FOREWORD

(for updated version of Manual issued in 2022)

The Manual for Procurement of Goods was comprehensively revised and issued in 2017. The manual, over a period of time, has become a standard reference document for officials involved in Public Procurement across all Ministries/ Departments/ Attached and Sub-ordinate bodies/ Central Public Sector Enterprises, etc. The Manual is also a resource material for institutes providing training on Public Procurement.

2. Public Procurement is a dynamic field where policies are constantly reviewed to help Government achieve its socio-economic or strategic goals. Hence, there is a need to keep reference documents, like manuals, updated to ensure their continued relevance.

3. Instructions on procurement issued by Department of Expenditure from time to time, since issuance of the last Manual, have been incorporated in the current edition. Further, all procurement related instructions issued by Central Vigilance Commission have been subsumed into the Manual, in collaboration with the Commission.

I would like to acknowledge the hard work of the concerned officers not only in this Department but in other Organisations, Ministries and Departments; the role of Shri Vikram Rajvanshi, Consultant (Public Procurement) is also specifically acknowledged.

4. I hope that this updated Manual will help procuring officials working in various Ministries/ Departments and Public Enterprises as a guiding template, deepen the impact of policy initiatives and improve the ease of doing business with the Government.

(Dr. T. V. Somanathan)
Finance Secretary
FOREWORD

1. Government organizations procure a wide variety of goods and services and undertake execution of works in pursuance of their duties and responsibilities. With a view to improving transparency in decision making in public procurement and reducing the scope for subjectivity, Department of Expenditure in 2006 had prepared a set of three Manuals on Policies and Procedures for Procurement of Goods, Works and hiring of Consultants, in conformity with the General Financial Rules (GFR), 2005. Over the years, these Manuals have served as a guide book for procurement.

2. In the last few years, the Government of India has issued new instructions in the domain of public procurement. Some of these important changes include introduction of Central Public Procurement Portal (CPPP), Government e-Marketplace (GeM), preferential market access for micro and small enterprises, preference for domestic manufacturers of electronic goods, inclusion of integrity pact, etc. The GFR has been revised comprehensively in March 2017 covering inter-alia these set of new instructions. Consequently the Manual of Procurement too has been revised after a decade and within a month of the release of GFR 2017.

3. The new Manual on Procurement of Goods has been extensively revised in keeping with GFR 2017 and in consonance with the fundamental principles of transparency, fairness, competition, economy, efficiency and accountability. Efforts have been made to cover all major aspects of procurement in this Manual in a user-friendly manner. The manual is the outcome of extensive consultations in two stages with Ministries/Departments/PSUs and other organizations over a period of six months.

4. Manuals issued by this Department are to be taken as generic guidelines, which have to be necessarily broad in nature. Ministries/Departments are advised to supplement this manual to suit their local/specialized needs, by issuing their own detailed manuals (including customized formats); Standard Bidding Documents and Schedule of Procurement Powers to serve as detailed instructions for their own procuring officers.

5. I would like to acknowledge the lead taken by Dr. Vivek Joshi, Joint Secretary, DoE and dedicated efforts of Shri Sanjay Aggarwal, Director (PPD), Shri Vinayak T. Likhar, Under Secretary (PPD) and Shri Girish Bhatnagar, Consultant (Public Procurement) in revision of this Manual. I would also like to thank Ministries, Departments, other organisations and individuals who reviewed the drafts of the Manual and provided their valuable inputs.

6. I hope that this Manual would be useful to procuring officials working in various Ministries/Departments as operating instructions and will bring about greater transparency and predictability in government procedures and help in improving the ease of doing Business with Government.

(Ashok Lavasa)
Finance Secretary

Date : 05.04.2017
Disclaimer
While every care has been taken to ensure that the contents of this manual are accurate and up to date till June 2022, the procuring entities are advised to check the precise current provisions of law and other applicable instructions from the original sources. In case of any conflict between the provisions stipulated in this manual and in the original source such as GFR or the prevailing laws, the provisions contained in the extant law and the original instructions shall prevail.
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<td>AMC</td>
<td>Annual Maintenance Contract</td>
</tr>
<tr>
<td>ACASH</td>
<td>Association of Corporations and Apex Societies of Handlooms</td>
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<tr>
<td>AITB</td>
<td>Additional Instructions to Bidders (may in some instances be called Bid Data Sheet – BDS or Tender Information Sheet - TIS)</td>
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<tr>
<td>AMC</td>
<td>Annual Maintenance Contract</td>
</tr>
<tr>
<td>BC</td>
<td>Bill Currency (selling/buying)</td>
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<tr>
<td>BEE</td>
<td>Bureau of Energy Efficiency</td>
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<tr>
<td>BG</td>
<td>Bank Guarantee</td>
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<tr>
<td>BIS</td>
<td>Bureau of Indian Standards</td>
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<tr>
<td>BOC</td>
<td>Bid Opening Committee</td>
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<td>BSTC</td>
<td>Buyer Specific Terms &amp; Conditions</td>
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<td>BSV</td>
<td>Balance Sale Value</td>
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<tr>
<td>C&amp;AG</td>
<td>Comptroller and Auditor General (of India)</td>
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<tr>
<td>CA</td>
<td>Competent Authority</td>
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<tr>
<td>CAPEX</td>
<td>Capital Expenditure (model of acquisition/procurement)</td>
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<tr>
<td>CBI</td>
<td>Central Bureau of Investigation</td>
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<tr>
<td>CCI</td>
<td>Competition Commission of India</td>
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<tr>
<td>CFR</td>
<td>Cost and Freight</td>
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<tr>
<td>CHA</td>
<td>Custom House Agent</td>
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<td>CIF</td>
<td>Cost Insurance and Freight</td>
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<td>CIP</td>
<td>Carriage and Insurance Paid</td>
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<td>Code of Integrity for Public Procurement</td>
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<td>CMC</td>
<td>Comprehensive Maintenance Contract</td>
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<td>COMPAT</td>
<td>Competition Appellate Tribunal</td>
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<td>COTS</td>
<td>Commercially Off The Shelf (Items)</td>
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<td>CPCB</td>
<td>Central Pollution Control Board</td>
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<td>CPO</td>
<td>Central Purchasing Organizations</td>
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<td>CPPP</td>
<td>Central Public Procurement Portal</td>
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<td>CPSE</td>
<td>Central Public Sector Enterprise</td>
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<td>CRAC</td>
<td>Consignee Receipt and Acceptance Certificate</td>
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<td>CST</td>
<td>Central Sales Tax</td>
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<td>CVC</td>
<td>Central Vigilance Commission</td>
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<td>CVO</td>
<td>Chief Vigilance Officer</td>
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<td>DCF</td>
<td>Discounted Cash Flow</td>
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<td>DDO</td>
<td>Direct Demanding Officer (for RCs)</td>
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<td>Abbreviation</td>
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<tr>
<td>DFPR</td>
<td>Delegation of Financial Power</td>
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<td>DGS&amp;D</td>
<td>Directorate General of Supplies and Disposals</td>
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<td>DPIIT</td>
<td>Department for Promotion of Industry and Internal Trade</td>
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<td>DSC</td>
<td>Digital Signature Certificate</td>
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<td>eASP</td>
<td>E-Auction Service Provider</td>
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<td>ECS</td>
<td>Electronic Clearing System</td>
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<td>EFT</td>
<td>Electronic Funds Transfer</td>
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<td>EMD</td>
<td>Earnest Money Deposit</td>
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<td>EoI</td>
<td>Expression of Interest (Tender)</td>
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<td>EPM</td>
<td>Export Promotion and Marketing</td>
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<td>ERV</td>
<td>Exchange Rate Variation</td>
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<td>EXIM</td>
<td>Export Import (Policy)</td>
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<td>FA (&amp;CAO)</td>
<td>Financial Adviser (and Chief Accounts Officer)</td>
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<td>FAS</td>
<td>Free Alongside Ship</td>
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<td>Framework Contract</td>
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<td>FEMA</td>
<td>Foreign Exchange Management Act</td>
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<td>Free On Rail</td>
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<td>General Conditions of Sale</td>
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<td>Government Electronic Market</td>
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<td>GeM Availability Report and Past Transaction Summary</td>
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<td>General and Financial Rules, 2017</td>
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<td>Government of India</td>
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<td>GRIR</td>
<td>Goods Receipt and Inspection Report</td>
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<tr>
<td>GTC</td>
<td>General Terms &amp; Conditions</td>
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<td>GTE</td>
<td>Global Tender Enquiry</td>
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<td>HOD</td>
<td>Head of the Department</td>
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<tr>
<td>IEM</td>
<td>Independent External Monitor</td>
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<tr>
<td>INCOTERMS</td>
<td>International Commercial Terms</td>
</tr>
<tr>
<td>IP</td>
<td>Integrity Pact</td>
</tr>
<tr>
<td>IRDA</td>
<td>Insurance Regulatory and Development Authority</td>
</tr>
<tr>
<td>ISI</td>
<td>Indian Standards Institute</td>
</tr>
<tr>
<td>ISO</td>
<td>International Organization for Standardization</td>
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<tr>
<td>ITB</td>
<td>Instructions to Bidders (may in some instance be called Instructions to Tenderers - ITT)</td>
</tr>
<tr>
<td>ITJ</td>
<td>Indian Trade Journal</td>
</tr>
<tr>
<td>JLG</td>
<td>Joint Liability Group</td>
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<tr>
<td>KPIs</td>
<td>Key Performance Indices</td>
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<td>KVIC</td>
<td>Khadi and Village Industries Commission</td>
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<tr>
<td>L1</td>
<td>Lowest Bidder</td>
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<tr>
<td>LC</td>
<td>Letter of Credit</td>
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Abbreviations

LCC  Life Cycle Costing
LD  Liquidated Damages
LoA  Letter (Notification) of Award also called Acceptance of Tender (A/T)
LPP  Last Purchase Price
LTE  Limited Tender Enquiry
M&P  Machinery and Plant
MeitY  Ministry of Electronics and Information Technology
MoEF  Ministry of Environment and Forests
MRP  Maximum Retail Price
MSE  Micro and Small Enterprise
MSME(D)  Micro Small and Medium Enterprises (Development Act, 2006)
MSTC  Metal Scrap Trading Corporation
NEFT  National Electronic Funds Transfer
NIC  National Informatics Centre
NIT  Notice Inviting Tender
NSIC  National Small Industries Corporation
NTH  National Test House
OEM  Original Equipment Manufacturer
OES  Original Equipment Suppliers
OPEX  Operating Expense (model of acquisition/ procurement)
OPMs  Original Parts Manufacturers
OTE  Open Tender Enquiry
PAC  Proprietary Article Certificate
PBG  Performance Bank Guarantee, also see SD
PC  Producer Companies
PPD  Procurement Policy Division, Department of Expenditure, Ministry of Finance
PPP  Public Private Partnership
PPP-MII  Public Procurement (Preference to Make in India), Order
PQB  Pre-qualification Bidding
PQC  Pre-qualification Criterion
PR  Purchase Requisition/ Indent
PSU  Public Sector Undertaking
PVC  Price Variation Clause
QA  Quality Assurance
RA/ eRA  Electronic Reverse Auction
RBI  Reserve Bank of India
RC  Rate Contract (or Framework Contract FC)
(S)RfP (Standard) Request for Proposals (Document)
RTGS  Real Time Gross Settlement
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<td>RTI</td>
<td>Right to Information</td>
</tr>
<tr>
<td>SBD</td>
<td>Standard Bidding Document</td>
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<tr>
<td>SC</td>
<td>Survey Committee</td>
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<td>SCC</td>
<td>Special Conditions of Contract</td>
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<tr>
<td>SD</td>
<td>Security Deposit, also see PBG</td>
</tr>
<tr>
<td>SHG</td>
<td>Self Help Group</td>
</tr>
<tr>
<td>SLA</td>
<td>Service Level Agreement</td>
</tr>
<tr>
<td>SLTE</td>
<td>Special Limited Tender (Enquiry)</td>
</tr>
<tr>
<td>SoPP</td>
<td>Schedule of Procurement Powers</td>
</tr>
<tr>
<td>SPCB</td>
<td>State Pollution Control Board</td>
</tr>
<tr>
<td>STA</td>
<td>Subject to Acceptance</td>
</tr>
<tr>
<td>STC</td>
<td>Special Terms &amp; Conditions</td>
</tr>
<tr>
<td>STE</td>
<td>Single Tender Enquiry</td>
</tr>
<tr>
<td>TC</td>
<td>Tender Committee also called Tender Purchase or Evaluation Committee (TPC/ TEC)</td>
</tr>
<tr>
<td>TCO</td>
<td>Total Cost of Ownership</td>
</tr>
<tr>
<td>TCS</td>
<td>Tax Collected at Source</td>
</tr>
<tr>
<td>TDS</td>
<td>Tax Deducted at Source</td>
</tr>
<tr>
<td>ToR</td>
<td>Terms of Reference</td>
</tr>
<tr>
<td>TS</td>
<td>Technical Specification</td>
</tr>
<tr>
<td>UAM</td>
<td>Udyam Aadhaar Memorandum</td>
</tr>
<tr>
<td>UCP 600</td>
<td>The Uniform Customs and Practice for Documentary Credits (UCPDC or simply UCP)</td>
</tr>
<tr>
<td>UNCITRAL</td>
<td>United Nations Commission on International Trade Law</td>
</tr>
<tr>
<td>URC</td>
<td>Udyam Registration Certificate</td>
</tr>
<tr>
<td>URDG 758</td>
<td>Uniform Rules for Demand Guarantees</td>
</tr>
<tr>
<td>VAT</td>
<td>Value Added Tax</td>
</tr>
<tr>
<td>VfM</td>
<td>(Best) Value for Money</td>
</tr>
<tr>
<td>WOL</td>
<td>Whole of Life (Cost) or Total Cost of Ownership TCO</td>
</tr>
</tbody>
</table>
Procurement Glossary

In this Manual and in the ‘Procurement Guidelines’, unless the context otherwise requires:\1:

i) "Bid" (including the term ‘tender’, ‘offer’, ‘quotation’ or ‘proposal’ in certain contexts) means an offer to supply goods, services or execution of works made in accordance with the terms and conditions set out in a document inviting such offers;

ii) "Bidder" (including the term ‘tenderer’, ‘consultant’ or ‘service provider’ in certain contexts) means any eligible person or firm or company, including a consortium (that is an association of several persons, or firms or companies), participating in a procurement process with a procuring entity;

iii) "(Standard) Bid(ding) documents" (including the term ‘tender (enquiry) documents’ or ‘Request for Proposal Documents’ – RfP documents in certain contexts) means a document issued by the procuring entity, including any amendment thereto, that sets out the terms and conditions of the given procurement and includes the invitation to bid. A Standard (Model) Bidding Document is the standardised template to be used for preparing Bidding Documents after making suitable changes for specific procurement;

iv) "Bidder registration document" means a document issued by a procuring entity, including any amendment thereto, that sets out the terms and conditions of registration proceedings and includes the invitation to register;

v) "Bid security" (including the term ‘Earnest Money Deposit’(EMD), in certain contexts) means a security from a bidder securing obligations resulting from a prospective contract award with the intention to avoid: the withdrawal or modification of an offer within the validity of the bid, after the deadline for submission of such documents; failure to sign the contract or failure to provide the required security for the performance of the contract after an offer has been accepted; or failure to comply with any other condition precedent to signing the contract specified in the solicitation documents.;

\1 The main preferred term is within the inverted commas. Alternative equivalent terms used in certain contexts, if any, are listed in the brackets. Text within brackets is not considered for sort-order of terms.
vi) “Central Public sector enterprise” means a body incorporated under the Companies Act or established under any other Act and in which the Central Government or a Central enterprise owns more than 50 per cent of the issued share capital;

vii) “Central Purchase Organisation” means a procuring entity which is authorised by the Government of India by an order, made in this behalf, to make procurement for one or more procuring entities. However, Government can authorise other Organisations for specific categories of materials;

viii) “Class-I local supplier” means a supplier or service provider, whose goods, services or works offered for procurement, meet the minimum local content as prescribed for ‘Class-I local supplier’ under the Public Procurement (Preference to Make in India), Order 2017\(^2\);

ix) “Class-II local supplier” means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for ‘Class-II local supplier’ but less than that prescribed for ‘Class-I local supplier’ under the Public Procurement (Preference to Make in India), Order 2017\(^3\);

x) “Competent authority” means the officer(s) who finally approves the decision.

xi) “Consultancy services” means a one-off (that is, not repetitive and not routine) services, involving project specific intellectual and procedural processes using established technologies and methodologies but the outcomes – which are primarily of non-physical nature – may not be standardised and would vary from one consultant to another. It may include small works or supply of goods which are incidental or consequential to such services;

xii) “e-Procurement” means the use of information and communication technology (specially the internet) by the procuring entity in conducting its procurement processes with bidders for the acquisition of goods (supplies), works and

\(^2\)Notified vide Order No. P-45021/2/2017-PP (BE-II) issued by Department of Promotion of Industry and Internal Trade dated 16.09.2020

\(^3\)Notified vide Order No. P-45021/2/2017-PP (BE-II) issued by Department of Promotion of Industry and Internal Trade dated 16.09.2020
services with the aim of open, non-discriminatory and efficient procurement through transparent procedures;

xiii) "Goods" includes all articles, material, commodity, livestock, medicines, furniture, fixtures, raw material, consumables, spare parts, instruments, machinery, equipment, industrial plant, vehicles, aircrafts, ships, railway rolling stock assemblies, sub-assemblies, accessories, a group of machines comprising an integrated production process or such other categories of goods or intangible, products like technology transfer, licenses, patents or other intellectual properties (but excludes books, publications, periodicals, etc., for a library), procured or otherwise acquired by a procuring entity. Procurement of goods may include certain small work or some services, which are incidental or consequential to the supply of such goods, such as transportation, insurance, installation, commissioning, training and maintenance;

xiv) “Indenter” (or the term ‘User (Department)’ in certain contexts) means the entity and its officials initiating a procurement indent, that is, a request to the procuring entity to procure goods, works or services specified therein;

xv) “Inventory” means any material, component or product that is held for use at a later time;

xvi) "Invitation to (pre-)qualify" means a document including any amendment thereto published by the procuring entity inviting offers for pre-qualification from prospective bidders;

xvii) "Invitation to register" means a document including any amendment thereto published by the procuring entity inviting offers for bidder registration from prospective bidders;

xviii) “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.  

