years after expiry of warranty period.** Tenderers along with their offers shall also quote CMC charges on a yearly basis for a period of five years for the proper upkeep and maintenance of the quoted Equipment. The quoted CMC charges shall include the following :

- **(i)** Cost of preventive maintenance visits during the year (Two visits in each year. Detailed itemized breakup of jobs to be done in each visit shall be furnished in the offer).
- **(ii)** Cost of all spares required for preventive maintenance.
- **(iii)** Cost of breakdown Maintenance visits during the year.
- **(iv)** Cost of all spares required for Breakdown Maintenance.
- **(v)** Boarding, lodging, transportation, medical facilities and all other incidental expenses.
- **(vi)** All duties, taxes and levies applicable.

(b) The quoted CMC charges shall:

- **(i)** not include the cost of consumables required for day-to-day operation would not be included in the scope of CMC.
- **(ii)** have firm prices.
- **(iii)** be separately payable in Indian Rupees only.

Railways reserves the right for entering into the Comprehensive Annual Maintenance Contract (CMC) on the basis of rates quoted by the

Contractor in their tender against CMC charges. CMC is mandatory for Medical Equipment. Therefore, the offer of tenderers not quoting CMC charges for medical equipment shall be summarily rejected.

For all other M&Ps, the essentiality of CMC (whether CMC required or not) is clearly indicated in schedule or requirement. However, in any case, Tenders shall quote CMC charges for 5 years for all other M&Ps, even for the purpose of future reference/ guidance of the consignee.

(c) Evaluation criteria:

(i) For Medical Equipment (CMC requirement is mandatory) and for all other M&Ps where CMC requirement has been clearly indicated in schedule of requirement:

- ➢ Total Net Present Value of CMC charges for 5 years (P) after expiry of warranty period of two years calculated on predetermined % rate of discounting (RD) is mentioned in Para 3912 below. In case of different warranty period & different span of CMC Charges this formula will be as per the equivalent suitable calculations. The same shall be loaded on FOR destination rate including cost of installation & commissioning charges quoted by the tenderer for the purpose of comparative evaluation of offers (inter-se ranking).

(ii) For all other M&P items where CMC is not required and indicated in schedule of requirement, but the same may be used for future reference of the consignee:

- ➢ CMC charges shall not be loaded and only FOR destination rate including cost of installation & commissioning charges quoted by the tenderer shall be the criterion for comparative evaluation of offers.

(d) The CMC shall guarantee 98% availability (minimum Uptime) in case of Medical Equipment or indicated in the schedule of requirement for other M&Ps, which shall be calculated on a quarterly basis on the total or working days available in the quarter. Availability shall be defined as full functionality of the machine to fulfill all requirements specified in the specification.

(e) The Maintenance shall normally be done during working hours i.e. from 10:00AM to 5:00PM. However, in case of emergency, maintenance may have to be done beyond working hours and even on holidays. Prior arrangements through proper communication should be worked out in all cases by the Contractor.

(f) The Equipment shall be considered under breakdown, if any of the requirements specified in the specification is not fulfilled. In case of medical Equipment, all breakdowns must be attended within 48 hours of intimation by the consignee in writing (Maximum Response time). No breakdown shall stretch beyond three days consecutively (Maximum down time). The Contractor, in case of Medical Equipment, provides standby Equipment in case Equipment could not be put in order within three days. The maximum response time and maximum down time for other M&Ps are indicated in the schedule of requirement.

(g) A penalty of 0.25% of the CMC value shall be levied for each percentage point shortfall. However, the total penalty in a year shall not exceed 10% of the CMC value. In case, the total penalty exceeds 10% Railways shall have the right to cancel the CMC and forfeit the performance guarantee bond towards CMC.

(h) Payment of CMC shall be made on quarterly basis against a performance guarantee bond equal to full value of the annual contract value, valid for 15

Months from date of CMC, to be furnished by the contractor at the beginning of CMC. Payment shall be made at the end of the quarter. Penalties imposed during the quarter shall be deducted from the quarterly payment due to the Contractor.

(i) After each preventive maintenance and breakdown visit, the performance of the machine/Equipment shall be monitored for two days after which a joint note shall be signed between the Contractor or his authorized officials and the consignee. The joint note shall clearly bring out the performance of the machine/Equipment to fulfill the requirements in the specification.

(j) The Contractor shall execute the contract in conformance to all applicable laws of the land. The consignee shall not be liable in any way for any penalties, claims and charges arising out of the execution of contract by the Contractor. For all such expenses and liabilities, the Contractor shall be solely responsible. This shall also include any compensation claims arising out of any accident during execution of the contract.

(k) The Contractor shall also be solely responsible for any damages suffered by the consignee's property during execution of the contract. However, the liability shall be limited to making good the damages inflicted.

(l) The tenderers are required to give the current cost of spares required for maintenance of the machine and the current service charges for each item of work of repair of M&P to undertake maintenance work of the equipment by consignee after the CMC period of 5 years is over. These charges will not be included in the price of M&P for the purpose of comparative evaluation of offers.

