

Public Procurement Policy and Its Impact on Foreign Investment in India

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The Public Procurement (Preference to Make in India), Order 2017 was announced on June 15, 2017 vide an Order issued pursuant to Rule 153(iii) of the General Financial Rules, 2017. The Order is aimed at defining purchase preference (linked with local content) in Government procurements wherein the preference in Government procurement will be given to local suppliers.

Details:

- **Local Content:** The amount of value added in India (total value of procured item-net domestic indirect taxes – the value of imported contents in the item - customs duty)
- **Local Supplier:** Supplier or service provider whose products or service offered for procurement meets the minimum thresholds (ordinarily 50 per cent) for local content/ domestic value addition.
- **L1:** The lowest tender 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:** Maximum extent to which the price quoted by a local supplier may be above the L1 for the purpose of purchase preference. The margin of purchase preference is defined to be 20 per cent.
- **Nodal Ministry:** The ministry or department identified in respect of a particular item of goods or services
- **Procuring Entity:** Ministry or subordinate office or other departments controlled by Government of India including autonomous bodies, government companies/ entities under government's control.

Requirement of Purchase Preference:

In procurement of goods for INR 5 million and less, and where the Nodal Ministry determines that there is sufficient local capacity and local competition, only local suppliers will be eligible.

For procurements valued at more than INR 5 million (or where there is insufficient local capacity/ competition) if the lowest bid is not from a non-local supplier, the lowest-cost local supplier who is within a margin of 20 per cent of L1, will be given the opportunity to match L1. If the procurement is of a type that the order can be divided and given to more than one supplier, the non-local supplier who is the lowest bidder will get half of the order and the local supplier will get the other half if it agrees to match the price of L1. If the procurement cannot be divided, then the lowest cost local supplier will be given the order if it agrees to match L1.

The policy lays down a procedure for verification of local content relying primarily on self-certification. There will be penal consequences for false declarations. In some cases, verification by statutory auditors, cost auditors etc. will be required. A Standing Committee in Department of Industrial Policy and Promotion will oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.

Summary:

S. No.		Local Supplier	Non-Local Supplier
1.	Estimated Value of procurement is INR 5 million or less		X
2.	Estimated Value of procurement is more than INR 5 million and procurement is divisible in nature		
	L1: Local Supplier		X
	L1: Non-Local Supplier	Balance 50 per cent provided it matches the margin of purchase preference	50 per cent procurements shall be allocated
3.	Estimated Value of procurement is more than INR 5 million and procurement is non-divisible in nature and in procurement of services		
	L1: Local Supplier		X
	L1: Non-Local Supplier	The lowest bidder amongst the local suppliers will be invited to match the L1 price In case the local supplier with the lowest bid fails to match L1, the next higher bid within the margin of purchase preference shall be invited to match the L1 price	In case none of the local suppliers within a margin of purchase preference matches the L1 price, the contract will be awarded to the L1 bidder.

Impact:

In addition to favoring domestic manufacturing, service provision and employment, the policy will stimulate the flow of capital and technology into domestic manufacturing and services. The thrust on localization in manufacture of parts, components, sub-components etc. of these items, is in line with the vision of ‘Make in India’. The natural outcome of the policy would be realignment in local supply chain whereby the established international suppliers would aim to increase the local content through partnerships, co-operation with local companies, establishing production units in India or through joint ventures with Indian suppliers, upgrading the participation of local employees through training and equipping them with the adequate technical know-how.



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