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4 Notified vide Order No. P-45021/2/2017-PP (BE-II) issued by Department of Promotion of Industry and Internal Trade dated 16.09.2020
xix) “Non-consultancy services” includes services of physical and procedural nature and are bid and contracted on the basis of performance of a measurable physical output, and for which performance standards can be clearly identified and consistently applied such as drilling, aerial photography, satellite imagery, mapping and similar operations. It may include small works or supply of goods which are incidental or consequential to such services;

xx) “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 the Public Procurement (Preference to Make in India), Order 2017⁵;

xxi) “Notice inviting tenders” (including the term ‘Invitation to bid’ or ‘request for proposals’ in certain contexts) means a document and any amendment thereto published or notified by the procuring entity, which informs the potential bidders that it intends to procure goods, services and/or works.;

xxii) “Pre-qualification (bidding) procedure” means the procedure set out to identify, prior to inviting bids, the bidders that are qualified to participate in the procurement;

xxiii) “Pre-qualification document” means the document including any amendment thereto issued by a procuring entity, which sets out the terms and conditions of the pre-qualification bidding and includes the invitation to pre-qualify;

xxiv) “Procurement” or “public procurement” (or ‘Purchase’, or ‘Government Procurement/Purchase’ in certain contexts) means acquisition by way of purchase, lease, license or otherwise, either using public funds or any other source of funds (e.g. grant, loans, gifts, private investment etc.) of goods, works or services or any combination thereof, including award of Public Private Partnership projects, by a procuring entity, whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition of goods, works or services without consideration, and the term "procure" or "procured" shall be construed accordingly;

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⁵Notified vide Order No. P-45021/2/2017-PP (BE-II) issued by Department of Promotion of Industry and Internal Trade dated 16.09.2020
xxv) "Procurement contract" (including the terms ‘Purchase Order’ or ‘Supply Order’ or ‘Withdrawal Order’ or ‘Work Order’ or ‘Consultancy Contract’ or ‘Contract for Services’ under certain contexts), means a formal legal agreement in writing relating to the subject matter of procurement, entered into between the procuring entity and the supplier, service provider or contractor on mutually acceptable terms and conditions and which are in compliance with all the relevant provisions of the laws of the country. The term “contract” will also include “rate contract” and “framework contract”;

xxvi) “(Public) Procurement Guidelines” means guidelines applicable to Public Procurement, consisting of under relevant context a set of – i) Statutory Provisions (The Constitution of India; Indian Contract Act, 1872; Sales of Goods Act, 1930; and other laws as relevant to the context); ii) Rules & Regulations (General Financial Rules, 2017; Delegation of Financial Power Rules and any other regulation so declared by the Government); iii) Manuals of Policies and Procedures for Procurement (of Goods; Works; Consultancy Services or any for other category) promulgated by the Ministry of Finance and iv) Procuring Entity’s Documents relevant to the context (Codes, Manuals and Standard/ Model Bidding Documents);

xxvii) "Procurement process" means the process of procurement extending from the assessment of need; issue of invitation to pre-qualify or to register or to bid, as the case may be; the award of the procurement contract; execution of contract till closure of the contract;

xxviii) “Procuring authority” means the officer who finally approves as well as those officials and committee members who submit the notes/reports for the approval for any decision.

xxix) "Procuring entity" means any Ministry or Department of the Central Government or a unit thereof or its attached or subordinate office to which powers of procurement have been delegated;

xxx) "Prospective bidder" means anyone likely or desirous to be a bidder;

xxxi) "Public Private Partnership" means an arrangement between the central, a statutory entity or any other Government-owned entity, on one side, and a private sector entity, on the other, for the provision of public assets or public services or both, or a combination thereof, through investments being made or management being undertaken by the private sector entity, for a specified
period of time, where there is predefined allocation of risk between the private sector and the public entity and the private entity receives performance-linked payments that conform (or are benchmarked) to specified and predetermined performance standards, deliverables or Service Level agreements measurable by the public entity or its representative;

xxxii) "Rate contract" (or the term 'framework agreement' in certain contexts) means an agreement between a Central Purchase Organisation or procuring entity with one or more bidders, valid for a specified period of time, which sets out terms and conditions under which specific procurements can be made during the term of the agreement and may include an agreement on prices which may be either predetermined or be determined at the stage of actual procurement through competition or a predefined process allowing their revision without further competition;

xxxiii) “Registering authority” means an authority which registers bidders for different categories of procurement.

xxxiv) "Registered Supplier" means any supplier who is on a list of registered suppliers of the procuring entity or a Central Purchase Organisation;

xxxv) "Reverse auction" (or the term ‘Electronic reverse auction’ in certain contexts) means an online real-time purchasing technique utilised by the procuring entity to select the successful bid, which involves presentation by bidders of successively more favourable bids during a scheduled period of time and automatic evaluation of bids;

xxxvi) "Service" means any subject matter of procurement other than goods or works, except those incidental or consequential to the service, and includes physical, maintenance, professional, intellectual, training, consultancy and advisory services or any other service classified or declared as such by a procuring entity but does not include appointment of an individual made under any law, rules, regulations or order issued in this behalf;

xxxvii) "Subject matter of procurement" means any item of procurement whether in the form of goods, services or works or a combination thereof;

xxxviii) "Works" refer to any activity, sufficient in itself to fulfil an economic or technical function, involving construction, fabrication, repair, overhaul, renovation, decoration, installation, erection, excavation, dredging, and so on, which make use of a combination of one or more of engineering design,
architectural design, material and technology, labour, machinery and equipment. Supply of some materials or certain services may be incidental or consequential to and part of such works. The term "Works" includes (i) civil works for the purposes of roads, railway, airports, shipping-ports, bridges, buildings, irrigation systems, water supply, sewerage facilities, dams, tunnels and earthworks; and so on, and (ii) mechanical and electrical works involving fabrication, installation, erection, repair and maintenance of a mechanical or electrical nature relating to machinery and plants.
Chapter 1: Introduction – Policies and Principles

1.1 Procurement Rules and Regulations; and this Manual

Various Ministries, Departments, attached and subordinate offices, local urban bodies, public sector enterprises and other Government (including autonomous) bodies (hereinafter referred as ‘Procuring Entities’) spend a sizeable amount of their budget on procurement of goods, works and services to discharge the duties and responsibilities assigned to them.

The Ministries / Departments have been delegated full powers to make their own arrangements for procurement of goods and services, that are not available on Government e-Marketplace (GeM). These powers have to be exercised which have to be exercised as per the Delegation of Financial Power Rules and in conformity with the ‘Procurement Guidelines’ described below. Common use Goods and Services available on GeM are required to be procured mandatorily through GeM as per Rule 149 of GFR, 2017

To ensure that these procurements are made by following a uniform, systematic, efficient and cost-effective procedure and also to ensure fair and equitable treatment of suppliers, there are statutory provisions, rules, financial, vigilance, security, safety, counter-trade and other regulations; orders and guidelines of the Government on the subject of public procurement (hereinafter referred as ‘Procurement Guidelines’) which provide framework for the public procurement system.

At the apex of the Statutory framework governing public procurement is Article 299 of the Constitution of India, which stipulates that contracts legally binding on the Government have to be executed in writing by officers specifically authorized to do so. The Constitution also enshrines Fundamental Rights (In particular Article 19 (1) (g) – Right to carry on a Profession) which have implications for Public Procurement. Further, the Indian Contract Act, 1872 and the Sale of Goods Act, 1930 are major legislations governing contracts of sale/purchase of goods in general. There are other mercantile laws (Arbitration and Conciliation Act, 1996;Competition Act, 2002;

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Chapter 1: Introduction – Policies and principles

Information Technology Act, 2000 etc), which may be attracted in Public Procurement Transactions. There is no law exclusively governing public procurement.

However, comprehensive Rules and Regulations in this regard are available in the General Financial Rules (GFR), 2017, especially chapter 6; Delegation of Financial Powers Rules (DFPR); Government orders regarding product reservations or purchase preference or other facilities to sellers in Micro and Small Enterprises, Pharmaceutical Central Public Sector Enterprises, Khadi/ Handlooms goods goods, works and services rendered with more than prescribed local content (Make in India) etc.

Without purporting to be a comprehensive compendium of all such ‘Procurement Guidelines’, this Manual is intended to serve as a portal to enter this vast area and draw attention to basic norms and practices governing public procurement.

1.2 Clarification, Amendments and Revision of this Manual

For revision, interpretation, clarification and issues relating to this manual, the Procurement Policy Division, Department of Expenditure, Ministry of Finance would be the nodal authority.

1.3 Applicability of this Manual

The term 'goods' used in this manual includes all articles, material, commodity, livestock, medicines, furniture, fixtures, raw material, consumables, spare parts, instruments, machinery, equipment, industrial plants, vehicles, aircraft, ships, railway rolling stock, assemblies, sub-assemblies, accessories, a group of machines comprising an integrated production process or such other goods (but excludes books, publications, periodicals, and so on, for a library), or intangible products like software, technology transfer, licenses, patents or other intellectual properties procured or otherwise acquired by a procuring entity. Procurement of goods may include certain small work or some services, which are incidental or consequential to the supply of such goods, such as transportation, insurance, installation, commissioning, training and maintenance (Rule 143 of GFR 2017). What is unique about procurement of goods (as compared to services and works) is the ability to precisely describe the technical specification of the requirement.
Manual for Procurement of Goods

The ‘Procurement Entities’ who can benefit from this manual include Ministries, Departments, or a unit thereof, or an attached or subordinate offices/units; Central Public Sector Enterprises (CPSEs) or undertakings; any other body (including autonomous bodies) substantially owned or controlled by or receiving substantial financial assistance from the Central Government. These procurement guidelines would continue to apply if these procurement entities outsource the procurement process or bundle the procurement process with other contractual arrangements or utilise the services of procurement support agency or procurement agents to carry out the procurement on their behalf. But these procurement guidelines would not apply to procurements by these procuring entities for their own use (but not for purpose of trading/sale) from their subsidiary companies including Joint Ventures in which they have controlling share.

However by a general or special notification, the Government may permit certain ‘Procuring Entities’ mentioned in sub-para above, considering unique conditions under which they operate, for all or certain categories of procurement, to adopt detailed approved guidelines for procurement, which may deviate in some aspects but conform with all other essential aspects of ‘Procurement Guidelines’.

This Manual is to be taken as generic guidelines, which have to be necessarily broad in nature. Subject to the observance of these generic guidelines, the initiation, authorization, procurement and execution of Goods Contracts undertaken by a particular Ministry or Department shall be regulated by detailed rules and orders contained in the respective Departmental regulations and by other special orders applicable to them. Ministries/ Departments are advised to supplement these manuals to suit their local/ specialized needs, by issuing their own detailed Manuals (including customized formats); Standard Bidding Documents; Schedule of Procurement Powers\(^7\) and Checklists to serve as practical instructions for their officers and to ensure completeness of examination of cases. Major Goods procuring Ministries/Departments like the Ministry of Defence, Ministry of Railways, etc. have their own detailed guidelines tailored to unique individual requirements, e.g. Manuals or Procedure Orders. Many other Ministries/ Departments as well as CPSEs also

\(^7\)Notified vide OM No.F.1/36/2018-PPD issued by Department of Expenditure dated 28.12.2018
have their own Procurement Manuals. For these Procuring Entities, this Manual
would serve as a generic reference.

These guidelines would not be applicable to projects funded by World Bank and
other International Funding Agencies, as, such external aid/loans etc. received are
covered under the applicable policies/legal agreements executed as permitted

For procurements financed by Loans/Grants extended by International
Agencies: The Articles of Agreement with the International Agencies, like the World
Bank, Asian Development Bank etc. stipulate specific procurement procedures to be
followed by the borrowers. The procurement procedures, as finalized and
incorporated in the Agreements after consideration and approval of the Ministry of
Finance are to be followed accordingly.

1.4 Authorities competent to purchase goods and their Purchase
Powers

1.4.1 A Competent authority which is competent to incur expenditure may sanction
the purchase of goods required for use in public service in accordance with the
Delegation of Financial Rules (DFPR – extracted in Annexure 2A) by following the
‘Procurement Guidelines’ described in this Manual (Rule 145 of GFR 2017). Each
‘Procuring Entity’ may issue a Schedule of Procurement Powers (SoPP) adding
further details to the broad delegations in the DFPR, based on the assessment of
risks involved in different decisions/approvals at various stages of Procurement
Cycle. A suggested structure of such SoPP is enclosed as Annexure 2C.

1.5 Basic Aims of Procurement – the Five R’s of Procurement

In every procurement, public or private, the basic aim is to achieve just the right
balance between costs and requirements concerning the following five parameters
called the Five R’s of procurement. The entire process of procurement (from the time
the need for an item, facility or services is identified till the need is satisfied) is
designed to achieve such a right balance. The word ‘right’ is used in the sense of
‘optimal balance’.

i) Right Quality
Manual for Procurement of Goods

Procurement aims to buy just the right quality that will suit the needs – no more and no less – with clear specification of the procuring entity’s requirements, proper understanding of functional value and cost, understanding of the bidder’s quality system and quality awareness. The concept of the right balance of quality can be further refined to the concept of utility/value (Please refer to para 1.6 below). For the Right Quality, Technical Specification is the most vital ingredient. In public procurement, it is essential to give due consideration to Value for Money while benchmarking the specification.

ii) Right Quantity

There are extra costs and systemic overheads involved with both procuring a requirement too frequently in small quantities or with buying large quantities for prolonged use. Hence, the right quantity should be procured (in appropriate size of contract) which balances extra costs associated with larger and smaller quantities.

iii) Right Price

It is not correct to aim at the cheapest materials/ facilities/ Services available. The price should be just right for the quality, quantity and other factors involved (or should not be abnormally low for a facilities/works/ services which could lead to a situation of non-performance or failure of contract). The concept of price can be refined further to take into account not only the initial price paid for the requirement but also other costs such as maintenance costs, operational costs and disposal costs (Also termed as life cycle costing - please also refer to para 1.6 below)

iv) Right Time and Place

If the material (or facility or services) is needed by an organisation in three months’ time, it will be costly to procure it too late or too early. Similarly, if the vendor delivers the materials/ facilities/ services in another city, extra time and money would be involved in logistics. An unrealistic time schedule for completion of a facility may lead to delays, claims and disputes.

v) Right Source

Similarly, the source of delivery of Goods, Works and Services of the requirement must have just right financial capacity and technical capability for our needs (demonstrated through satisfactory past performance of contracts of same or similar
nature). Buying a few packets of printer paper directly from a large manufacturer may not be the right strategy. On the other hand, if our requirements are very large, buying such requirements through dealers or middlemen may also not be right.

1.6 Refined Concepts of Cost and Value – Value for Money

The concept of price or cost has been further refined into Total Cost Of Ownership (TCO) or Life Cycle Cost (LCC) or Whole-of-Life (WOL) to take into account not only the initial acquisition cost but also cost of operation, maintenance and disposal during the lifetime of the external resource procured. Similarly, the concept of quality is linked to the need and is refined into the concept of utility/value. These two, taken together, are used to develop the concept of Value for Money (VfM, also called Best Value for Money in certain contexts). VfM means the effective, efficient, and economic use of resources, which may involve the evaluation of relevant costs and benefits, along with an assessment of risks, non-price attributes (e.g. in goods and/or services that contain recyclable content, are recyclable, minimise waste and greenhouse gas emissions, conserve energy and water and minimize habitat destruction and environmental degradation, are non-toxic etc.) and/or life cycle costs, as appropriate. Price alone may not necessarily represent VfM. In public procurement, VfM is achieved by attracting the widest competition by way of optimal description of need; development of value-engineered specifications/ Terms of Reference (ToR); appropriate packaging/ slicing of requirement; selection of an appropriate mode of procurement and bidding system. These advanced concepts are explained in Appendix 1.