(m) Tenderers, who are OEM, must give undertaking for supply of spare parts for a period of expected life of the machine/equipment. Tenderers participating on authorization of OEM must submit undertaking from OEM for supply of spare parts for a period of expected life of the machine/equipment.

3906 Commissioning & Proving Test:

(a) The contractor shall arrange commissioning of the equipment at the consignees premises. The tenderers shall carry out necessary proving test to demonstrate the performance of equipment, after its successful commissioning to the entire satisfaction of the consignee.

(b) The Contractor or his agents shall commission the machine within stipulated time as shown in the contract. This time frame will be applicable from the date of intimation from the consignee in respect of readiness of the machine for commissioning in cases where the machine is to be installed by the consignee. The time schedule includes the time for installation in cases where installation is also to be undertaken by the contractor.

(c) The time allowed for commissioning of the machine shall be deemed to be the essence of the contract. In case of delay in commissioning of the machine on the part of the contractor, the purchaser shall be entitled to recover and the contractor shall be liable to pay a penalty at the rate of 2% of the price of the M&P for each and every month or part thereof for which commissioning is delayed, provided always that the entire amount of penalty to be paid under the provision of this clause shall not exceed 10% of the total contract value. Failure to install / commission the machine within stipulated time after intimation from the consignee will be taken as breach of contract and purchaser will be at liberty to forfeit the Security Money furnished by the supplier without any prejudice to other rights under the contract.

(d) Continuance of commissioning work after expiry of stipulated time will also constitute a default for the purpose of the Clause 3906 (c) above. The decision of

the Purchaser on whether the delay in commissioning has taken place for reason(s) attributed to the contractor shall be final and binding.

3907 Training:

The contractor during commissioning of the equipment will also train Railway staff in operation and maintenance of equipment supplied.

3908 Maintenance Manual & Spare Parts:

Contractor is required to supply 2 copies of the operation and maintenance manual and lists of Spare parts along with the equipment.

3909 Warranty:

(a) The contractor shall warrant that the equipment supplied shall be free from defect and faults on material, workmanship. Manufacturing quality should be of the highest grade consistent with the established and generally accepted standard goods of the type offered and in full conformity with the tender specifications.

(b) Unless otherwise mentioned in the specification, the equipment offered should be warranted against defective design, material, workmanship etc. for a period of 24 months from the date of commissioning and proving test at destination, provided defect and / or claims are notified to contractor within 2/3 months of such date.

(c) The Contractor shall, if required, replace or repair the equipment or such portion thereof as is found defective by the Purchaser, free of cost at the ultimate destination or at the option of the purchaser, the Contractor shall pay to the Purchaser value thereof at the contract price and such other expenditure and damages as may arise by reason of the breach of the condition herein specified.

(d) Maximum downtime during the warranty period will be 2% for online Machinery and Plant including Medical equipment and 10% for offline Machinery and Plant calculated on quarterly basis. Penalty of 0.5% per week on part thereof of the contract value will be levied for delay in response time for attending and rectification of fault beyond specified time during the warranty time. Maximum penalty to be levied on account of warranty failure will be 5% of the contract value calculated during the whole of the warranty period, and after that if there is any delay on part of the Contractor, the purchaser shall be entitled to encash warranty BG. Further, in such cases bad performance of such Contractor shall be recorded and circulated to all the zonal railways and in future tender the poor performance of such tenderer shall be duly considered.

(e) The decision of the Purchaser in regard to Contractor's liability and the amount, if any, the payable under this warranty shall be final and conclusive.

(f) Warranty clause is also applicable for spare parts / assemblies.

3910 Inspection: By Third Party Inspection agency (TPI) at works/premise of manufacturer.

3911 Payment Terms:

(a) For orders valued up to Rs. 1 Lakh: 100% payment will be made after inspection, receipt, installation and acceptance of equipment by the consignee.

(b) For orders valued above Rs.1 Lakh: 80% payment shall be made against proof of dispatch / delivery and inspection certificate, 20% after satisfactory installation, commissioning and acceptance of the equipment by consignee subject to submission of BG for 10% of the contract value for warranty obligations, valid beyond 6 months period of warranty.

3912 Formula for calculating Net Present Value (NPV) for CMC Charges:

CMC Charges for 1st Year after expiry of warranty period of two years	C1
CMC Charges for 2nd Year after expiry of warranty period of two years	C2
CMC Charges for 3rd Year after expiry of warranty period of two years	C3
CMC Charges for 4th Year after expiry of warranty period of two years	C4
CMC Charges for 5th Year after expiry of warranty period of two years	C5

Predetermined percentage rate of discounting = RD @ 8%.

Net Present value of CMC Charges for 1st Year	P1	$= C1/(1+RD/100)^3$
Net Present value of CMC Charges for 2nd Year	P2	$= C1/(1+RD/100)^4$
Net Present value of CMC Charges for 3rd Year	P3	$= C1/(1+RD/100)^5$
Net Present value of CMC Charges for 4th Year	P4	$= C1/(1+RD/100)^6$
Net Present value of CMC Charges for 5th Year	P5	$= C1/(1+RD/100)^7$
Total Net present value of CMC charges for 5 year	**P**	**= P1+P2+P3+P4+P5**

Important: Total Net present Value of CMC charges for 5 years (P) shall be loaded on FOR Destination rate including cost of installation & commissioning charges quoted by the tenderer for the purpose of comparative evaluation of offer (inter-se-ranking of the offers).

4000 SPECIAL CONDITIONS & PRECEDENCE OF CONDITIONS:

4001 Special conditions mentioned in tender documents, if any, separately or with technical specifications, if any, will prevail in case they differ from Instructions to Tenderers for Electronic Tenders and General Conditions of Tenders and IRS Conditions of Contract.

In case of any contradiction between clauses of this document and special conditions (if any) attached with the tender, special conditions will prevail over this document.

4002 Railway reserves the right to apply Policy instructions issued from time to time by the Ministry of Railways, Railway Board, Government of India on various matters viz., Public procurement (Preference to Make in India) Order 2017, National Steel Policy, MSE Start up policy, Domestically Manufactured Iron & Steel Products, The Ministry of Electronics and Information Technology's Office Memorandum No.33(1)/2017-IPHW dt.26.10.2017 circulated under Rly Board's Letter No.2011/RS(G)/779/9 dt.06.12.2017 in furtherance of the Public Procurement (Preference to Make in India) Order 2017 and in supersession of the policy for providing Preference to Domestically Manufactured Electronic Products (DMEP) in Government procurement etc., in addition to the conditions/special conditions of tender or attached to the tender (NIT) if any.

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END OF DOCUMENT

Annexure

TABLE OF CONTENTS FOR ANNEXURES

Annexure no.	Details of Annexure
1.	Proforma for clause by clause compliance of technical specification in case of mandatory technical requirements given in special conditions of tender, if any.
2	Proforma for authority from manufacturers
2a	Proforma for Performance Statement
3.	Bid Securing Declaration by bidders availing exemption from EMD
4.	Proforma of bank guarantee for 10% contract value towards warranty guarantee.
5.	Proforma of bank guarantee for contract performance guarantee bond.
6.	Proforma for equipment & Quality Control
7.	Competent Authority and Procedure for Registration
8.	Self Declaration by Tenderers (Land Border)
9.	National Electronic Funds Transfer (NEFT) Mandate Form

ANNEXURE-1

PROFORMA FOR CLAUSE BY CLAUSE COMPLIANCE OF TECHNICAL SPECIFICATION

Clause No of technical specification	Description of technical requirement/specification	Specification quoted	Compliance or deviation if any,	Remarks

Signature and seal of

The Manufacturer/ Tenderer

Please attach it duly filled in along with e-offer, in case of mandatory technical requirement specifically mentioned in special conditions of tender, if any.

ANNEXURE-2

PROFORMA FOR AUTHORITY FROM MANUFACTURERS

Ref No. ……dated……
To

THE PRESIDENT OF INDIA,
Acting through, PCMM Western Railway
4th Floor, Station Building
Churchgate
Mumbai-20
India

Dear Sir,

Subject Tender No……dated…….

We ……..as established and reputable manufacturers of ……. having factories at……and offices at…..... do hereby Authorize M/s. (Name and address of Agents) to represent us, to bid, negotiate and conclude the contract on our behalf with you against Tender No……
No company/firm or individual other than M/s .....are authorized to represent us in regard to this business against this specific tender.

We hereby extend our full guarantee and warranty as per Conditions of Contract for the goods and services offered by the above firm.

Yours faithfully,

(NAME)

For & on behalf of
M/s..... (Name of Manufacturer)

Note:

i. This letter of authority should be on the Letter Head of the Manufacturing Concern and should be signed by a person competent and having the power of attorney to bind the manufacturer.

ii. Scanned copy of this authority should be uploaded along with their e-offer against the tender on IREPS portal.

ANNEXURE-2A

PROFORMA FOR PERFORMANCE STATEMENT

(For a period of last 3 years form the date of tender closing)

Tender No…… Date of Closing……..
Name of the firm .....

SN	Order No. & Purchaser's address	Description & Qty.	Value of order (Rs.)	Date of completion of delivery		Remarks indicating reasons for late delivery, if any	Has the equipment/ Stores been satisfactorily commissioned and is it giving trouble free service.
				As per contract	Actual		

Date: **SIGNATURE & SEAL OF THE BIDDER**

Annexure-3

(Refer Clause 510)

Bid Securing Declaration to be signed by bidders availing exemption from submission of Earnest Money Deposit (EMD):

I/We certify that my/our offer is eligible for exemption from submission of bid security/ Earnest Money Deposit, in terms of the tender conditions.