1.7 Fundamental Principles of Public Procurement

General Financial Rules, 2017 (Rule 144) lay down the Fundamental Principles of Public Procurement. These principles and other additional obligations of procuring authorities in public procurement can be organised into five fundamental principles of public procurement, which all procuring authorities must abide by and be accountable for:

i) Transparency Principle

All procuring authorities are responsible and accountable to ensure transparency, fairness, equality, competition and appeal rights. This involves simultaneous,
symmetric and unrestricted dissemination of information to all likely bidders, sufficient for them to know and understand the availability of bidding opportunities and actual means, processes and time-limits prescribed for completion of registration of bidders, bidding, evaluation, grievance redressal, award and management of contracts. It implies that such officers must ensure that there is consistency (absence of subjectivity), predictability (absence of arbitrariness), clarity, openness (absence of secretiveness), equal opportunities (absence of discrimination) in processes. In essence Transparency Principle also enjoins upon the Procuring Authorities’ to do only that which it had professed to do as pre-declared in the relevant published documents and not to do anything that had not been so declared’. As part of this principle, all procuring entities should ensure that offers should be invited following a fair and transparent procedure and also ensure publication of all relevant information on the Central Public Procurement Portal (CPPP).

ii) **Professionalism Principle**

As per these synergic attributes, the procuring authorities have a responsibility and accountability to ensure professionalism, economy, efficiency, effectiveness and integrity in the procurement process. They must avoid wasteful, dilatory and improper practices violating the Code of integrity for Public Procurement (CIPP) mentioned in Chapter 3 of this manual. They should, at the same time, ensure that the methodology adopted for procurement should not only be reasonable and appropriate for the cost and complexity but should also effectively achieve the planned objective of the procurement. As part of this principle, the Government may prescribe professional standards and specify suitable training and certification requirements for officials dealing with procurement matters.

In reference to the above two principles - Transparency and Professionalism Principle, It may be useful to refer to the following provisions in the General Financial Rules, 2017:

Rule 144. Fundamental principles of public buying: Fundamental principles of public buying (for all procurements including procurement of works).— Every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy, and transparency
in matters relating to public procurement and for fair and equitable treatment of 
suppliers and promotion of competition in public procurement.

The procedure to be followed in making public procurement must conform to the 
following yardsticks:-

a) The description of the subject matter of procurement to the extent 
practicable should --

1. be objective, functional, generic and measurable and specify 
technical, qualitative and performance characteristics;

2. not indicate a requirement for a particular trade mark, trade 
name or brand.

b) the specifications in terms of quality, type etc., as also quantity of 
goods to be procured, should be clearly spelt out keeping in view the 
specific needs of the procuring organisations. The specifications so 
worked out should meet the basic needs of the organisation without 
including superfluous and non-essential features, which may result in 
unwarranted expenditure.

c) Where applicable, the technical specifications shall, to the extent 
practicable, be based on the national technical regulations or recognized 
national standards or building codes, wherever such standards exist, and 
in their absence, be based on the relevant international standards. In case 
of Government of India funded projects abroad, the technical 
specifications may be framed based on requirements and standards of the 
host beneficiary Government, where such standards exist. Provided that a 
procuring entity may, for reasons to be recorded in writing, adopt any other 
technical specification\(^8\).

\[^8\text{It has been reiterated by Department of Expenditure vide OM F.N.12/17/2019-PPD dated 12.05.2020 that}
\text{wherever Indian Technical specifications and Quality Certifications exists, the procuring entity should prescribe}
\text{them. In those rare or exceptional cases where, despite the existence of Indian technical specifications, the}
\text{procuring entity intends to specify foreign Technical Certifications and Accreditations, it must record its}
\text{reasons in writing for adoption of such other technical specifications. This may also be subject to matter of}
\text{audit.}\]
d) Care should also be taken to avoid purchasing quantities in excess of requirement to avoid inventory carrying costs;

e) offers should be invited following a fair, transparent and reasonable procedure;

f) the procuring authority should be satisfied that the selected offer adequately meets the requirement in all respects;

g) the procuring authority should satisfy itself that the price of the selected offer is reasonable and consistent with the quality required;

h) at each stage of procurement the concerned procuring authority must place on record, in precise terms, the considerations which weighed with it while taking the procurement decision.

i) a complete schedule of procurement cycle from date of issuing the tender to date of issuing the contract should be published when the tender is issued.

j) All Ministries/Departments shall prepare Annual Procurement Plan before the commencement of the year and the same should also be placed on the their website"

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

iii) Broader Obligations Principle

Over and above transparency and professionalism, the procuring authorities have also the responsibility and accountability to conduct public procurement in a manner to facilitate achievement of the broader objectives of the Government - to the extent these are specifically included in the ‘Procurement Guidelines’:

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a) Preferential procurement from backward regions, weaker sections and MSEs, locally manufactured goods or services, to the extent specifically included in the ‘Procurement Guidelines’; and

b) Reservation of procurement of specified class of goods from or through certain nominated CPSEs or Government Organisations, to the extent specifically included in the ‘Procurement Guidelines’.

c) Support to broader social policy and programme objectives of the Government (for example, economic growth, strengthening of local industry - make-in-India, Ease of Doing Business, job and employment creation, and so on, to the extent specifically included in the ‘Procurement Guidelines’);

d) Facilitating administrative goals of other Departments of Government (for example, ensuring tax or environmental compliance by participants, Energy Conservation, accessibility for People With Disabilities etc. to the extent specifically included in the ‘Procurement Guidelines’).

e) Procurement policies and procedures must comply with accessibility criteria which may be mandated by the Government from time to time. Keeping this in view, Department of Expenditure amended Rule 144 of GFR, 2017 and introduced a sub-rule (xi) imposing restrictions under the rule [as mentioned under (ii) above]. The detailed provisions were notified through Order (Public Procurement No.1)\(^{10}\) which are as follows:

1. **Requirement of registration**

   a) Any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in Para 12(c) below.

\(^{10}\) Inserted vide Department of Expenditure (DoE), Ministry of Finance (MoF) OM No. F.6/18/2019-PPD dated 23.07.2020.
b) The Order shall not apply to (i) cases where orders have been placed or contract has been concluded or letter/notice of award/ acceptance (LoA) has been issued on or before the date of the order (23rd July 2020); and (ii) cases falling under para 13 below.

2. **Transitional cases**

Tenders where no contract has been concluded or no LoA has been issued so far shall be handled in the following manner: -

a) In tenders which are yet to be opened, or where evaluation of technical bid or the first exclusionary qualificatory stage (i.e. the first stage at which the qualifications of tenderers are evaluated and unqualified bidders are excluded) has not been completed: No contracts shall be placed on bidders from such countries. Tenders received from bidders from such countries shall be dealt with as if they are non-compliant with the tender conditions and the tender shall be processed accordingly.

b) If the tendering process has crossed the first exclusionary qualificatory stage, if the qualified bidders include bidders from such countries, the entire process shall be scrapped and initiated *de novo*. The *de novo* process shall adhere to the conditions prescribed in the Order.

c) As far as practicable, and in cases of doubt about whether a bidder falls under paragraph (1) above, a certificate shall be obtained from the bidder whose bid is proposed to be considered or accepted, in terms of paras 5(c), 5(d) and 6 read with para (1).

3. **Incorporation in tender conditions**

In tenders to be issued after the date (23rd July 2020) of the order, the provisions of paragraph (1) above and of other relevant provisions of the Order shall be incorporated in the tender conditions.

4. **Applicability**

a) Apart from Ministries/Departments, attached and subordinate bodies, notwithstanding anything contained in Rule 1 of the GFRs 2017, the Order shall also be applicable: to all Autonomous Bodies;

b) to public sector banks and public sector financial institutions; and

c) subject to any orders of the Department of Public Enterprises, to all Central Public Sector Enterprises; and
d) to procurement in Public Private Partnership projects receiving financial support from the Government or public sector enterprises/undertakings.
e) Union Territories, National Capital Territory of Delhi and all agencies/undertakings thereof

5. **Definitions**
a) “Bidder” for the purpose of the Order (including the term ‘tenderer’, ‘consultant’ ‘vendor’ or ‘service provider’ in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.
b) “Tender” for the purpose of the Order will include other forms of procurement, except where the context requires otherwise.
c) “Bidder from a country which shares a land border with India” for the purpose of the Order means
   i. An entity incorporated, established or registered in such a country; or
   ii. A subsidiary of an entity incorporated, established or registered in such a country; or
   iii. An entity substantially controlled through entities incorporated, established or registered in such a country; or
   iv. An entity whose beneficial owner is situated in such a country; or
   v. An Indian (or other) agent of such an entity; or
   vi. A natural person who is a citizen of such a country; or
   vii. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
d) “Agent” for the purpose of the Order is a person employed to do any act for another, or to represent another in dealings with third persons.

6. **Beneficial owner for the purposes of point (c) (iv) 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:-
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 (6) (a) or (6) (b) or (6) (c) 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.

7. Sub-contracting in works contracts
In works contracts, including turnkey contracts, contractors shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. The definition of "contractor from a country which shares a land border with India" shall be as in paragraph (5) (c) above. This shall not apply to sub-contracts already awarded on or before the date of the Order (i.e. 23rd July, 2020).

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

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

10. **Government e-Marketplace**

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

11. **Model Clauses/ Certificates**

Model Clauses and Model Certificates which may be inserted in tenders / obtained from Bidders are given at Annexure-2F. While adhering to the substance of the Order, procuring entities are free to appropriately modify the wording of these clauses based on their past experience, local needs etc. without making any reference to Department of Expenditure.

12. **Competent Authority and Procedure for Registration**

a) The Competent Authority for the purpose of registration under this Order shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT)\(^\text{11}\).

b) The Registration Committee shall have the following members\(^\text{10}\)

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.

\(^{11}\)(i) In respect of application of the Order to procurement by/ under State Governments, all functions assigned to DPIIT shall be carried out by the State Government concerned through a specific department or authority designated by it. The composition of the Registration Committee shall be as decided by the State Government and paragraph G above shall not apply. However, the requirement of political and security clearance as per para D shall remain and no registration shall be granted without such clearance.

(ii) Registration granted by State Governments shall be valid only for procurement by the State Government and its agencies/ public enterprises etc. and shall not be valid for procurement in other states or by the Government of India and their agencies/ public enterprises etc.
c) DPIIT has laid down the method of application, format etc. for such bidders as stated in para (1) (a) above\(^{12}\). On receipt of an application seeking registration from a bidder from a country covered by para (1) (a) above 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.

d) 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.

e) 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 as specified or unspecified duration of time, as deemed fit. The decision of the Competent Authority shall be final.

f) Registration shall not be granted unless the representatives of the Ministries of Home Affairs and External Affairs on the Committee concur\(^{13}\).

g) 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.

h) 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.

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\(^{12}\)Notified vide OM No.P-45021/112/2020-PP (BE-II) (E-43780) issued by DPIIT dated 30.03.2021

\(^{13}\)\((i)\) In respect of application of the Order to procurement by/ under State Governments, all functions assigned to DPIIT shall be carried out by the State Government concerned through a specific department or authority designated by it. The composition of the Registration Committee shall be as decided by the State Government and paragraph G above shall not apply. However, the requirement of political and security clearance as per para D shall remain and no registration shall be granted without such clearance.

\((ii)\) Registration granted by State Governments shall be valid only for procurement by the State Government and its agencies/ public enterprises etc. and shall not be valid for procurement in other states or by the Government of India and their agencies/ public enterprises etc.
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i) For national security reasons, the Competent Authority shall not be required to give reasons for rejection/cancellation of registration of a bidder.

j) In transitional cases falling under para (2) above, where it is felt that it will not be practicable to exclude bidders from a country which shares a land border with India, a reference seeking permission to consider such bidders shall be made by the procuring entity to the Competent Authority, giving full information and detailed reasons. The Competent Authority shall decide whether such bidders may be considered, and if so shall follow the procedure laid down in the above paras.

k) Periodic reports on the acceptance/refusal of registration during the preceding period may be required to be sent to the Cabinet Secretariat. Details will be issued separately in due course by DPIIT.

13. **Special Cases [In reference to para (1) (b) above]**

a) Bona fide procurements made through GeM without knowing the country of the bidder till the date fixed by GeM for this purpose, shall not be invalidated by the Order.

b) Bona fide small procurements, made without knowing the country of the bidder, shall not be invalidated by the Order.

c) In projects which receive international funding with the approval of the Department of Economic Affairs (DEA), Ministry of Finance, the procurement guidelines applicable to the project shall normally be followed, notwithstanding anything contained in the Order and without reference to the Competent Authority. Exceptions to this shall be decided in consultation with DEA.

d) The Order shall not apply to procurement by Indian missions and by offices of government agencies/undertakings located outside India.

e) The Order 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. Updated lists of countries to which lines of credit have been
extended or in which development projects are undertaken are given in the website of the Ministry of External Affairs\textsuperscript{14}.

f) A bidder is permitted to procure raw material, components, sub-assemblies etc. from the vendors from countries which shares a land border with India. Such vendors will not be required to be registered with the Competent Authority, as it is not regarded as “sub-contracting”. However, in case a bidder has proposed to supply finished goods procured directly/ indirectly from the vendors from the countries sharing land border with India, such vendor will be required to be registered with the Competent Authority\textsuperscript{15}.

g) Procurement of spare parts and other essential service support like Annual Maintenance Contract (AMC)/ Comprehensive Maintenance Contract (CMC), including consumables for closed systems, from Original Equipment Manufacturers (OEMs) or their authorized agents, shall be exempted from the requirement of registration as mandated under Rule 144(xi) of GFR, 2017 and Public Procurement orders issued in this regard\textsuperscript{16}.

14. Clarification to Order (Public Procurement No.1) dated 23\textsuperscript{rd} July 2020\textsuperscript{17}

a) For the purpose of (2)(b) above, “qualified bidders” means only those bidders would otherwise have been qualified for award of the tender after considering all factors including price, if the Order (Public Procurement No.1) dated 23\textsuperscript{rd} July 2020 had not been issued.

b) If bidders form such countries would not have qualified for award for reasons unconnected with the said Orders (for example, because they do not meet tender criteria or their price bid is higher or because of the provisions of purchase preference under any other order or rule or any other reason) then there is no need to scrap the tender/ start the process \textit{de novo}.

c) The following examples are given to assist in implementation of the Order

   1. Example I: Four bids are received in a tender. One of them is from a country which shares a land border with India. The bidder from such

\textsuperscript{14}Notified through Order (Public Procurement No. 2) vide F.No.6/18/2019-PPD issued by Department of Expenditure dated 23.07.2020
\textsuperscript{15}Notified vide OM No. F.18/37/2020-PPD issued by Department of Expenditure dated 08.02.2021
\textsuperscript{16}Notified vide OM No. F.12/1/2021-PPD(Pt.) issued by Department of Expenditure dated 02.03.2021
\textsuperscript{17}Notified through Order (Public Procurement No. 3) vide F.No.6/18/2019-PPD issued by Department of Expenditure dated 24.07.2020
country is found to be qualified technically by meeting all prescribed criteria and is also the lowest bidder. In this case, the bidder is qualified for award of the tender, except for the provisions of the Order (Public Procurement No. 1) dated 23rd July. In this case, the tender should be scrapped and fresh tender initiated.

2. Example 2: The facts are as in Example 1, but the bidder from such country, though technically qualified is not the lowest because there are other technically qualified bidders whose price is lower. Hence the bidder from such country would not be qualified for award of the tender irrespective of the Order (Public Procurement No. 1) dated 23rd July 2020. In such a case, there is no need to scrap the tender.

3. Example 3: The facts are as in Example 1, but the bidder from a country which shares a land border with India, though technically qualified, is not eligible for award due to the application of price preference as per other orders/ rules. In such a case, there is no need to scrap the tender.

4. Example 4: Three bids are received in a tender. One of them is a bidder from a country sharing a land border with India. The bidder from such a country does not meet the technical requirements and hence is not qualified. There is no need to scrap the tender.

iv) **Extended Legal Responsibilities Principle**

Procuring authorities must fulfill additional legal obligations in public procurement, over and above mere conformity to the mercantile laws (which even private sector procurements have to comply with). The Constitution of India has certain provisions regarding fundamental rights and public procurement. Courts have, over a time, taking a broader view of Public Procurement as a function of ‘State’, interpreted these to extend the responsibility and accountability of public procurement Authorities. Courts in India thus exercise additional judicial review (beyond contractual issues) over public procurement in relation to the manner of decision making in respect of fundamental rights, fair play and legality. Similarly, procuring authorities have also the responsibility and accountability to comply with the laws relating to Governance Issues like Right to Information (RTI) Act and Prevention of
Corruption Act, and so on. Details of such extended legal obligations are given in Appendix 2.

v) Public Accountability Principle

Procuring authorities are accountable for all the above principles to several statutory and official bodies in the Country – the Legislature and its Committees, Central Vigilance Commission, Comptroller and Auditor General of India, Central Bureau of Investigations and so on– in addition to administrative accountability. As a result, each individual public procurement transaction is liable to be scrutinised independently, in isolation, besides judging the overall outcomes of procurement process over a period of time. Procuring authorities thus have responsibility and accountability for compliance of rules and procedures in each individual procurement transaction besides the achievement of overall procurement outcomes. The procuring authority, at each stage of procurement, must therefore place on record, in precise terms, the considerations which weighed with it while making the procurement decision from need assessment to fulfilment of need. Such records must be preserved, retained in easily retrievable form and made available to such oversight agencies. The procuring entity shall therefore maintain and retain audit trails, records and documents generated or received during its procurement proceedings, in chronological order, the files will be stored in an identified place and retrievable for scrutiny whenever needed without wastage of time. The documents and record will include:

a) documents pertaining to determination of need for procurement;

b) description of the subject matter of the procurement;

c) Statement of the justification for choice of a procurement method other than open competitive bidding;

d) Documents relating to pre-qualification and registration of bidders, if applicable;

e) Particulars of issue, receipt, opening of the bids and the participating bidders at each stage;

f) Requests for clarifications and any reply thereof including the clarifications given during pre-bid conferences;

g) Bids evaluated, and documents relating to their evaluation; and

h) Contracts and Contract Amendments
1.8 Standards (Canons) of Financial Propriety

Public Procurement like any other expenditure in Government must conform to the Standards (also called Canons) of Financial Propriety. It may be useful to refer to the relevant provisions in the General Financial Rules, 2017

**Rule 21. Standards of financial propriety:** Every officer incurring or authorizing expenditure from public moneys should be guided by high standards of financial propriety. Every officer should also enforce financial order and strict economy and see that all relevant financial rules and regulations are observed, by his own office and by subordinate disbursing officers. Among the principles on which emphasis is generally laid are the following:-

i) Every officer is expected to exercise the same vigilance in respect of expenditure incurred from public moneys as a person of ordinary prudence would exercise in respect of expenditure of his own money.

ii) The expenditure should not be prima facie more than the occasion demands.

iii) No authority should exercise its powers of sanctioning expenditure to pass an order which will be directly or indirectly to its own advantage.

iv) Expenditure from public moneys should not be incurred for the benefit of a particular person or a section of the people, unless -

   a) a claim for the amount could be enforced in a Court of Law, or
   b) the expenditure is in pursuance of a recognized policy or custom.

v) The amount of allowances granted to meet expenditure of a particular type should be so regulated that the allowances are not on the whole a source of profit to the recipients.

vi) While discharging the duties of financial concurrence of any public expenditure, such authorities subsequent to such decision, shall not be involved in any future financial/audit/payment responsibilities which may create conflict of interest.
1.9 Public Procurement Infrastructure at the Centre

i) Procurement Policy Division

Procurement Policy Division (PPD) in Department of Expenditure; Ministry of Finance has been created to encourage uniformity and harmonisation in public procurement processes by dissemination of best practices, provision of guidance, oversight and capacity building and issuing of procurement manuals. However Centralisation of procurement or involvement in procurement processes is not the intended purpose of creation of PPD.

ii) Central Public Procurement Portal

Central Public Procurement Portal (CPPP) has been designed, developed and hosted by National Informatics Centre (NIC, Ministry of Electronics & Information Technology) in association with Dept. of Expenditure to ensure transparency in the public procurement process. The primary objective of the Central Public Procurement portal is to provide a single point access to the information on procurements made across various Ministries and the Departments. The CPPP has e-publishing and e-procurement modules. It is mandatory for all Ministries / Departments of the Central Government, Central Public Sector Enterprises (CPSEs) and Autonomous and Statutory Bodies to publish on the CPPP all their tender enquiries and information about the resulting contracts. CPPP provides access to information such as documents relating to pre-qualification, Bidders' registration, Bidding documents; details of bidders, their pre-qualification, registration, exclusions/debarments; decisions taken regarding prequalification and selection of successful bid. It is also now mandatory to implement end-to-end e-Procurement for all procurements either through CPPP portal or any other suitable portal.

1.10 Product Reservation and Preferential/Mandatory Purchase from certain sources

The Central Government may, by notification, provide for mandatory procurement of any goods or services from any category of bidders, or provide for preference to bidders on the grounds of promotion of locally manufactured goods or locally provided services.
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**Note:** Before considering any Purchase Preference/ product reservation mentioned below, the Procuring Entity should check the latest directives in this regard for necessary action. Product Reservation/ Purchase Preference provision shall invariably be part of the Notice Inviting Tender (NIT) and Instructions to Bidders (ITB).

1.10.1 Reservation of Procurement of certain class of Products from certain agencies- Khadi Goods/Handloom Textiles

The Central Government has reserved all items of hand-spun and hand-woven textiles (Khadi goods) for exclusive purchase from Khadi & Village Industries Commission (KVIC). Of all items of textiles required by the Central Government departments, it shall be mandatory to make procurement of at least 20% from amongst items of handloom origin, for exclusive purchase from KVIC and/ or Handloom Clusters such as Co-Operative Societies, Self Help Group (SHG) Federations, Joint Liability Group (JLG), Producer Companies (PC), Corporations etc. including Weavers having Pehchan Cards.

1.10.2 Reservation of Procurement of certain class of Products from certain agencies-

Pharmaceuticals from Pharmaceutical CPSEs

The pharmaceuticals Purchase Policy, 2013 is intended to ensure

1) Optimum utilization of the installed capacity and to provide necessary fillip in reviving these ailing pharmaceuticals CPSEs

2) Availability of quality medicines at low prices to the masses

3) Drug security of the nation.

The salient features of this policy are as follows:

- a) Pharmaceuticals Purchase Policy in respect of 103 (one hundred and three) medicines would be valid for a period of five years from the date of issue (30/10/2013) of orders by Department of Pharmaceuticals.

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18 Ministry of Textiles O. M. No. 4/2/88-DCH/M & E dated 17th February 1992
19 Notified vide OM No. F.10/2/2019-PPD(Pt.) issued by Department of Expenditure dated 17.02.2020
20 Department of Pharmaceuticals, Ministry of Chemicals and Fertilizers, OM 50(9)/ 2010-PI-IV Dtd 10/12/2013
b) Pharmaceuticals Purchase Policy will extend only to Central Public Sector Enterprises (CPSEs) under the administrative control of Department of Pharmaceuticals such as Indian Drugs and Pharmaceuticals Limited (IDPL), Hindustan Antibiotics Limited (HAL), Bengal Chemicals and Pharmaceuticals Limited (BCPL), Karnataka Antibiotics and Pharmaceuticals Limited (KAPL) and Rajasthan Drugs and Pharmaceuticals Limited (RDPL) and their subsidiaries where Government of India owns 51% (fifty one percent) or above shares.

c) This would be applicable to purchases by Central Government Departments, their Public Sector Undertakings, and Autonomous Bodies, etc. This would also be applicable to purchase of medicines by State Governments under Health Programmes funded by Government of India such as the National Rural Health Mission etc.

d) The pricing of the products would be done by National Pharmaceutical Pricing Authority (NPPA) using the cost based formula, as mentioned in the Drugs Price Control Order, 1995. A uniform discount of 16% (Sixteen percent) would be extended to all products. All the taxes, whatsoever, would have to be passed on to buyers.

e) Annual revision of prices would be linked to Wholesale Price Index as per provisions contained in Drugs Prices Control Order, 2013.

f) The procuring entity would purchase from pharma CPSEs and their subsidiaries subject to their meeting Good Manufacturing Practices (GMP) norms as per Schedule 'M' of the Drugs & Cosmetic Rules.

g) In case pharma CPSEs and their subsidiaries fail to supply the medicines, the procuring entity would be at liberty to make purchases from other manufacturers. If the pharma CPSEs or their subsidiaries fail to perform as per the purchase order, they would also be subject to payment of liquidated damages or any other penalty as per the terms of the contract.

h) The list of medicines (please refer to Annexure 27) may be reviewed and revised by the Department of Pharmaceuticals as per requirement.

1.10.3 Reservation of specific items for procurement from Micro and Small Enterprises (MSE)

To enable wider dispersal of enterprises in the country, particularly in rural areas, the Central Government Ministries or Departments or Public Sector Undertakings shall
continue to procure items reserved for procurement exclusively from MSE (presently 358 (three hundred and fifty-eight) items including eight items of Handicrafts) from Micro and Small Enterprises, which have been reserved for exclusive purchase from them. The latest list may be seen from the website of the MSME Ministry\textsuperscript{21}. Ministry of MSME has clarified that the laminated paper Gr.II and III are not covered under the paper conversion product (Sl.No.202) of the Public Procurement Policy\textsuperscript{22}. For locating the sources of such reserved items, NSIC may be contacted.

1.10.4 Public Procurement Policy for Micro and Small Enterprises (MSEs)

i) From time to time, the Government of India (Procuring Entity) lays down procurement policies to help inclusive national economic growth by providing long-term support to micro, small and medium enterprises and disadvantaged sections of society . The Procurement Policy for Micro and Small Enterprises, 2012 [amended 2018 and 2021] has been notified by the Government in exercise of the powers conferred in Section 11 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006. Details of the policy along with the amendments issued in 2018 and 2021 are available on the MSME website\textsuperscript{23}.

ii) Micro and Small Enterprises (MSEs) registered under Udyam Registration are eligible to avail the benefits under the policy.

iii) The Policy is applicable to all the Central Government Ministries/Departments/ CPSUs. However, the policy is not applicable to State Government Ministries/ Departments/PSUs.

1) To reduce transaction cost of doing business, MSEs will be facilitated by providing them tender documents free of cost, exempting MSEs from payment of earnest money deposit, adopting e-procurement to bring transparency in tendering process. However, exemption from paying Performance Bank Guarantee is not covered under the policy. MSEs may also be given relaxation in prior turnover and prior experience criteria during the tender process, subject to meeting of quality and technical specifications. However, there may be

\textsuperscript{21} http://www.dcmsme.gov.in/schemes/Listof358ItemsReserved.pdf
\textsuperscript{22} Policy Circular No. 21(6)/2016-MA dated 26.05.2016
\textsuperscript{23} http://dcmsme.gov.in/pppm.htm.aspx
circumstances (like procurement of items related to public safety, health, critical security operations and equipment, etc.) where procuring entity may prefer the vendor to have prior experience rather than giving orders to new entities\(^{24}\).

2) Chapter V of the MSMED Act, 2006 also has provision for ensuring timely payments to the MSE suppliers. The period agreed upon for payment must not exceed forty-five days after the supplies. For delays in payment the buyer shall be liable to pay compound interest to the supplier on the delayed amount at three times of the bank rate notified by the Reserve Bank. For arbitration and conciliation regarding recovery of such payments and interests, Micro and Small Enterprises Facilitation Council has been setup in states.

3) In tender, participating Micro and Small Enterprises (MSE) quoting price within price band of \(L_1+15\) (fifteen) per cent shall also be allowed to supply a portion of requirement by bringing down their price to \(L_1\) price in a situation where \(L_1\) price is from someone other than a MSE and such MSE shall be allowed to supply up to \(25\) (twenty five) per cent of total tendered value. The \(25\) (twenty five) per cent quantity is to be distributed proportionately among these bidders, in case there are more than one MSEs within such price band.

4) Within this 25\% (Twenty Five Percent) quantity, a purchase preference of four (4) per cent is reserved for MSEs owned by Scheduled Caste (SC)/ Scheduled Tribe (ST) entrepreneurs and three (3) percent is reserved for MSEs owned by women entrepreneur (if they participate in the tender process and match the \(L_1\) price). However, in event of failure of such MSEs to participate in tender process or meet tender requirements and \(L_1\) price, four percent sub-target for procurement earmarked for MSEs owned by SC/ST entrepreneurs and three (3) percent earmarked to women entrepreneur will be met from other MSEs. MSEs would be treated as owned by SC/ST entrepreneurs:

a) In case of proprietary MSE, proprietor(s) shall be SC/ST;

\(^{24}\) Notified vide OM No.F.20/2/2014-PPD(Pt.) issued by Department of Expenditure dated 29.09.2016.
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b) In case of partnership MSE, the SC/ ST partners shall be holding at least 51% (fifty-one percent) shares in the unit;

c) In case of Private Limited Companies, at least 51% (fifty-one percent) share shall be held by SC/ ST promoters.

d) If subcontract is given to MSEs, it will be considered as procurement from MSEs.

e) In case of tender item cannot be split or divided, etc. the MSE quoting a price within the band L1+15% may be awarded for full/ complete supply of total tendered value to MSE, considering the spirit of the Policy for enhancing Govt. Procurement from MSEs.

vi) To develop MSE vendors so as to achieve their targets for MSEs procurement, Central Government Ministries / Departments / PSUs shall take necessary steps to develop appropriate vendors by organizing Vendor Development Programmes (VDPs) or Buyer-Seller Meets focused on developing MSEs for procurement through the Government e-Marketplace (GeM) portal. In order to develop vendors belonging to MSEs for Public Procurement Policy, the Ministry of MSME is regularly organizing State Level VDPs and National Level VDPs under the Procurement and Marketing Support Scheme. For enhancing participation of MSEs owned by SCs / STs/ Women in Government procurement, Central Government Ministries/ Departments/ CPSUs have to take the following steps:

   a) Special Vendor Development Programmes/ Buyer-Seller Meets would be conducted by Departments/ CPSUs for SC/STs and Women.

   b) Outreach programmes will be conducted by National Small Industries Corporation (NSIC) to cover more and more MSEs from SC/STs under its schemes of consortia formation; and

   c) NSIC would open a special window for SCs/ STs under its Single Point Registration Scheme (SPRS).

   d) A National SC/ST hub scheme was launched in October, 2016, for providing handholding support to SC/ST entrepreneur which is being coordinated / implemented by the NSIC under this Ministry.

vii) Where any Aggregator has been appointed by the Ministry of MSME, themselves quote on behalf of some MSE units, such offers will be considered as offers from MSE units and all such facilities would be extended to these also.
This Policy is meant for procurement of only goods produced and services rendered by MSEs. Traders/ distributors/ sole agent/ Works Contract are excluded from the purview of the policy.

ix) **Exemptions from the policy:** Given their unique nature, defence armament imports shall not be included in computing 25(twenty five) per cent goal for Ministry of Defence. In addition, defence equipments like weapon systems, missiles, etc. shall remain out of purview of such Policy of reservation. Monitoring of goals set under the policy will be done, in so far as they related to Defense sector, by Ministry of Defense itself in accordance with suitable procedures to be established by them.

x) To monitor the progress of procurement by Central Government Ministries/ Departments and CPSUs from MSEs, Ministry of MSME has launched the MSME ‘Sambandh’ Portal on 8th December, 2017 for uploading procurement details by all CPSUs on a monthly and an annual basis which is regularly monitored by the Ministry.

xi) To redress the grievances of MSEs related to non-compliance of the Policy a Grievance cell named “CHAMPION Portal” has been set up in the Ministry of MSME.

1.10.5 Procurement Preference for Domestically Manufactured Electronic Products (Deleted)26

1.10.6 Preference to Make in 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, Department of Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry, Government of India, issued Public Procurement (Preference to Make in India), Order 201727. The order is issued pursuant to Rule 153 (iii) of GFR, 2017.

25https://sambandh.msme.gov.in/PPP_Index.aspx
26Superseded by Public Procurement (Preference to Make in India) Order issued by DPIIT dated 16.09.2020
27Latest revision to the Order notified vide OM No. P-45021/2/2017-PP (BE-II) issued by DPIIT, dated 16.09.2020
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The Order is applicable on the procurement of Goods, Works and Services. For the purpose of this Order:-

a) ‘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.

b) ‘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. It has been fixed as 20 (twenty) percent.

c) ‘Nodal Ministry’ means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services or works.

d) ‘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.

e) ‘Works’ means all works as per Rule 130 of GFR- 2017, and will also include ‘turnkey works’.

i) Eligibility of ‘Class-I local supplier’/ ‘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’, shall be eligible to bid irrespective of purchase value.

b) Only ‘Class-I local supplier’ and ‘Class-II local supplier’, shall be eligible to bid in procurements 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 (i)(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.

ii) **Purchase Preference**

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

b) In the procurements of goods or works, which are covered by para (i)(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 the following procedure:

1. 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.

2. If L1 bid is not a ‘Class-I local supplier’, 50 (fifty) percent 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 (fifty) percent 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 procurements of goods or works, which are covered by para (i)(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:

1. 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.
2. 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.
3. In case such lowest eligible ‘Class-I local supplier’ fails to match the L1 price, the ‘Class-I 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. In 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.
4. “Class-II local supplier” will not get purchase preference in any procurement, undertaken by procuring entities.

iii) **Applicability in tenders where contract is to be awarded to multiple bidders**

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 the Order.

c) If ‘Class I Local suppliers’ qualify for award of contract for at least 50 (fifty) percent 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 (fifty) percent 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 (twenty) percent 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 (fifty) percent 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 (twenty) percent margin of purchase preference, subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. If the lowest quoting ‘Class-I local supplier’, does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to next higher ‘Class-I local supplier’, falling within 20 (twenty) percent 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.

iv) **Exemption of small purchases:** Notwithstanding anything contained in paragraph (i), procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from the Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.

v) **Minimum local content:** The ‘local content’ requirement to categorize a supplier as ‘Class-I local supplier’ is minimum 50 (fifty) percent. For ‘Class-II local supplier’, the ‘local content’ requirement is minimum 20 (twenty) percent.
Chapter 1: Introduction – Policies and principles

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 (fifty) percent and 20 (twenty) percent for ‘Class-I local supplier’/ ‘Class-II local supplier’ respectively.

vi) **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.

vii) **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.

viii) **Verification of local content:**

a) 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.

b) 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 practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
c) 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.

d) 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.

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

f) 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.

g) A supplier who has been debarred by any procuring entity for violation of the Order shall not be eligible for preference under the 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 paragraph (h) below.

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

1. The fact and duration of debarment for violation of the 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;

2. on a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s);

3. 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 the such a manner that ongoing procurements are not disrupted.
ix) **Specifications in Tenders and other procurement solicitations:**

a) 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.

b) 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.

c) Procuring entities shall review all existing eligibility norms and conditions with reference to sub-paragraphs (viii) (a) and (b) above.

d) **Reciprocity Clause**

1. When a Nodal Ministry/Department identifies that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, due to restrictive tender conditions which have direct or indirect effect of barring Indian companies such as registration in the procuring country, execution of projects of specific value in the procuring country etc., 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.