In case my/our claim to exemption from submission of bid security/ Earnest Money Deposit is not found valid as per terms of this tender, I/We understand and accept that Railways has unquestionable right to summarily reject my/our bid and my/our offer shall not be considered for ordering.

Further, I/We hereby understand and accept that if I/We withdraw or modify my/ our bids during the period of validity, or if I/ We are awarded the contract and on being called upon to submit the performance security/ Security Deposit, fail to submit the performance security/ Security Deposit before the deadline defined in the request for bid document/ Notice inviting tender, I/We shall be debarred from exemption of submitting Bid Security/ Earnest Money Deposit and performance security/ Security Deposit for a period of 6 (six) months, from the date I/ We are debarred/ disqualified from exemption from submission of EMD/ SD, for all tenders for procurement of goods issued by any unit of Indian Railways published during this period.

Signature and Seal of the bidder

ANNEXURE-4

PROFORMA OF BANK GUARANTEE FOR 10% CONTRACT VALUE TOWARDS WARRANTY GUARANTEE

To

THE PRESIDENT OF INDIA,
Acting through, PCMM Western Railway
4th Floor, Station Building
Churchgate
Mumbai-20
India

Subject: Guarantee No……..for… ..... (Amount) covering Machine (s) Serial No……..supplied to consignee(s)……
Reference: Contract No…….dated…….placed on M/s…….....……

1. Whereas M/s.....one of our constituents, (hereinafter called the "Sellers") have agreed to sell to you (hereinafter Referred to as the "Government"), Nos. of……(give description) as per contract No…….dated .....(hereinafter called "the said contract").
2. And whereas according to the terms of said contract, it has been stipulated that payment of 10% of the value of the stores would be made, provided that the Sellers furnish to the Purchaser a bank guarantee from a recognised Bank ,acceptable to the Purchaser for 10% of the value of the said contract, valid for a period covering in full Guarantee Period plus three months as per the warranty Clause of the said conditions of the contract, being the conditions attached to and forming part of the said contract.
3. And whereas the Sellers have approached us to give the said Bank Guarantee on their behalf in your favour for an amount representing 10% of the value of the said contract which you have agreed to accept.
4. That in consideration of the promises and at the request of the said Sellers, we hereby irrevocably undertake and guarantee to pay to the Government of India or at such other place as may be determined by you forthwith on demand and without any demur, any sum up to a maximum amount of ……(Rs……) representing 10% of the value of the stores despatched under the said contract in case the Sellers make default in paying the said sum or make any default in the performance observance or discharge of the guarantee contained in the said contract.
5. We agree that the decision of the government, whether any default has occurred or has been committed by the Sellers in the performance observance or discharge of the guarantee aforesaid shall be conclusive and binding on us.
6. Government shall be at liberty, from time to time, to grant or allow extension of time or give other indulgence to the said Sellers or to modify the terms and conditions of the contract with the said Sellers without affecting or impairing this guarantee or our liability hereunder.
7. We undertake to pay to the Government any money so demanded notwithstanding

any dispute or disputes raised by the Sellers in any suit or proceeding pending before any Court or Tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge to our liability for payment there under and the Sellers shall have no claim against us for making such payment.

8. This Bank Guarantee comes into force when the balance ten per cent of the value of the stores, shipped per Vessel……..vide Bill of Lading No…… dated…… or R/R No…….. dated (in the case of
indigenous contracts) under the said contract, has been paid and will remain in full force and effect upto……i.e. for……months counted from the date of placing the stores in services, and shall continue to be enforceable for further six months i.e. up to (date), hereinafter called the said date.
9. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Sellers.
10. That no claim under this guarantee shall be entertained by us unless the same has been preferred by the Government within the said date.

Date…… Signature……..

Place…… Printed Name……..

Witness……

(Designation)

…….

(Bank's Common Seal)

ANNEXURE-6

PROFORMA FOR EQUIPMENT AND QUALITY CONTROL EMPLOYED BY THE MANUFACTURER

Tender No……..Date of closing……

Name of the Tenderer… (Note: All

details should relate to the manufacturer for the items tendered)

1. Name & Full address of the Manufacturer.
2. Telephone No. Office, Factory/ Works
3. Location of the manufacturing factory.
4. Details of industrial Licence, wherever required as per statutory regulations.
5. Details of Important plant & machinery functioning in each Department (Monographs and description pamphlets be supplied, if available)
6. Details of the process of manufacture in the factory.
7. Details & stocks of raw materials held.
8. Production capacity of item (s) quoted for, with the existing plant & machinery.

8.1 Normal.

8.2 Maximum.

9. Details of arrangement for quality control of products such as laboratory, testing equipment etc.
10. Details of staff.