2. 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.

3. The stipulation in (2) above shall be part of all tenders invited by the Central Government procuring entities stated in (1) above. All purchases on GeM shall also necessarily have the above provisions for items identified by nodal Ministry/ Department.
4. State Governments should be encouraged to incorporate similar provisions in their respective tenders.

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

e) 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.

f) "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."

x) **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.

xi) **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.

xii) **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.
xiii) **Manufacture under license/ technology collaboration agreements with phased indigenization**

a) 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.

b) 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.

xiv) **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,

1. reduce the minimum local content below the prescribed level; or
2. reduce the margin of purchase preference below 20 (twenty) percent; or
3. exempt any particular item or supplying entities from the operation of this Order or any part 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.

xv) **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.

xvi) **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.

xvii) **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 the Order.

xviii) **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 the 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.

xix) **Transitional provision:** The 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.

(Rule 153 of GFR 2017)
1.11 Proactive Information Disclosures
Section 4(1) (b) of the RTI Act lays down the information to be disclosed by public authorities on a suo motu or proactive basis and Section 4(2) and Section 4(3) prescribe the method of its dissemination to enhance transparency and also to reduce the need for filing individual RTI applications. The Department of Personnel & Training, Ministry of Personnel, Public Grievances & Pensions, Government of India, has issued “Guidelines on suo motu disclosure under Section 4 of the RTI Act” vide their OM No.1/6/2011-IR dated April 15, 2013. The relevant guidelines relating to information disclosure relating to procurement are reproduced below:

“Information relating to procurement made by public authorities including publication of notice/tender enquiries, corrigenda thereon, and details of bid awards detailing the name of the Vendor/ Contractor of goods/services being procured or the works contracts entered or any such combination of these and the rate and total amount at which such procurement or works contract is to be done should be disclosed. All information disclosable as per Ministry of Finance, Department of Expenditure’s O.M. No 10/1/2011-PPC dated 30th November, 2011 (and 05th March 2012) on Mandatory Publication of Tender Enquiries on the Central Public Procurement Portal and O.M. No. 10/3/2012- PPC dated 09th January 2014 on implementation of comprehensive end-to-end e-procurement should be disclosed under Section 4 of the Right to Information Act.

1.12 Public Procurement Cycle
The procurement process for goods, works and/or services typically involves the following cycle of activities, undertaken in the order stated below.

i) **Need Assessment:** Need assessment, formulation of Specifications and Procurement Planning

ii) **Bid Invitation:** Preparing bid documents, publication, receipt and opening of bids;

iii) **Bid Evaluation:** Evaluation of bids and award of contract; and

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29 [http://finmin.nic.in/the_ministry/dept_expenditure/gfrs/pub_tender_enq_ccpportal.pdf](http://finmin.nic.in/the_ministry/dept_expenditure/gfrs/pub_tender_enq_ccpportal.pdf)
Manual for Procurement of Goods

iv) **Contract Execution**: Contract management and closure.

v) **Disposal of Scrap**: Disposal of Scrap through various modes of disposal.

Details and procedures of various stages of the procurement cycle would be described in subsequent Chapters of the manuals.
Chapter 2: Need assessment, formulation of Specifications and Procurement Planning

2.1 Need Assessment

2.1.1 Procurements should be initiated only based on an indent from the user Department. The authority in the user Department initiating the indent for procurement shall first determine the need (including anticipated requirement) for the subject matter of the procurement. Description and Specification of Need assessment is of fundamental importance in ensuring value for money, transparency, competition and level playing field in procurement. The user Department shall maintain all documents relating to the determination and technical/financial/budgetary approvals of the need for procurement. During need assessments, the following matters are decided to comply with the ‘Procurement Guidelines’:

i) **The expression/description of the need** keeping in view the Value for Money (VfM) and to ensure wide competition. Therefore to the extent practicable it should be:
   a) Unambiguous, complete, using common terminology prevalent in relevant trade;
   b) In accordance with the guidelines prescribed if any in this regard;
   c) Except in case of proprietary purchase from a selected single source, reference to brand names, catalogue numbers or other details that limit any materials or items to specific manufacturer(s) should be avoided as far as possible. Where unavoidable, such item descriptions should always be followed by the words “or substantially equivalent”.

ii) **Method of satisfying it** (owning/leasing/hiring/outsourcing or through Public Private Partnership (PPP), and so on) may be determined as per policies declared in this regard or based on a techno-economic evaluation (using life cycle cost, if feasible) of various alternative methods of satisfaction of the need and compatibility and inter-operability with existing infrastructure or systems.

iii) The quantity of the subject matter of procurement, commensurate with economy:
a) Care should be taken not to make unnecessary procurements much in advance of actual requirements, if such procurement is likely to be unprofitable to the Government, coupled with unwarranted inventory-carrying cost. Where sales, consumption or usage limits of requirements have been laid down by the Competent Authority (CA), the officer signing the indent should also certify that the prescribed scales or limits are not exceeded. The authority preparing the indent shall neither package nor divide its procurement or take any other action so as to limit competition among potential bidders or to avoid its obligations under ‘Procurement Guidelines’. Provided that in the interest of efficiency, economy, timely completion or supply, wider competition or access to MSEs, a indenting or procuring authority may, for reasons to be recorded in writing, divide its procurement into appropriate packages, or club requirements of other users for procurement. Some requirements e.g. IT Systems may have elements of Goods, Works and Services. It could be either sliced into of Goods, Works and Services elements or combined into a package. Such decisions for slicing or packaging should be based on technical and VfM considerations. It is also necessary to round off the calculated quantity to the nearest wagon load/truck load/package to economise on transportation; and

b) Units of quantity are a very important parameter. Some items may be manufactured in metric tons but may be used in units of numbers or units of lengths (for example, steel sheets/structural). For the sake of transparency, it is important to buy an item in units of manufacture. For example, it is better to buy steel/structural in units of weight since it has a tolerance in weight per unit of length; this usually works to the disadvantage of the buyer if it is bought in units of length. The buying and issuing units of an item may be different – but should be standardised.

c) **Time-schedule and place** of product/work/service delivery: Need assessment and generation of indent for procurement should be done sufficiently in advance of the time when goods are required. Delays in need assessment have adverse impact on the value for money and transparency. Great care is required to be exercised in filling up realistic dates for the requirement of material. The procuring entity should be allowed time in
accordance with the establishment lead times. In urgent cases, the procuring entity may entertain indents providing shorter periods but such urgencies should be approved by the authority empowered to grant administrative approval for the indent and must be accompanied by proper justification.

d) **Formulation of Specification** to ensure value for money, transparency, level playing field and ensuring widest competition. This is further detailed in subsequent para.

e) **Estimation of Cost:**

1. The estimated cost in the indent is a vital element in various procurement processes, approvals and establishing reasonableness of prices at the time of evaluation of the bids. Therefore, it should be worked out in a realistic and objective manner. The prevailing market price ascertained through a market survey or budgetary quotations from one or more prospective suppliers or published catalogues/Maximum Retail Price (MRP) printed on the item is the main source for establishing the estimated cost of items for which there no historic data available. It may be noted that MRPs usually include significant margins for distributors, wholesalers and retailers;

2. For equipment/craft which are uniquely custom-built to buyer’s specifications, the best way to get a fair assessment of costs is by obtaining budgetary quotes from potential parties. Ideally, there should be three quotes. However, there is need to have a time schedule for receipt of quotes to ensure some timeframe for this activity. Thus:

   a) An attempt should be made to obtain as many budgetary quotes as possible from reputed/potential firms and a time of 21 (twenty-one) days be indicated therefore. In the event of receipt of less than three budgetary quotes, two extensions of up to 10 (ten) days each may be considered; and

   b) In the event of non-availability of three quotes within the above extended period, the estimates should be prepared on the basis of the number of budgetary quote(s) received, which may even be one; and where more than one budgetary quote is received, the estimate should
be framed on an average of the quotes which will reduce variations and fluctuations;

3. Other methods for establishing the estimated cost in the indent and tender evaluation are:
   a) Estimated rate in past indents of the same goods;
   b) Last purchase price of this or similar or nearly equivalent requirements;
   c) Costing analysis based on costs of various components/raw materials of the item;
   d) Rough assessment from the price of the assembly/machine of which the item is a part or vice versa;
   e) Through the internal or external expert costing agencies; and
   f) As a last resort, rough assessment from the opportunity cost of not using this item at all;

iv) These methods are not mutually exclusive and can be supplemented with escalations to cater for inflation, price increases of raw materials, labour, energy, statutory changes, price indices, and so on, to make them usable in conditions prevailing currently. In case of foreign currencies, the rate should be reduced to a common denomination of Indian Rupees. Price indices can be obtained from the following websites. Some may require prior free registration and some paid subscription:
   a) For price indices of indigenous items: http://www.eaindustry.nic.in/home.asp.in (Ministry of Industry);
   c) For price trends of nonferrous details; London Metal Exchange - https://www.lme.com/ gives price trends of nonferrous details, which often show volatile trends;
   d) Other useful sites: http://www.tradeintelligence.com/ and http://www.cmie.com/. (Centre for Monitoring Indian Economy);
e) For price trends of different countries:
http://www.imf.org/external/pubs/ft/weo/2015/01/ (International Monetary Fund) and

f) For organisation/chambers of commerce such as the (Indian Electrical and Electronics Manufacturer’s Association):
www.ieema.org;

2.2 Formulation of Technical specifications (TS)

2.2.1 The procuring authority should ensure that specifications are developed to ensure VfM, level playing field and wide competition in procurement [Rule 173 (ix) of GFR 2017]. The TS constitute the benchmarks against which the procuring entity will verify the technical responsiveness of bids and, subsequently, evaluate the bids. Therefore, well-defined TS will facilitate the preparation of responsive bids by bidders as well as examination, evaluation and comparison of the bids by the procuring entity. It would also help in ensuring the quality of the supplied goods. The procuring authority should ensure that the specification should:

i) Provides a level playing field and ensures the widest competition; and

ii) Be unambiguous, precise, objective, functional, broad based/generic, standardised (for items procured repeatedly) and measurable. TS should be broad enough to avoid restrictions on workmanship, materials and equipment commonly used in manufacturing similar kinds of goods;

iii) Set out the required technical, qualitative and performance characteristics to meet just the bare essential needs of the procuring entity without including superfluous and non-essential features, which may result in unwarranted expenditure;

iv) Normally be based on standards set by the Bureau of Indian Standards (BIS), wherever such standards exist. Preference should be given to procure the goods which carry the BIS mark. In the absence of BIS standards, TS may be based on the relevant International standards. Provided that an indenting authority may, for reasons to be recorded in writing, base the TS on equivalent international standards even in cases where BIS standards exist. For any deviations from Indian standards or for any additional parameters for
better performance, specific reasons for deviations/modifications should be duly recorded with the approval of the CA. Where the technical parameters are only marginally different, Indian standards may be specified and the Departmental specifications could cover only such additional details as packing, marking, inspection, and so on, as are specially required to be complied for a particular end use;

v) All dimensions incorporated in the specifications shall be indicated in metric units. If due to some unavoidable reasons, dimensions in FPS units are to be mentioned, the corresponding equivalents in the metric system must also be indicated.

vi) Comply with sustainability criteria and legal requirements of environment or pollution control and other mandatory and statutory regulations, or internal guidelines, if any, applicable to the goods to be purchased;

vii) Make use of best practices. examples of specifications from successful similar procurements in the other organisations or sector may provide a sound basis for drafting the TS;

viii) Commensurate with VfM, avoid procurement of obsolete goods and require that all goods and materials be new, unused and of the most recent or current models and that they incorporate all recent improvements in design and materials, unless provided for otherwise in the bidding documents;

ix) Should have emphasis on factors such as efficiency, optimum fuel/power consumption, use of environmental-friendly materials, reduced noise and emission levels, low maintenance cost, and so on. Government of India has set up the Bureau of Energy Efficiency (BEE) (http://www.bee-india.nic.in) on March 1, 2002 under the provisions of the Energy Conservation Act, 2001, with the primary objective of reducing the energy intensity of the Indian economy. The Bureau initiated the Standards & Labelling Programme for equipment and appliances in 2006 to provide the consumer an informed choice about the energy saving and thereby the cost saving potential of the relevant marketed product. The scheme is invoked for 21 equipment/appliances, i.e. Room Air Conditioners, RAC(Cassette, Floor Standing Tower, Ceiling, Corner AC), Tubular Fluorescent Tube Lights, Frost
Free Refrigerators, Distribution Transformers, Direct Cool Refrigerator, Electric storage type geyser, Color TVs, Induction Motors, Ceiling fans, Agricultural pump sets, LPG stoves, Washing machine, Laptops, Ballast, Office automation products, Solid State Inverter, Diesel Engine Driven Monoset Pumps for Agricultural Purposes, Diesel Generator, Inverter AC and LED Lamps. Of which the first 8 products have been notified under mandatory labelling since 7th January, 2010. The other appliances are presently under voluntary labelling phase. The energy efficiency labelling programs under BEE are intended to reduce the energy consumption of appliance without diminishing the services it provides to consumers. More the stars higher the efficient is the appliance. The threshold ratings prescribed by the Ministry of Finance are:

<table>
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<tr>
<th>Appliance</th>
<th>Threshold Star Rating</th>
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<tbody>
<tr>
<td>Split Air conditioners</td>
<td>5 Star (under normal conditions where annual usages are expected to be more than 1000 Hrs)</td>
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<tr>
<td></td>
<td>3 Star (where usage of AC is limited e.g. in conference rooms)</td>
</tr>
<tr>
<td>Frost Free Refrigerators</td>
<td>4 Star</td>
</tr>
<tr>
<td>Ceiling Fans</td>
<td>5 Star</td>
</tr>
<tr>
<td>Water Heaters</td>
<td>5 Star</td>
</tr>
</tbody>
</table>

We should try to build either the BEE Star rating where applicable and minimum energy efficiency where such star ratings are not yet available, into the TS (in accordance with Rule 173 (xvii) of GFR 2017). Such benchmarking illustrates use of neutral and dependable benchmarking in procurement of sustainable environmentally favourable goods by way of appropriately formulated Technical Specifications. In a similar fashion, other Type III Eco-labels as per ISO 14020 or voluntary Environmental Standard can be used for specifying environmental sustainability criteria.

x) **Discourage procurement involving evaluation of samples:** According to the existing guidelines on public procurement of goods, purchase in
accordance with a sample should not be usually undertaken. Calling\textsuperscript{31} for a sample along with the tender and deciding on the basis of evaluation of the sample may NOT be done. In certain specifications, there may be a built-in sample clause. Usually such clauses are stipulated to illustrate indeterminable characteristics such as shade/tone, make-up, feel, finish and workmanship, and so on. In some specifications, there may not be a sample clause but such indeterminable characteristics are left to be agreed to between the seller and buyer. One way to procure/indigenise certain spares whose drawings/specifications are not available is to procure in accordance with an available sample of the part. In such cases, supply must be in conformity with an agreed reference sample in such respects only, whereas for the remaining characteristics it must be in conformity with the laid down drawings/specifications. Procurement of such items should be decided on the basis of detailed specifications/drawings and no sample should be called for or evaluated along with the bids. If desired, a purchaser’s reference sample may be displayed for prospective tenderers to illustrate the desired indeterminable characteristics, which final supplies from successful bidder(s) will have to meet in addition to the specifications/drawings. If required, in addition to the purchaser's reference sample, the provision for the submission of a pre-production sample matching the purchaser's sample by successful bidder(s) may be stipulated for indeterminable characteristics, before giving clearance for bulk production of the supply. The Indent for items which are to be procured in accordance with a sample must be accompanied with three sealed samples as far as possible;

2.2.2 **Essential Technical particulars**

The essential Technical particulars to be specified in the tender document shall include the following to the extent applicable for a particular purchase:

i) Scope of supply and, also, end use of the required goods;

ii) All essential technical, qualitative, functional, environmental and performance characteristics and requirements (such as material composition, physical,

\textsuperscript{31}CVC’s circular: 2EE-1-CTE-3 dated 15 October 2003, URL: http://cvc.gov.in/eecte32k3.pdf
dimensions and tolerances, workmanship and manufacturing process wherever applicable; test schedule; if any), including guaranteed or acceptable maximum or minimum values, as appropriate. Whenever necessary, the user may include an additional format for guaranteed technical parameters (as an attachment to the bid submission sheet), where the bidder shall provide detailed information on such technical performance characteristics in reference to the corresponding acceptable or guaranteed values;

iii) Drawings;

iv) Requirement of the BIS mark, where applicable, mentioning all parameters where such a specification provides options;

v) Requirement of an advance sample, if any, at the post contract stage before bulk production;

vi) Special requirements of preservation, packing and marking, if any;

vii) Inspection procedure for goods ordered and criteria of conformity;

viii) Requirements of special tests or type test certificate or type approval for compliance of statutory requirements with reference to pollution, emission, noise, if any;

ix) Other additional work and/or related services required to achieve full delivery/completion, installation, commissioning, training, technical support, after-sales service and Annual Maintenance Contract (AMC) requirements, if any;

x) Warranty requirements;

xi) Qualification criteria of the bidders, if any; and

xii) Any other aspects peculiar to the goods in question such as shelf life of the equipment, and so on.