10.1 Details of technical supervisory staff-in-charge of production & quality control.

10.2 Skilled labour employed.

10.3 Unskilled labour employed.

10.4 Maximum no. of workers (skilled & unskilled) employed on any day during 18 months preceding the date of offer.

11. Whether stores are tested to any standard specification? If so, copies of original test certificates should be submitted in triplicate.
12. Are you a small scale unit, registered with the National Small Industries Corporation Limited, New Delhi, India? If so, furnish full particulars of registration, period of currency etc., with a copy of the certificate of registration.

Signature and seal of the Manufacturer

Annexure-7
(Please refer clause 1810)

Competent Authority and Procedure for Registration

A. The Competent Authority for the purpose of registration under MII policy 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 MII policy

D. On receipt of an application seeking registration from a bidder from a country covered by MII policy, 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.For national security reasons, the Competent Authority shall not be required to give reasons for rejection / cancellation of registration of a bidder.

[* Note:Registration granted by State Governments shall not be valid for procurement by the Government of India and their agencies/ public enterprises etc.]

Annexure-8
{Please refer clause 1810}

SELF DECLARATION CERTIFICATE FOR TENDERERS
(To be submitted on Bidders letter head)
(Certificate for Compliance of OM of DoE (Ministry of Finance) dated 23.07.2020)

Tender No……. **TOD:.....**

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India, I certify that;

☐ This bidder is not from such a country.

OR

☐ If from such a country, has been registered with the Competent Authority.

I hereby certify that the bidder fulfills all requirements in this regard and is eligible to be considered.

[Tick whichever is applicable, and also Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"

Date: **Signature and Seal of the bidder**

Annexure-9

NATIONAL ELECTRONIC FUNDS TRANSFER (NEFT) MANDATE FORM

1. Suppliers Details:		
A.	Name of Firm:	
B.	Name of contact person:	
C.	Address:	
D.	Contact No:	
E.	E mail ID	
F.	PAN Number	
G.	TAN Number	
H.	GSTIN of firm	
2. **Particulars of Bank account**		
A.	Account Title:	
B.	Name of the Bank:	
C.	Name of the branch: Address: Telephone No:	
D.	11 digit IFSC Code:	
E.	9-Digit MICR code number of the bank and branch appearing on the MICR cheque issued by the bank	
F.	Type of the account (S.B., Current or Cash Credit):	
G.	Account number (as appearing on the cheque book): (Please attach a blank cancelled cheque or photocopy of a cheque).	

I hereby declare that the particulars given above are correct and complete. If the transaction is delayed or not effected at all for reasons of incomplete or incorrect information, I would not hold the user institution responsible. I have read the option invitation letter and agree to discharge the responsibility expected of me as a participant under the scheme.

(……..)
Signature of authorised person of the firm with stamp and date.

Date:

Certified that the particulars furnished above are correct as per our records.

Signature of the authorised Bank Manager with Stamp
Date:……

Para 1800

(Ref.: Department for Promotion of Industry and Internal Trade, in partial modification [Paras 2, 3, 5, 10 & 13] of Order No.P-450211212017-B.E.-II dated 15.6.2017 as amended by Order No.P-45021/212017-B.E.-II dated 28.05.2018, Order No.P-45021/2/2017-B.E.-II dated 29.05.2019, Order No.P-45021/2/2017- B.E.-II dated 04.06.2020 and Order No.P-45021/2/2017-B.E.-II dated 16.09.2020 hereby issues the revised 'Public Procurement (Preference to Make in India), Order 2017" dated 19.07.2024 effective with immediate effect.)

1800 Whereas 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, and

Whereas procurement by the Government is substantial in amount and can contribute towards this policy objective, and

Whereas local content can be increased through partnerships, cooperation with local companies, establishing production units in India or Joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them,

Now therefore the following Order is issued:

This Order is issued pursuant to Rule 153 (iii) of the General Financial Rules 2017.

Definitions: For the purposes of this Order:

'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 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'* nofes *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 packs 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 corporate image of a company/organisation/ firm for an imported product would amount to rebranding.

Signature Not Verified
Digitally signed by LALIT KUMAR
Date: 2024.11.25 10:16:08 IST
Reason: IREPS-CRIS
Location: New Delhi

d) To ensure that imported items sourced locally from resellers/distributors are excluded from calculation of local content, procuring entities to obtain from bidders, the cost of such locally-sourced imported items (Inclusive of taxes) along with break-up on licence/royalties paid/technical expertise cost etc. sourced from outside India. For items sold by the 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, meets the minimum local content as prescribed for 'Class-I local supplier' under this Order.

'C/ass-// *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' under this Order.

'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' under this Order.

'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.

'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.

'*Nodal Ministry'* means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services or works.

'Procuring entity' means a Ministry or department or attached or subordinate office of, or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.

'Works' means all works as per Rule 130 of GFR- 2017, and will also include *'turnkey works'.*

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.