<p>| 2.2.3 Need Assessment and Technical Specification - Risks and Mitigations |
|------------------------|-------------------|
| <strong>Risk</strong> | <strong>Mitigation</strong> |
| Need is either artificially created or exaggerated, with the intention to channel benefits to an individual or an organisation. For example, demand is created for a good that is not needed simply to benefit the company’s owner. | Keep records and involve stakeholders: Records of decision making and data used should be kept. Involve procurement and finance functions at this stage also. End user and stakeholder consultations should be |</p>
<table>
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<tr>
<th><strong>Delays in Assessment of Need and generation of Indent for Procurement</strong>, may lead to shortcut procurement procedures that dilutes transparency and prevent achievement of value for money. It may also lead to delays in delivery of goods.</th>
<th>Need assessment should be done sufficiently in advance of the time when goods are required. In case or urgent requirements, the urgency certificate should be approved by authority empowered to grant administrative approval for the indent, recording justification – why the need could not be formulated earlier.</th>
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<tr>
<td><strong>The estimate of the costs may be inadequate.</strong> This may lead to inadequate response from the bidders and may delay finalisation of procurement. It may also adversely affect the quality of supplies.</td>
<td>Estimates of procurement should be prepared with due diligence, keeping in view inflation, technology changes, profit margins etc.</td>
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<tr>
<td><strong>Need Description/ Specifications involving subjectivity:</strong> Procurements where samples are asked to be submitted along with the offer and the evaluation is based on the subjective evaluation of samples – may lead to allegations of corruption.</td>
<td>If required, a stock sample for indeterminable parameters such as, shade/tone, size, make-up, feel, finish and workmanship, may be displayed during procurement to which the offers must conform. If necessary, provide for submission of an advance sample by successful bidder(s) before giving clearance for bulk production of the supply.</td>
</tr>
<tr>
<td><strong>Need Description/ Specifications and terms of reference</strong> are disproportionate to the need identified or made to tilt in favour one or a group of vendor(s) or contractor(s) to artificially restrict competition.</td>
<td><strong>Asymmetric dissemination of vital need information:</strong> Dialogue for determining solutions available in the market is held only with selected prospective bidders, giving them undue advantage in preparing for the bidding. Selected prospective bidders get access to inside information not disclosed or disclosed late to others.</td>
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<tr>
<td><strong>Use a formal market discovery tool:</strong> Pre-bidconference and/or well publicised EoI may be used for discovery of the market. Otherwise, encourage and invite comments on the technical and commercial conditions in the bid document or hold pre-bid conference.</td>
<td><strong>2.3 Obtaining Technical, Administrative and Budgetary Sanctions/ Approvals and signing of Indents</strong> Procuring Entities may lay down a schedule of powers for administrative and budgetary approval of indents generated for procurement of goods (Please refer to</td>
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Annexure 2C (for suggested Structure of SoPP). Before granting such approvals, it should be certified that funds in the budget are available and liability for this indent is noted against the total available budget. In case the time schedule of delivery is urgent (or shorter than usual lead-time) an urgency certificate should be recorded justifying the urgency. The indenting authority may submit an indent in form of a Purchase Requisition (Annexure 3) to the procuring entity, giving it adequate time for procurement. Indenters should monitor the progress of the Indents submitted by them. For this purpose, a register may be maintained in the format provided in Annexure 4A. On receipt in the procuring authority, progress of such Indents should be monitored for which a register may be maintained in the format provided in Annexure 4B.

2.4 Procurement Planning

2.4.1 After receipt of the Indent, the procuring entity should take following decisions to initiate procurement, to ensure conformity to the Procurement Guidelines:

i) Within 10 (Ten) working days of receipt of the indent from the user Department, the procuring authorities should critically review the description and TS enclosed with the indent for completeness/approvals/funding, VfM and possibility of the widest competition and seek clarifications from the indenting officer, if needed, before initiating such procurement;

ii) Reassessment of the quantity and appropriate aggregation of quantities of various users: The procuring authority shall normally neither package nor divide its procurement or take any other action so as to limit competition among bidders or to avoid the necessity of obtaining the sanction of higher authority required with reference to the estimated value of the total demand (Rule 157 of GFR 2017). Provided that in the interest of efficiency, economy, timely completion or supply, wider competition or access to MSEs, a procuring authority may, for reasons to be recorded in writing, divide its procurement into appropriate packages, or club requirements of other users for procurement. Packaging of the contract and procurement planning should be done keeping in view the availability and possibility of eliciting the interest of the qualified firms; effective competition for the type and size of the contract; and access to MSEs. For example for a particular contract, material to be
procured may constitute more than 50 (fifty) per cent of the total cost of works or there are services which are a mix of consultancy services with substantial element of goods, such as procurement of an IT system. Such procurement could be done as a single composite contract comprising all components or divided into separate contracts for each category of procurement. In all such situations, the dominant aspect of the requirement and value for money aspects of a composite all-inclusive contract versus dividing the contract into respective categories should be carefully examined at the time of Need assessment/ Procurement Planning. This is a crucial stage of decision-making in procurement planning for a better outcome and for VfM considerations;

iii) Determine and declare in documents, any limitation on participation of bidders as per the Government’s procurement policy regarding preference to certain sections of industry, if any. The procuring entity shall not establish any requirement aimed at limiting participation of bidders in the procurement process that discriminates against or amongst bidders or against any category thereof except to lay down a reasonable and justifiable eligibility or pre-qualification criteria for the bidders;

iv) Selection of a system of bidding (single/two stage; single/two bids; suitability for e-procurement or reverse auction);

v) Select the mode of procurement (open tenders, limited tenders, single tenders, and so on);

vi) Decisions on the timeframe for completing various stages of procurement, which should be declared in the pre-qualification/bidder registration or bidding documents. The procuring entity should endeavour to adhere to the time limit so decided and record reasons for any modification of such limits; and

vii) Integrated procurement plan should be prepared for goods, works and services for the ensuing financial year based on the latest cost estimates, and realistic time schedule for procurement activities and contract implementation and thus schedule and stagger the procurements over the year with a view to ensure an even load on the procuring entity and the market and also to coordinate matching procurements of Goods, Works and Services for a project;
2.4.2 The procuring entity may publish information regarding the planned procurement activities for the forthcoming year or years on the central public procurement portal and website/ e-Procurement portal used by the procuring entity with a caveat that such publication shall not be construed as initiation of a procurement process and cast any obligation on the procuring entity to issue the bidding document or confer any right on prospective bidders.

2.4.3 Procurement Planning - Risks and Mitigations

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<th>Risk</th>
<th>Mitigation</th>
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<tr>
<td><strong>Procurement Planning</strong></td>
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<tr>
<td><strong>Packaging, bundling and slicing</strong> of requirement is done to avoid open competition or reduce competition. Or it is too large to make it difficult for MSEs to participate. Possible clubbing/collaboration among different units having the same needs are not explored.**</td>
<td><strong>Lay down a clear policy for packaging and bundling of requirements. In large packages, the affordability of EMD and resultant restriction on competition may be kept in view and bidders may be allowed to bid for slices of the package by depositing proportional EMD.</strong></td>
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Chapter 3: Supplier Relationship Management

3.1 Supplier Relationship Management

Supplier Relationship Management comprises the following functions:

i) Ensuring compliance of suppliers to the Code of Integrity for Public Procurement and Integrity Pact (CIPP) if stipulated in Bid Documents;

ii) Holiday listing; removal from the list of registered suppliers and banning/debarment of firms; and

iii) Development of new sources and registration of suppliers.

3.2 Code of Integrity for Public Procurement (CIPP)

3.2.1 Public procurement is perceived to be prone to corruption and ethical risks. To mitigate this, the officials of Procuring Entities involved in procurement and the bidders/suppliers must abide by the following Code of Integrity for Public Procurement (CIPP). All Procuring officials may be asked to sign declarations to this effect periodically and in various Procurement decisions (including Need Assessment). The bidders/suppliers should be asked to sign a declaration about abiding by a Code of Integrity for Public Procurement in registration applications and in bid documents, with a warning that, in case of any transgression of this code, its name is not only liable to be removed from the list of registered suppliers, but it would be liable for other punitive actions such as cancellation of contracts, banning and blacklisting or action in Competition Commission of India, and so on.

(Rule 175 of GFR 2017)

3.2.2 Code of Integrity for Public Procurement: Procuring authorities as well as bidders, suppliers, contractors and consultants should observe the highest standard of ethics and should not indulge in the following prohibited practices, either directly or indirectly, at any stage during the procurement process or during execution of resultant contracts:

i) “Corrupt practice”: making offers, solicitation or acceptance of bribe, rewards or gifts or any material benefit, in exchange for an unfair advantage in
the procurement process or to otherwise influence the procurement process or contract execution;

ii) “Fraudulent practice”: any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained or an obligation avoided. This includes making false declaration or providing false information for participation in a tender process or to secure a contract or in execution of the contract;

iii) “Anti-competitive practice”: any collusion, bid rigging or anti-competitive arrangement, or any other practice coming under the purview of The Competition Act, 2002, between two or more bidders, with or without the knowledge of the procuring entity, that may impair the transparency, fairness and the progress of the procurement process or to establish bid prices at artificial, non-competitive levels;

iv) “Coercive practice”: harming or threatening to harm, persons or their property to influence their participation in the procurement process or affect the execution of a contract;

v) “Conflict of interest”: participation by a bidding firm or any of its affiliates that are either involved in the consultancy contract to which this procurement is linked; or if they are part of more than one bid in the procurement; or if the bidding firm or their personnel have relationships or financial or business transactions with any official of procuring entity who are directly or indirectly related to tender or execution process of contract; or improper use of information obtained by the (prospective) bidder from the procuring entity with an intent to gain unfair advantage in the procurement process or for personal gain; and

vi) “Obstructive practice”: materially impede the procuring entity’s investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/or by threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation
or from pursuing the investigation; or by impeding the procuring entity’s rights of audit or access to information;

3.2.3 **Obligations for Proactive Disclosures**

i) Procuring authorities as well as bidders, suppliers, contractors and consultants, are obliged under Code of Integrity for Public Procurement to suo-moto proactively declare any conflicts of interest (coming under the definition mentioned above – pre-existing or as and as soon as these arise at any stage) in any procurement process or execution of contract. Failure to do so would amount to violation of this code of integrity; and

ii) Any bidder must declare, whether asked or not in a bid document, any previous transgressions of such a code of integrity with any entity in any country during the last three years or of being debarred by any other procuring entity. Failure to do so would amount to violation of this code of integrity.

iii) To encourage voluntary disclosures, such declarations would not mean automatic disqualification for the bidder making such declarations. The declared conflict of interest may be evaluated and mitigation steps, if possible, may be taken by the procuring entity. Similarly voluntary reporting of previous transgressions of Code of Integrity elsewhere may be evaluated and barring cases of various grades of debarment, an alert watch may be kept on the bidder’s actions in the tender and subsequent contract.

3.2.4 **Punitive Provisions:** Without prejudice to and in addition to the rights of the procuring entity to other penal provisions as per the bid documents or contract, if the procuring entity comes to a conclusion that a (prospective) bidder/supplier, directly or through an agent, has violated this code of integrity in competing for the contract or in executing a contract, the procuring entity may take appropriate measures including one or more of the following:

i) if his bids are under consideration in any procurement

   a) Forfeiture or encashment of bid security

   b) calling off of any pre-contract negotiations, and;

   c) rejection and exclusion of the bidder from the procurement process
ii) if a contract has already been awarded
   a) Cancellation of the relevant contract and recovery of compensation for loss incurred by the procuring entity;
   b) Forfeiture or encashment of any other security or bond relating to the procurement;
   c) Recovery of payments including advance payments, if any, made by the procuring entity along with interest thereon at the prevailing rate;

iii) Provisions in addition to above:
   a) Removal from the list of registered suppliers and banning/debarment of the bidder from participation in future procurements of the procuring entity for a period not less than one year;
   b) In case of anti-competitive practices, information for further processing may be filed under a signature of the Joint Secretary level officer, with the Competition Commission of India;
   c) Initiation of suitable disciplinary or criminal proceedings against any individual or staff found responsible.

| 3.2.5 Conduct of Public Servants in Public Procurement - Risks and Mitigations |
|---|---|
| **Risk** | **Mitigation** |
| **Hospitality:** Hospitality (including facilitation of travel, lodging, boarding and entertainment during official or unofficial programs) from suppliers may tend to cross the limits of ethical/occasional/routine/modest/normal business practice. Officials sent to firm’s premises for inspections/meetings may mistakenly presume entitlement to hospitality from the firm, even if other arrangements are available at the location. | Hospitality must never be solicited, directly or indirectly. The frequency, scale and number of officials availing hospitality should not be allowed to identify the recipient in a public way with any particular contractor, supplier or service provider or raise doubts about its neutrality. It should not involve significant travel, overnight accommodation or trips abroad. Particular care should be taken in relation to offers of hospitality from firms (say participating in current or imminent tenders or its execution) who stand to derive a personal or commercial benefit from their relationship with the recipient. |
| **Gifts:** Gifts from suppliers may tend to cross the limits of ethical/occasional/routine/modest/normal business | Gifts must never be solicited, directly or indirectly. An official should not accept and retain gifts more valuable than the limit as |
### 3.2.5 Conduct of Public Servants in Public Procurement - Risks and Mitigations

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<th>Risk</th>
<th>Mitigation</th>
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<td>practice, especially on festive season. Since the value of the gift may not be known to the recipient, it may cause inadvertent violation of Conduct rules.</td>
<td>laid down in the conduct rules. Cash, gift cheques or any vouchers that may be exchanged for cash may not be accepted regardless of the amount. Particular care should be taken in relation to gifts from firms (say participating in current or imminent tenders or its execution) who stand to derive a personal or commercial benefit from their relationship with the recipient. Any gift received inadvertently in violation of above, must immediately either be returned or else reported and deposited in Toshakhana/Treasury.</td>
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**Private Purchases from Official Suppliers:** Procuring Officials may mistakenly consider it innocuous to seek discounts in private procurements from suppliers having official dealings or its associates (especially from Rate Contract holders).

| **Sponsorship of Events:** Procuring Officials may mistakenly consider it innocuous to seek financial favours (donations, advertisements for souvenirs, and contributions in cash or kind) in relation to sponsoring of cultural, social, charitable, religious, or sporting events, in the false belief that since he/she is personally not benefitted, it would not be a violation of CIPP. | Officials involved in Public Procurement must never indulge in any non-official pecuniary transaction with the contractors, suppliers or service providers with whom they have official dealings; including seeking or accepting special facilities or discounts on private purchases (particularly same items which are being ordered officially on rate contracts). |

### 3.3 Integrity Pact (IP)

The Pre-bid Integrity Pact is a tool to help Governments, businesses and civil society to fight corruption in public contracting. It binds both buyers and sellers to ethical conduct and transparency in all activities from pre-selection of bidders, bidding and contracting, implementation, completion and operation related to the contract. This removes insecurity of Bidders, that while they themselves may abjure Bribery, but their competitors may resort to it and win contract by unfair means.
Chapter 3: Supplier Relationship Management

Ministry of Finance, Department of Expenditure have mandated 32 Ministries/Departments and their attached/subordinate offices (including autonomous bodies) to incorporate Integrity Pact by, depending on the nature of procurements/contracts above a threshold value. The nature of procurement and threshold of value is to be decided by the Ministries/Departments with approval of the Minister in charge. As guidance, the threshold should be such as to cover bulk (80-90% - eighty to ninety percent by value) of its procurement expenditure.

“The pact essentially envisages an agreement between the prospective vendors/bidders and the buyer, committing the persons/officials of both sides, not to resort to any corrupt practices in any aspect/stage of the contract. Only those vendors/bidders, who commit themselves to such a Pact with the buyer, would be considered competent to participate in the bidding process. In other words, entering into this Pact would be a preliminary qualification. The essential ingredients of the Pact include:

1) Promise on the part of the Procuring Entity to treat all bidders with equity and reason and not to seek or accept any benefit, which is not legally available;

2) Promise on the part of bidders not to offer any benefit to the employees of the Procuring Entity not available legally and also not to commit any offence under Prevention of Corruption Act, 1988 or Indian Penal Code 1860;

3) Promise on the part of Bidders not to enter into any undisclosed agreement or understanding with other bidders with respect to prices, specifications, certifications, subsidiary contracts, etc;

4) Undertaking (as part of Fall Clause) by the Bidders that they have not and will not sell the same material/equipment at prices lower than the bid price;

5) Foreign bidders to disclose the name and address of agents and representatives in India and Indian Bidders to disclose their foreign principals or associates;

6) Bidders to disclose the payments to be made by them to agents/brokers or any other intermediary;

32OM No.14(12)/ 2008- E-II(A) dated 19th July 2011
7) Bidders to disclose any past transgressions committed over the specified period with any other company in India or Abroad that may impinge on the anti corruption principle;

8) Integrity Pact lays down the punitive actions for any violation;

9) **Integrity Pact (IP) would be implemented through a panel of Independent External Monitors (IEMs):** shall be appointed by the organization in consultation with Central Vigilance Commission. Names and contact details of the Independent External Monitor(s) should be listed in Notice Inviting Tender (NIT). The IEM would review independently and objectively, whether and to what extent parties have complied with their obligations under the Pact. Government of India organizations and Public Sector Undertakings desirous of implementing Integrity Pact are required to select at most three persons (below the age of 70 (seventy) years) of high integrity and reputation as Independent External Monitors (IEM) after due diligence and forward to the CVC for its approval. Only those officers of Government of India Departments or Public Sector Undertakings, who have retired from top management positions, would be considered for appointment as IEM, provided they are neither serving or retired from the same organization. Eminent persons, retired judges of High/ Supreme Courts, executives of private sector of considerable eminence could also be considered for functioning as Independent External Monitors. The appointment of Independent External Monitors would be for an initial period of three years and could be extended for another term of two years (maximum tenure of five years). Names and contact details of the Independent External Monitor(s) should be listed in Notice Inviting Tender (NIT).

10) **In tenders meeting the criteria of threshold value/ nature of procurement:** Integrity Pact clause and format should be included in the Bid Documents. Each page of such Integrity pact proforma would be duly signed by Purchaser’s competent signatory. All pages of the Integrity Pact are to be returned by the bidder (along with the technical bid) duly signed by the same signatory who signed the bid, i.e. who is duly authorized to sign the bid and to make binding commitments on behalf of his company. Any bid not accompanied by Integrity Pact duly signed by the bidder shall be considered to be a non-responsive bid and shall be rejected straightway.
11) **Role / Functions of IEMs**: The Monitors would not be subject to instructions by the representatives of the parties and should perform their functions neutrally and independently. They would review independently and objectively, whether and to what extent parties have complied with their obligations under the Integrity Pact. For this purpose, they would have access to all contract documents / books of accounts of the bidders in case of any allegation of violation of any provisions of the Integrity Pact or payment of commission, whenever required. The IEMs will have the option to participate in such meetings among the parties related to the project provided such meetings could have an impact on the contractual relations between the parties. Ideally all IEMs of an organization should meet once every two months to take stock of ongoing tendering process. The IEMs would examine all complaints received by them and give their recommendations / views to the designated officer of the Procuring Entity, at the earliest. The Monitors would also inform the Procuring Entity, if they notice or have reason to believe, a violation of the Integrity Pact. They may also send their report directly to the Central Vigilance Commission, in case of suspicion of serious irregularities requiring legal/ administrative action. At least one IEM would be invariably cited in the NIT. However for ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs, who would look into the records, conduct an investigation, and submit their joint recommendations. The recommendations of IEMs would be in the nature of advice and would not be legally binding. IEMs may not be equated with consultants in the Procuring Entity. Their role is independent in nature and the advice once tendered would not be subject to review. The role of the Chief Vigilance Officer (CVO) of Procuring Entity shall remain unaffected by the presence of IEMs. A matter being examined by the IEMs can be separately investigated by the CVO, if a complaint is received by him or directed to him by the CVC. As per para 5.13 of CVC OM No. 05/01/22 issued vide letter No. 015/VGL/091 dated 25.01.2022, in the event of any dispute between the management and the contractor relating to those contracts where Integrity Pact is applicable, in case, both the parties are agreeable, they may try to settle dispute through mediation before the panel of IEMs in a time bound manner. If required, the organizations may adopt any mediation rules for this purpose. In case, the dispute remains unresolved even after mediation by the
panel of IEMs, the organization may take further action as per the terms & conditions of the contract.

3.4 Development of New Sources and Registration of Suppliers

3.4.1 Ensuring an up-to-date and current list of registered, capable and competent suppliers facilitates efficiency, economy and promotion of competition in public procurement, especially where open tendering is not resorted to. The list may be referred to while floating a limited tender/local purchase/direct contracting. For such tenders, it may be possible to skip bidder qualification so as to avoid unnecessary repetition/duplication of records thereby saving time, especially in the case of emergency procurement. For goods and services not available on GeM, Head of Ministry/ Department may also register suppliers of goods and services which are specifically required by that Department or Office, periodically. Registration of the supplier should be done following a fair, transparent and reasonable procedure and after giving due publicity. Such registered suppliers should be boarded on GeM as and when the item or service gets listed on GeM. The list of registered suppliers for the subject matter of procurement be exhibited on websites of the Procuring Entity/ their e-Procurement portals.]33.

3.4.2 Ministries / Departments with a significant volume of procurements may follow their own policies and procedures for registration of vendors, if already existing. The policies and procedures for registration described below is for guidance of Ministries/ Departments, who do not have their own laid down policies/ procedures for registration. The Ministry/ Department shall notify the authorities competent to deal with the applications and grant registrations, along with their jurisdictions. The appellate authority shall be at least one level above the registering authority or as designated by the Ministry/ Department.

3.4.3 All Ministries/ Department may use such lists prepared by other Ministries / Departments as and when necessary. Registered suppliers are ordinarily exempted from furnishing earnest money deposit/bid security with their tenders in tenders for items, and Monetary Limits for which they are registered. The list of registered

suppliers for the subject matter of procurement be exhibited on the Central Public 
Procurement Portal and websites of the Procuring Entity/ e-procurement/ portals.

3.4.4 Categories for Registration

In case of procurement of goods, the Administrative Department shall register firms 
as suppliers of goods in different trade groups of goods in the following broad 
categories:

i) Manufacturers, who supply indigenous items;

ii) Agents/distributors of such manufacturers, who desire to market their 
production only through their agents;

iii) Foreign manufacturers with/without their accredited agent in India;

iv) Stockists of imported spares or other specified items; and

v) Suppliers of imported goods as are having regular arrangement with foreign 
manufacturers.

3.4.5 One of the main prerequisites for registration as a manufacturer is that the 
firm should possess its own in-house testing facilities. In case of MSE units, the firm 
need not have its own testing facilities but regular arrangements with other reputed 
Government or Government-approved or private agencies in its area for testing of 
products. Before the manufacturer is included in the list of registered suppliers, 
Procuring Entity shall verify the bona fides and standing of the firm. Procuring Entity 
may also seek assistance from the inspection wing of other inspecting agencies. In 
case of firms having an established quality maintenance system with ISO 9001- 2000 
certification (latest version) by authorised agencies, Procuring Entity may consider 
registration of such firms without carrying out capacity assessment.

3.4.6 Grades (Monetary Limits) for Registration

Registration should be done by grading the firms (Grade A, B, and so on) on their 
capability for executing contract orders of different monetary limits in the relevant 
category of requirements. The monetary limits should be carefully fixed keeping in 
view the banker's reports, capacity and capability of the firm and other financial 
information indicated in the balance sheets, profit and loss statements:

i) Grade-A: Rs. 25 (Rupees twenty-five) lakh and above;

ii) Grade B: Rupees five lakh to Rs.25(Rupees twenty-five) lakh; and

iii) Grade C: Rupees One lakh and up to Rupees five lakh
3.4.7 The firms that are registered for supply of orders valued above Rupees five lakh should invariably be manufacturers or their authorised agents. Procuring Entity shall register the manufacturers and not agents or middlemen. A sole selling agent/authorised agent could be considered for registration, subject to the condition that Procuring Entity is satisfied that he is the sole selling agent of manufacturers, and financial and technical capabilities of the manufacturers are ascertained by Procuring Entity. The availability of a suitable arrangement with the sole selling agent for after-sales service shall also be ensured and Procuring Entity shall also satisfy itself that a valid legal agreement exists between the applicant unit and its sole selling agent, during the period for which he is registered.

3.4.8 **Procedure for Registration:** The procedure to be adopted in this regard by the Central Purchase Organization or by any Ministry / Department in case it desires to register suppliers of goods which are exclusively needed by it. Registration of suppliers should be done ensuring fundamental principles of public procurement in view (especially the transparency principle - transparency, fairness, equality, competition and appeal rights) with the approval of CA after carefully assessing and verifying credentials, capability, quality control systems, past performance, after-sales service facilities, financial background, and so on, of the supplier/contractor/service provider(s):

i) Registration of the suppliers should be done following a fair, transparent and reasonable procedure and after giving due publicity. Details of the procedure for registration of new firms may be uploaded on the website and also published in the form of a booklet for information of the suppliers. Timeframes and criteria for registration of new suppliers may be clearly indicated;

ii) Possible sources for any category/group of requirements can be identified based on internal and external references. Data of new suppliers can be obtained from the response received from suppliers, open tender advertisements, pre-qualification bids, Expression of Interest (EoI), against various enquiries on the website, dedicated websites, exhibitions, buyer-seller meets, various publications of NSIC, Development Commissioner of the Small Industries Service Institute, BIS, trade journals, and so on. The e-procurement portal does pre-registration of suppliers online. Such data can be a source of information on prospective suppliers;
iii) New supplier(s) may be considered for registration at any time, provided they fulfill all the required conditions. For any larger scale or critical registration or development of new suppliers, Procuring Entity should call for EoI by publicising its need for development of sources. The stages to be followed together with the applicable guidelines for EoI have been detailed in Chapter 5;

iv) While registering the firms, an undertaking may be obtained from them that they will abide by the CIPP enclosed with the application with a clear warning that, in case of transgression of the code of integrity, their names are likely to be deleted from the list of registered suppliers, besides any other penalty or more severe action as deemed fit; and

v) Along with the new/renewal application for registration, the suppliers should also be asked to declare that, if awarded a contract in any LTE in which they participate, they bind themselves to abide by the Procuring Entity’s General Conditions of Contract (GCC). Such GCC should be part of the application.

vi) **Eligibility**

   a) Any firm, situated in India or abroad, which is in the business of providing goods/works/services of specified categories of interest, shall be eligible for registration;

   b) Where registration is granted based on partly outsourced arrangements/agreements, it shall be the responsibility of the registered unit, to keep such arrangements/agreements renewed/alive at all times, to keep their registration valid for the period for which it has been granted. Any failure in this regard may make the registration null and void ineffective retrospectively from any such dates which the registering authority considers appropriate;

   c) Suppliers should possess valid Digital Signature Certificate (DSCs) Class III with the company name at the time of registration/renewal, so as to enable them to participate in e-procurements

   d) Firm, against whom punitive action has been taken, shall not be eligible for re-registration during the currency of punitive action. Registration
requests may not be entertained from such firms, stakeholders of whom have any interest in deregistered/banned firms;

e) The application form, complete in all respects and accompanied with the requisite processing fee and prescribed documents shall be submitted by the firms to the registering authority. The registration application form, duly filled-in, when received from the firms shall be scrutinised carefully for assessing the capacity and capability of the firms including credentials, manufacturing capability, quality control system, past performance, after-sales service facilities, financial background, and so on, of the applicant. References shall be made to other firms of standing of whom the applicant firm claims to be a supplier/contractor. Likewise, the applicant firm’s bankers may also be requested to advice about the financial standing of the firm. Registration of suppliers should be done with the approval of CA.

f) In cases where the firm is not considered capable and registration cannot be granted, the concerned authority shall communicate the deficiencies and shortcomings direct to the firms under intimation to the appellate authority. Where a request for re-verification and review is made by the firm, along with any fee as prescribed and within the period prescribed by the Department, review shall be undertaken. Requests for re-verification after expiry of the said period would be treated as a fresh application and processing fee, if any prescribed, charged accordingly;

g) Registration should be for specific trade groups of goods/works/services. For this purpose, all goods/ works/services should be divided into trade groups and the information published on the relevant portals/ websites;

h) It should be mentioned in the letter of registration that the registration is valid for a period of one to three years and would be considered for extension based (on application by the supplier/contractor/service provider) on satisfactory performance of the firm. However, the registration would be initially treated as provisional and it would be
treated as confirmed only after the firm has satisfactorily executed one order of the relevant category and value from Procuring Entity. The extension of validity of registration is not a matter of right and Procuring Entity reserves the right not to extend such registration without assigning any reason. New supplier(s) may also be considered for registration at any time, provided they fulfil all the required conditions;

i) All registered suppliers should be allocated a unique registration number. Once the firms are registered, a circular shall be issued by the registration authority indicating the names and addresses of the registered suppliers with details of the requirements and monetary value they will supply as well as the validity period, and so on, for which they are registered. The list of registered suppliers for the subject matter of procurement be exhibited on the Central Public Procurement Portal and websites of the Procuring Entity/ e-Procurement/ portals;

j) Within the monetary limits so prescribed, as also for the category of registration, the registered firm may be exempted from depositing the Earnest Money Deposit (EMD). In other categories and higher monetary limits, the supplier would be treated as any unregistered supplier and not be entitled to the privileges of a registered supplier. The monetary limit or category, so laid down, does not, however, debar a firm from getting orders in excess of the monetary limit or for other categories, provided the Procuring Entity is satisfied about the capacity and capability of the firm but a requisite security deposit should be obtained, as is being done in the case of unregistered firms;

k) Performance and conduct of every registered supplier is to be watched by the concerned Department. Procuring Entity should also reserve the right to remove firms who do not perform satisfactorily, even during the validity of registration (after giving due opportunity to the supplier to make a representation) if they fail to abide by the terms and conditions of the registration or fail to execute contracts on time or supply substandard goods or make any false declaration to any Government
agency or for any ground which, in the opinion of the Government, is not in public interest;

1) Procuring Entity shall retain its option to reassess firms already registered, at any later date, to satisfy itself about the current financial soundness/credit worthiness, facilities available, and so on. Thereafter, Procuring Entity may decide to retain them as registered suppliers for the requirements and monetary limit earlier considered or with necessary changes as deemed fit. In case of adverse reports from the team of Procuring Entity officers who reassess the firm, Procuring Entity shall delete such firm from the registered suppliers list;

(Rule 150 of GFR 2017)

3.4.9 Empanelment of contractors: Public authorities may empanel/ register contractors of those specific goods and services which are required by them regularly. Performance of such empanelled contractors should be reviewed periodically. The list of registered contractors shall be updated on a regular basis. The category/ class of contractors may be upgraded/ downgraded or contractors may be de-listed based on their performance. Empanelment of contractors shall be done in a fair and equitable manner, preferably online after giving due publicity.

3.5 Debarment of Suppliers

3.5.1 Registration of suppliers and their eligibility to participate in Procurement Entity’s procurements is subject to compliance with Code of Integrity for Public Procurement and good performance in contracts. Rule 151 of General Financial Rules (GFR), 2017 states the following regarding the ‘Debarment from Bidding’:-

i. A bidder shall be debarred if he has been convicted of an offence-
   (a) under the Prevention of Corruption Act, 1988; or
   (b) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.

ii. A bidder debarred under sub-section (i) or any successor of the bidder shall not be eligible to participate in a procurement process of any procuring entity for a period not exceeding three years commencing from the date of
debarment. Department of Commerce (DGS&D) will maintain such list which will also be displayed on the website of DGS&D as well as Central Public Procurement Portal.

iii. A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity. The Ministry/Department will maintain such list which will also be displayed on their website.

iv. The bidder shall not be debarred unless such bidder has been given a reasonable opportunity to represent against such debarment

3.5.2 Since, DGS&D had been wind up on 31.10.2017, PPD, DoE did consultations on the issue of Debarment with major procuring Ministries/ Departments and issued the following ‘Debarment Guidelines’ in suppression to all earlier instructions on this subject.

3.5.3 Guidelines on Debarment of firms from Bidding

1. The guidelines are classified under following two types:-

   i) In cases where debarment is proposed to be limited to a single Ministry, the appropriate Orders can be issued by that Ministry itself, thereby banning all its business dealing with the debarred firm.

   ii) Where it is proposed to extend the debarment beyond the jurisdiction of the particular Ministry i.e. covering to all central Ministries/ Departments, the requisite Orders shall be issued by Department of Expenditure (DoE), Ministry of Finance (MoF).

Definitions

a) Firm: The term ‘firm' or 'bidder' has the same meaning for the purpose of these Guidelines, which includes an individual or person, a company, a cooperative society, a Hindu undivided family and an association or body of persons, whether incorporated or not, engaged in trade or business.

34Notified vide OM No. F.1/2018-PPD issued by Department of Expenditure dated 02.11.2021
b) Allied firm: All concerns which come within the sphere of effective influence of the debarred firms shall be treated as allied firms. In determining this, the following factors may be taken into consideration:

1. Whether the management is common;
2. Majority interest in the management is held by the partners or directors of banned/ suspended firm;
3. Substantial or majority shares are owned by the banned/ suspended firm and by virtue of this it has a controlling voice.
4. Directly or indirectly controls, or is controlled by or is under common control with another bidder.
5. All successor firms will also be considered as allied firms.

The terms “banning of firm”, ‘suspension’, ‘Black-Listing’ etc. convey the same meaning as of “Debarment”.

2. Debarment by a Single Ministry/ Department

Orders for Debarment of a firm(s) shall be passed by a Ministry/ Department/organizations, keeping in view of the following:

i) A bidder or any of its successors may be debarred from participating in any procurement process for a period not exceeding two years.

ii) Firms will be debarred if it is determined that the bidder has breached the code of integrity as per Rule 175 of GFRs 2017. (Refer to para 3.2 of this Manual for further reading on Code of Integrity).

iii) A bidder can also be debarred for any actions or omissions by the bidder other than violation of code of integrity, which in the opinion of the Ministry/Department, warrants debarment, for the reasons like supply of sub-standard material, non-supply of material, abandonment of works, sub-standard quality of works, failure to abide “Bid Securing Declaration” etc.

iv) It shall not be circulated to other Ministries/ Departments. It will only be applicable to all the attached/ subordinate offices, Autonomous bodies, Central Public Sector Undertakings (CPSUs) etc. of the Ministry/ Department issuing the debarment Order.

v) The concerned Ministry/ Department before issuing the debarment order against a firm must ensure that reasonable opportunity has been given to the
concerned firm to represent against such debarment (including personal hearing, if requested by firm).

vi) Secretary of Ministry/Department may nominate an officer at the rank of Joint Secretary/Additional Secretary as competent authority to debar the firms.

vii) Ministry/Department that issued the order of debarment can also issue an Order for revocation of debarment before the period of debarment is over, if there is adequate justification for the same. Ordinarily, the revocation of the Order before expiry of debarred period should be done with the approval of Secretary concerned of Ministry/Department.

viii) The Ministry/Department will maintain list of debarred firms, which will also be displayed on its website.

ix) Debarment is an executive function and should not be allocated to Vigilance Department.