1801 Eligibility of 'Class-I local suppller'I 'Class-II local supplier'/ 'Non-local suppliers' for different types of procurement:

a) In procurement of all goods, services or works in respect of which the Nodal Ministry / Department has communicated that there is sufficient local capacity and local competition, only 'Class-I local supplier', as defined under the Order, shall be eligible to bid irrespective of purchase value.

b) Only 'Class-I local supplier' and 'Class-II local supplier', as defined under the Order, shall be eligible to bid in procurement undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries, 'Non-local suppliers' shall also be eligible to bid along with 'Class-I local suppliers' and 'Class-II local suppliers'. In procurement of all goods, services or works, not covered by Sub-Para 1801(a) above, and with estimated value of

purchases less than Rs. 200 Crore, in accordance with Rule 161(iv) of GFR, 2017, Global tender enquiry shall not be issued except with the approval of competent authority as designated by Department of Expenditure.

c) For the purpose of this Order, works includes Engineering, Procurement and Construction (EPC) contracts and services include System Integrator (SI) contracts.

1802 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 mandatorily 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.

1803 A) <u>Purchase Preference:</u>

Subject to the provisions of this Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to 'Class-I local supplier' in procurement undertaken by procuring entities in the manner specified here under.

In the procurement of goods or works, which are covered by Para 1802(b) above and which are divisible in nature, 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) Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract for full quantity will be awarded to L1.

b) If L1 bid is not a 'Class-I local supplier', 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the L1 price for the remaining 50% quantity subject to the Class-I local supplier's quoted 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 L1 price. In case such lowest eligible 'Class-I local supplier' fails to match the 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 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.

c) In the procurement of goods or works, which are covered by Para 1802(b) above and which are not divisible in nature, and in procurement of services where the bid is evaluated on price alone, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

i) Among all qualified bids, the lowest bid will be termed as L1. If L1 is Class -I local supplier', the contract will be awarded to L1.

ii) If L1 is not 'Class-I local supplier', the lowest bidder among the 'Class-I local supplier', will be invited to match the L1 price subject to Class-I local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such 'Class-I local supplier' subject to matching the L1 price.

iii) In case such lowest eligible ‘Class-I local supplier’ fails to match the L1 price, the 'Class-! local supplier’ with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. !n case none of the ‘Class-I local supplier’ within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder.

d) “Class-II local supplier" will not get purchase preference in any procurement, undertaken by procuring entities.

B) <u>Applicability in tenders where contract is to be awarded to multiple bidders:</u>

In tenders where contract is awarded to multiple bidders subject to matching of L1 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 there is sufficient local capacity and competition for the item to be procured, as notified by the nodal Ministry, only Class I local suppliers shall be eligible to bid. As such, the multiple suppliers, who would be awarded the contract, should be all and only ‘Class I Local suppliers'.

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 this Order.

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 so as to ensure 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 the next higher ’Class-I local supplier', falling within 20% margin of purchase preference, and so on.

e) To avoid any ambiguity during bid evaluation process, the procuring entities may stipulate its own tender specific criteria for award of contract amongst different bidders including the procedure for purchase preference to ‘Class-I local supplier’ within the broad policy guidelines stipulated in sub-paras above.

1804 Exemption of small purchases:

Notwithstanding anything contained in Para 1801, procurement where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.

<u>A) Exemption in sourcing of spares and consumables of closed systems</u>:

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 this Order.

1805 Minimum local content:

The ‘local content’ requirement to categorise a supplier as ‘Class-I local supplier’ is minimum 50%. For ‘Class-II local supplier’, the ‘local content’ requirement is minimum 20%. The 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.

1806 **Margin of Purchase Preference:** The margin of purchase preference shall be 20%.

1807 **Requirement for specification in advance:**

The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.

1808 **Government E-marketplace:**

In respect of procurement through the Government E-marketplace (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.

1809 **Verification of local content:**

i) The ’Class-I local supplier’/ ‘Class-II 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’/ 'Class-II local supplier’, as the case may be. They shall also give details of the location(s) at which the local value addition is made.

ii) In cases of procurement for a value in excess of Rs. 10 crores, the ‘Class-I local supplier’/ ’Class-II 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 practising cost accountant or practising chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.

iii) 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 cosh 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 the time limit acceptable to the procuring entity. 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 up to 10% of the contract value may be imposed. However, contracts once awarded shall not be terminated on this account.

iv) Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.

v) Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor’s/ accountant’s certificates on random basis and in the case of complaints.

vi) Nodal Ministries and procuring entities may prescribe fees for such complaints.

vii) False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.

viii) A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under Para 1809(ix) below.

ix) The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:

a) The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member- Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry /Department or in some other manner;

b) On a periodical basis such cases are consolidated and a centralised list or decentralised lists of such suppliers with the period of debarment is maintained and displayed on website(s);

c) In respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in such a manner that ongoing procurement is not disrupted.

1810 <u>A) Specifications in Tenders and other procurement solicitations:</u>

i) Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.

ii) Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do 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.

iii) Procuring entities shall, within 2 months of the issue of this Order, review all existing eligibility norms and conditions with reference to sub- paragraphs 'a' and 'b' above.

iv) Reciprocity Clause:

a) When a Nodal Ministry/Department identifier 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.

b) 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.

c) The stipulation in (ii) above shall be part of all tenders invited by the Central Government procuring entities stated in (i) above. AII purchases on GeM shall also necessarily have the above provisions for items identified by nodal Ministry/ Department.

d) State Governments should be encouraged to incorporate similar provisions in their respective tenders.

e) The term 'entity' of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time.

v) 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 of the Department concerned or any other Authority having been designated such power by the Secretary of the Department concerned.

vi) "All administrative Ministries/Departments *whose procurement* exceeds *Rs. 1000 Crore per annum* shall notify/update their procurement projections every year, including those of the PSEs/PSUs, for the next 5 years on their respective website."

B) Action for non-compliance of the Provisions of the Order:

In case restrictive or discriminatory conditions against domestic suppliers are included in bid documents, an inquiry shall be conducted by the Administrative Department undertaking the procurement (including procurement by any entity under its administrative control) to fix responsibility for the same. Thereafter, appropriate action, administrative or otherwise, shall be taken against erring officials of procurement entities under relevant provisions. Intimation on all such actions shall be sent to the Standing Committee.

1811 Assessment of supply base by Nodal Ministries:

The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing the higher minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.

1812 Increase in minimum local content:

The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.

i) Manufacture under license/ technology collaboration agreements with phased indigenization:
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.

1813 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.

1814 Powers to grant exemption and to reduce minimum local content:

The administrative Department undertaking the procurement (including procurement by any entity under its administrative control), with the approval of their Minister-in-charge, may by written order, for reasons to be recorded in writing,

i) reduce the minimum local content below the prescribed level; or
ii) reduce the margin of purchase preference below 20%; or
iii) exempt any particular item or supplying entities from the operation of this Order or any part of the Order.

The Administrative Department, while seeking exemption under this para, shall certify that such an item(s) has not been notified by the Nodal Ministry/ Department concerned under Para 1803 (a) of the Order.

A copy of every such order shall be provided to the Standing Committee and concerned Nodal Ministry / Department. The Nodal Ministry / Department concerned will continue to have the power to vary its notification on Minimum Local Content.

1815 Directions to Government companies:

In respect of Government companies and other procuring entities not governed by the General Financial Rules, the administrative Ministry or Department shall issue policy directions requiring compliance with this Order.

1816 Standing Committee:

A standing committee is hereby constituted with the following membership:
Secretary, Department for Promotion of Industry and Internal Trade - Chairman Secretary, Commerce—Member Secretary, Ministry of Electronics and Information Technology—Member Joint Secretary (Public Procurement), Department of Expenditure—Member Joint Secretary (DPIIT)—Member-Convenor.

The Secretary of the Department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issues under its consideration.

Functions of the Standing Committee: The Standing Committee shall meet as often as necessary, but not less than once in six months. The Committee

i) shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.

ii) shall annually assess and periodically monitor compliance with this Order.

iii) shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content.

iv) may require furnishing of details or returns regarding compliance with this Order and related matters.

v) may, during the annual review or otherwise, assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures.

vi) may examine cases covered by Para 1813 above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization.

vii) may consider any other issue relating to this Order which may arise.

1817 **Removal of difficulties**:

Ministries /Departments and the Boards of Directors of Government companies may issue such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of this Order.

1818 **Ministries having existing policies:**

Where any Ministry or Department has its own policy for preference to local content approved by the Cabinet after 1St January 2015, such policies will prevail over the provisions of this Order. All other existing orders on preference to local content shall be reviewed by the Nodal Ministries and revised as needed to conform to this Order, within two months of the issue of this Order.

1819 **Transitional provision**: This Order shall not apply to any tender or procurement for which notice inviting tender or other form of procurement solicitation has been issued before the issue of this Order.

1820 **Restrictions under Rule 144 (xi) of the General Financial Rules (GFRs)' 2017:**

(i) Any bidder from a country which shares a land border with India will be eligible to bid only if the bidder is registered with the Competent Authority, specified in **Annexure-7.**

(ii) "Bidder" (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.

(iii) Bidder from a country which shares a land border with India" for the purpose of MII policy 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 P**ara 1820 (iii)** above will be as under:

(a) 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:

(1) "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;

(2) "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;

(b) 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;

(c) 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;

(d) Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;

(e) 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.

(v) "Agent" for the purpose of MII policy is a person employed to do any act for another, or to represent another in dealings with third persons.The successful bidder 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.

(vi) Bidder must submit the following certificate as per **Annexure-8** along with bid in the tender for compliance of OM of DoE (Ministry of Finance) dated 23.07.2020 which is re-iterated below:

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that the bidder is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that the bidder fulfils all requirements in this regard and is eligible to be considered.

[Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"

If such a certificate given by a bidder whose bid is accepted is found to be false, this would be grounds for immediate termination and further legal action in accordance with law.

Non-submission of this Certificate may lead to rejection of offer.

(vii) **Validity of registration by Competent Authority:** 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.

(viii) Notwithstanding above, the terms & conditions mentioned in **Clause 1810 above** will not apply to bidders from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects.

1821 PREFERENCE TO DOMESTICALLY MANUFACTURED ELECTRONIC PRODUCTS:

Purchaser reserves the right for providing preference to domestically manufactured electronic products in terms of Department of Electronics and Information Technology (DeitY) Notification No. 33(3)/2013-1/PHW dated 23.12.2013 read with further Notifications issued from time to time. The Electronic products for which preference will be provided to domestic manufacturers shall be the products notified by Department of Electronics and Information Technology (DeitY) and Department of Telecommunications (DOT). As such, wherever purchase preference for the electronic products is to be given or applicable, the same will be specifically mentioned in Special conditions of tender and the guidelines issued by the Government of India in the said notification will be a part of the tender documents.

1822 WITHDRAWAL OF OFFER:

If the bidder, whose bid has been found to be the lowest evaluated bid withdraws or whose bid has been accepted, fails to sign the procurement contract as may be required, or fails to provide the security as may be required for the performance of the contract or otherwise withdraws from the procurement process, the Procuring Entity shall re-tender the case. **(This is as per the Office Memorandum No.F.1/1/2021-PPD dated 21.04.2022 issued by Procurement Policy Division of Department of Expenditure, Ministry of Finance).**

Annexure-5

PROFORMA OF BANK GUARANTEE FOR CONTRACT PERFORMANCE (SECURITY DEPOSIT) GUARANTEE BOND

Ref……. Date……..

Bank Guarantee No……

To

THE PRESIDENT OF INDIA,
Acting through
PFA Western Railway,
7th Floor, Station Building
Churchgate
Mumbai-20
India

1. Against contract (or vide Advance Acceptance of the Tender) No. ……dated….covering supply of…….(hereinafter called the said 'contract') entered into between the President of India and ……..(hereinafter called the 'Contractor'), this is to certify that at the request of the Contractor we,.....Bank Ltd., are holding in trust in favour of the President of India, the amount of …… (write the sum here in words) to indemnify and keep indemnified the President of India (Govt. of India) against any loss or damage that may be caused to or suffered by the President of India (Govt. of India) by reason of any breach by the Contractor of any of the terms and conditions of the said contract and/ or the performance thereof. We agree that the decision of the President of India (Govt. of India), whether any breach of any of the terms and conditions of the said contract and/ or in the performance thereof has been committed by the Contractor and the amount of loss or damage that has been caused or suffered by the President of India (Govt. of India) shall be final and binding on us and the amount of the said loss or damage shall be paid by us forthwith on demand and without demur to the President of India (Govt. of India.).

2. We .....Bank Ltd., further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for satisfactory performance and fulfilment in all respects of the said contract by the Contractor i.e. till…… hereinafter called the said date and that if any claim accrues or arises against us ..... Bank Ltd., by virtue of this guarantee before the said date, the same shall be enforceable against us.....Bank Ltd., notwithstanding the fact that the same is enforced within six months after the said date, provided that notice of any such claim has been given to us…….Bank Ltd., by the President of India (Govt. of India) before the said date. Payment under this letter of guarantee shall be made promptly upon our receipt of notice to that effect from the President of India (Govt. of India).

3. It is fully understood that this guarantee is effective from the date of the said contract and that we .....Bank Ltd., undertake not to revoke this guarantee during its

currency without the consent in writing of the President of India (Govt. of India).

4. We ..... Bank Ltd. Undertake to pay to the Government any money so demanded notwithstanding any dispute or disputes raised by the contractor in any suit or proceeding pending before any court or Tribunal relating thereto our liability under this present being absolute and unequivocal.

The payment so made by us under this bond shall be a valid discharge of our liability for payment there under and the contractor shall have no claim against us for making such payment.

5. We ……Bank Ltd., further agree that the President of India (Govt. of India) shall have the fullest liberty without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said contract or to extend time of performance by the contractor from time to time or to postpone for any time or from time to time any of the powers exercisable by the President of India (Govt. of India) against the said Contractor and to forbear or enforce any of the terms and conditions relating to the said contract and we..... Bank Ltd. shall not be released from our liability under this guarantee by reasons of any such variation or extension being granted to the said Contractor or for any forbearance and/ or omission on the part of the President of India or any indulgence by the President of India to the said Contractor or by any other matter or thing what-so-ever which, under the law relating to sureties, would but for this provision have the effect of so releasing us from our liability under this guarantee.

6. We……... .Bank Ltd., further agree that the guarantee herein contained shall not be discharged by any change in the constitution of the Bank or said Contractor/Supplier.

Date……..
Signature……

Place……..Printed Name……..
Witness……
……

(Designation)

……..

(Bank's Common Seal)