3. It is possible that the firm may be debarred concurrently by more than one Ministry/Department. Ministries/Departments at their option may also delegate powers to debar bidders to their CPSUs, Attached Offices/ Autonomous Bodies etc. In such cases, broad principles for debarment in para 2 as above are to be kept in mind. Debarment by such bodies like CPSUs etc. shall be applicable only for the procurements made by such bodies. Similarly, Government e-Marketplace (GeM) can also debar bidders up to two years on its portal. In case of debarments done by CPSUs, revocation of the debarment orders before expiry of debarred period should be done only with the approval of Chief Executive Officer of concerned CPSUs etc.

4. **Debarment across All Ministries/Departments**

i) Where a Ministry/Department is of the view that business dealings with a particular firm should be banned across all the Ministries/Departments by debarring the firm from taking part in any bidding procedure floated by the Central Government Ministries/Departments, the Ministry/Department concerned, should after obtaining the approval of the Secretary concerned, forward to DoE a self-contained note setting out all the facts of the case and the justification for the proposed debarment, along with all the relevant papers and documents. DoE will issue the necessary orders after satisfying itself that proposed debarment across all the Ministries/Departments is in accordance
with Rule 151 of GFRs, 2017. This scrutiny is intended to ensure uniformity of treatment in all cases.

ii) The firm will remain in suspension mode (i.e. debarred) during the interim period till the final decision taken by DoE, only in the Ministry/ Department forwarding such proposal.

iii) Ministry/ Department before forwarding the proposal to DoE must ensure that reasonable opportunity has been given to the concerned firm to represent against such debarment (including personal hearing, if requested by firm). If DoE realizes that sufficient opportunity has not been given to the firm to represent against the debarment, such debarment requests received from Ministries/ Departments shall be rejected.

iv) DoE can also give additional opportunity, at their option, to firm to represent against proposed debarment. DoE can also take suo-moto action to debar the firms in certain circumstances.

v) No contract of any kind whatsoever shall be placed on the debarred firm, including its allied firms by any Ministries/ Departments/ Attached/Subordinate offices of the Government of India including autonomous body, CPSUs etc. after the issue of a debarment order.

vi) DoE will maintain list of such debarred firms, which will be displayed on Central Public Procurement Portal.

5. **Revocation of Orders**

i) An order for debarment passed shall be deemed to have been automatically revoked on the expiry of that specified period and it will not be necessary to issue a specific formal order of revocation.

ii) A debarment order may be revoked before the expiry of the Order, by the competent authority, if it is of the opinion that the disability already suffered is adequate in the circumstances of the case or for any other reason.

6. **Other Provisions (common to both types of debarment)**

i) No contract of any kind whatsoever shall be placed to debarred firm including its allied firms after the issue of a debarment order by the Ministry/ Department. Bids from only such firms shall be considered for placement of contract, which are neither debarred on the date of opening of tender (first bid, normally called as technical bid, in case of two packet/two stage bidding) nor
debarring on the date of contract. Even in the cases of risk purchase, no contract should be placed on such debarred firms.

ii) If case, any debar firms has submitted the bid, the same will be ignored. In case such firm is lowest (L-1), next lowest firm shall be considered as L-1. Bid security submitted by such debarred firms shall be returned to them.

iii) Contracts concluded before the issue of the debarment order shall, not be affected by the debarment Orders.

iv) The Debarment shall be automatically extended to all its allied firms. In case of joint venture/ consortium is debarred all partners will also stand debarred for the period specified in Debarment Order. The names of partners should be clearly specified in the “Debarment Order”.

v) Debarment in any manner does not impact any other contractual or other legal rights of the procuring entities.

vi) The period of debarment shall start from the date of issue of debarment order.

vii) The Order of debarment will indicate the reason(s) in brief that lead to debarment of the firm.

viii) Ordinarily, the period of debarment should not be less than six months.

ix) In case of shortage of suppliers in a particular group, such debarments may also hurt the interest of procuring entities. In such cases, endeavour should be to pragmatically analyze the circumstances, try to reform the supplier and may get a written commitment from the supplier that its performance will improve.

x) All Ministries/ Departments must align their existing Debarment Guidelines in conformity with these Guidelines. Further, bidding documents must also be suitably amended, if required.

3.5.4 Safeguarding Procuring Entity’s Interests during debarment of suppliers:
Suppliers are important assets for the procuring entities and punishing delinquent suppliers should be the last resort. It takes lot of time and effort to develop, register and mature a new supplier. In case of shortage of suppliers in a particular group of materials/equipment, such punishment may also hurt the interest of Procuring Entity. Therefore, views of the concerned Department may always be sought about the repercussions of such punitive action on the continuity of procurements. Past
records of performance of the supplier may also be given due weightage. In case of shortage of suppliers and in cases of less serious misdemeanours, the endeavour should be to pragmatically analyse the circumstances, reform the supplier and get a written commitment from the supplier that his performance will improve. If this fails, efforts should be to see if a temporary debarment can serve the purpose.
(Rule 151 of GFR 2017)

3.6 Compulsory Enlistment of Indian Agents
Ministries/Departments if they so require, may enlist Indian agents, who desire to quote directly on behalf of their foreign principals35. (Rule 152 of GFR 2017)

Chapter 4: Modes of Procurement and Bidding Systems

4.1 Modes of Procurement

Offers from prospective bidders in public procurement must be invited according to a procedure that achieves a balance between the need for the widest competition, on one hand, and complexity of the procedure, on the other hand. Different modes of procurement and bidding systems are used to suit various procurement circumstances to achieve this balance. There are laid down procedures for delegation of powers of procurement to various competent authorities under different modes as shown in DPFR. Each procuring entity may also publish its own Schedule of Procurement Powers (SoPP) delegating such powers within the entity.

However, as mentioned in Para 1.3 (Applicability of this Manual), for procurements financed by Loans/Grants extended by International Agencies, like the World Bank, Asian Development Bank etc., the procurement procedures, as finalized and incorporated in the Articles of Agreements with such agencies for relevant Loans/ grants after consideration and approval of the Ministry of Finance are to be followed.

The various modes of procurement that can be used in public procurement are:

1) Open Tenders
   a) Open Tender Enquiry (OTE); and
   b) Global Tender Enquiry (GTE)

2) Procurement through Selected Suppliers
   a) Limited Tender Enquiry - LTE (up to Rs. 25 (Rupees twenty-five) lakh); and
   b) Special Limited Tender Enquiry (SLTE above Rs. 25 (Rupees twenty-five) lakh under special circumstances)

3) Nomination Basis Tenders
   a) Proprietary Article Certificate (PAC); and
   b) Single Tender Enquiry (STE) without PAC

4) Procurements without Calling Tenders
a) Direct Procurement without Quotation;
b) Direct Procurement by Purchase Committee;

5) Mandatory Procurement of Goods and Services for Goods or Services available on GeM

(Rule 158 of GFR 2017)

4.2 Open Tender Enquiry (OTE)

4.2.1 In OTE, an attempt is made to attract the widest possible competition by publishing the NIT simultaneously on the designated websites. This is the default mode of procurement and gives the best value for money but the procedure is relatively complex and prolonged. *The systemic cost of this procedure may be high enough to be unviable for smaller value procurements.* OTE procedures through e-procurement or through traditional tendering should be adopted in the following situations:

i) Procurements exceeding the threshold of Rs. 25 lakh (Rupees Twenty Five Lakh);

ii) All common use requirements with clear technical specifications;

iii) For requirements that are ordinarily available in the open market but it is necessary to evaluate competitive offers to decide the most suitable and economical option available; and

iv) When requirements are not available from known sources or sources are presently limited and need to be broad based. In such situations, even for procurements below Rs. 25 (Rupees twenty-five) lakh, OTE mode may be used, if warranted.

(Rule 161 of GFR 2017)

4.2.2 Terms and Conditions

i) Bidders already registered are also free to participate;

ii) Advertisement in such cases should be given on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on GeM. An organisation having its own web site should also publish all its advertised tender enquiries on the web site. The procuring entity should also post the complete bidding
document in its web site and on CPPP to enable prospective bidders to make use of the document by downloading from the web site. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded. In order to promote wider participation and ease of bidding, no cost of tender document may be charged for the tender documents downloaded by the bidders.; and

iii) The sale/ availability for downloading of tender documents against NIT should not be restricted and should be available freely. Tender documents should preferably be sold/ available for download up to the date of opening of tenders.

iv) The tender documents should be prepared on the basis of the relevant approved SBD for the category of procurement. Further details on preparing tender documents are provided in Chapter 6.

v) The procuring entity shall maintain proper records about the number of tender documents sold, list of parties to whom sold, details of the amount received through sale and, also, the number of unsold tender documents, which are to be cancelled after the opening of the tenders.

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| Since the crux of this mode of procurement is attracting bids from all possible prospective bidders. The risk is that this may not be achieved, even after incurring extra cost of open tendering. This could be due to:  
  - Insufficient publicity;  
  - Hindrances in availability of bid documents;  
  - insufficient time for bid preparation; or  
  - Due to onerous cost of bid documents or EMD | It should be ensured that the NIT on the website is easily searchable and visible, not hidden under layers of clicks. The matter should not be left entirely to the website or media publicity alone.  
Due diligence should be done to locate likely bidders (including past bidders) and their attention should be drawn through SMS/mail/email. All registered vendors/contractors (in particular past successful vendors/contractors) should be given intimation about forthcoming tenders via SMS/mail/email.  
Further a limited or open tender which results in only one effective offer shall be treated as a single tender enquiry situation, with relevant powers of approval etc.  
It should be also ensured that there is no impediment to issue/access of bid documents.  
The due date fixed for opening of the tender shall |
### 4.2.3 OTE - Risks and Mitigations

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<td>be minimum21 (twenty-one) days from the date of advertisement which may vary, taking into account the nature of material called for and delivery requirements. The due date may be subsequently extended with the approval of the CA, only if it is felt necessary to have better competition.</td>
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<td>The tender documents, shall be priced minimally (if at all priced, refer Para 5.2.1 Cost and Availability of Tender Documents) keeping in view the value of the tender as also the cost of preparation and publicity of the tender documents.</td>
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<td>EMD should be sufficient to ensure that bidders honour their bids but at the same time should not be large enough to reduce competition.</td>
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<td>Lack of clarity in description/specification of requirement or undue stringency in qualifying criteria or other conditions</td>
<td>Mitigations of such risks can be addressed at the time of need assessment and procurement planning (please refer to Chapter 2), so as to attract adequate competition.</td>
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### 4.3 Global Tender Enquiry (GTE)

4.3.1 GTE is similar to OTE but, through appropriate advertising and provision for payment in Foreign Currencies through Letter of Credit, it is aimed at inviting the participation of inter-alia foreign firms. *The point of balance between VfM and cost/complexity of procedure is further aggravated as compared to OTE. Development of local industry also needs to be kept in mind. Hence, it may be viable only in following situations:*

i) Where Goods of required specifications/quality are not available within the country and alternatives available in the country are not suitable for the purpose;

ii) Non-existence of a local branch of the global principal of the manufacturer/vendors/contractors;

iii) Requirement for compliance to specific international standards in technical specifications; and
iv) Absence of a sufficient number of competent domestic bidders likely to comply with the required technical specifications, and in case of suspected cartel formation among indigenous bidders.

(Rule 161 of GFR 2017)

4.3.2 Terms and Conditions

i) Advertisement in such cases should be given on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on GeM. An organisation having its own website should also publish all its advertised tender enquiries on the website. The procuring entity should also post the complete bidding document in its website and on CPPP to enable prospective bidders to make use of the document by downloading from the website. The advertisements for invitation of tenders should give the complete web address from where the bidding documents can be downloaded. In order to promote wider participation and ease of bidding, no cost of tender document may be charged for the tender documents downloaded by the bidders.; and

ii) The sale/ availability for downloading of tender documents against NIT should not be restricted and should be available freely. Tender documents should preferably be sold/ available for download upto the date of opening of tenders; and

iii) The tender documents, shall be priced minimally (if at all priced, refer Para 5.2.1 Cost and Availability of Tender Documents) keeping in view the value of the tender as also the cost of preparation and publicity of the tender documents;

iv) GTE tender documents must be in English and the price should be asked in Indian Rupees or US Dollars or Euros or Pound Sterling or Yen or in currencies under the Reserve Bank of India’s notified basket of currencies;

v) GTE tender documents must contain technical specifications which are in accordance with national requirements or else based on an international trade standard;

vi) In such cases e-procurement may not be mandatorily insisted upon.

vii) The due date fixed for opening of the tender shall be minimum four weeks from the date of advertisement which may vary taking into account the nature of material called for as well as the time required to prepare the bids. The due
date may be subsequently extended with the approval of the CA only to promote better competition and also considering account delivery requirement; and

viii) Relevant INCOTERMS should be included in the tender.

4.3.3 **No Global Tender Enquiry (GTE) up to Rs. 200 crores**\(^{36}\) shall be invited or such limit as may be prescribed by the Department of Expenditure from time to time. In exceptional cases where the Ministry or Department feels that there are special reasons for inviting GTE, for tenders below such limit, it may record its detailed justification and seek prior approval for relaxation from the Competent Authority specified by the Department of Expenditure.

a) The proposal for approval shall be submitted by Administrative Ministry with the concurrence of Financial Advisor and approval of Secretary concerned. The proposals submitted by individual offices/ organisation (e.g. autonomous bodies, Central Public Sector Undertakings and subordinate offices of Central Government etc.) will not be entertained.

b) The proposals shall be submitted along with duly filled format\(^{37}\) (placed at Annexure-2D).

4.3.4 Before sending the proposals for approvals of the Global Tenders, following is to be ensured:-

a) Domestic open tender must be floated to identify the domestic manufacturers/ service providers for the items/ services for which approval is being sought for issuance of Global Tenders. In case, if the Ministry/ Department has not floated a domestic open tender after 15.05.2020 for the items to be procured through GTE, such proposals will not be entertained. The proposal must contain the details of domestic open tenders, issued after 15.05.2020. These details shall cover tender number, date of opening, number of offers received, details of offers received, reasons why domestic suppliers were not considered etc.

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\(^{37}\)Issued by Cabinet Secretariat vide ID No. 213/2/1/2020-C.A.IV dated 06.10.2020
b) The proposal must contain the details of deliberations with DPIIT/ relevant industrial bodies for identification of domestic manufacturers/ service providers.

c) The 3/5-year procurement plan as mandated by Public Procurement (Preference to Make in India) (PPP-MII) order issued by DPIIT must be published on website, before forwarding proposals for the purpose of procurement through GTE. Web-link of published procurement plan should be provided in proposal.

4.3.5 Exemptions/ Clarifications

a) For procurement of specialised equipments required for research purposes, and spares and consumables, for such equipments up to Rs. 200 crore for the use of Educational and Research Institutes, Secretary of Ministry/ Department concerned shall be the competent authority to approve issue of Global Tender Enquiries for such requirements subject to fulfilment of conditions as laid down in para 4.3.6 below. The equipment should be of specialized nature required for research purposes and not the routine equipment used in offices.\(^{38}\)

b) On procurement of spare parts of the equipments/ Plants & Machinery etc. on nomination basis from Original Equipments Manufacturers (OEMs) or Original Equipment Suppliers (OES) or Original Part Manufacturers (OPMs) as no competitive tenders are invited in such cases.\(^{39}\)

c) On procurement of services like Annual Maintenance Contract (AMC) and auxiliary/add-on components for existing equipments/ Plant & Machinery etc., which are procured from OEM/ OES/ OPM on nomination basis, as no competitive tenders are invited in such cases.\(^{40}\)

d) Where procuring entities need to issue GTEs to fulfill contractual commitments/ obligations entered by them before 15.05.2020 i.e. bid has been submitted by them to their clients before 15.05.2020. similarly, where

\(^{38}\)Notified vide OM No. 4/1/2021-PPD issued by Department of Expenditure dated 11.06.2021

\(^{39}\)Notified vide OM No. 12/17/2019-PPD issued by Department of Expenditure dated 29.10.2020

\(^{40}\)Notified vide OM No.F.4/1/2021-PPD issued by Department of Expenditure dated 01.09.2021
procuring entities need to issue GTEs in view of existing collaboration agreements entered by them with foreign suppliers before 15.05.2020\textsuperscript{41}.

e) Based on the reference received from Ministry of Health & Family Welfare (MoHFW), GTE can be floated for 128 Medical Devices (placed at Annexure-2E). The exemptions is provided for such items till 31.03.2023. MoHFW will review domestic availability of these items at the end of 2022, keeping in view the Production Linked Incentive (PLI) scheme etc. launched by Department of Pharmaceuticals in Medical Devices and other relevant factors, in consultation with Department of Expenditure\textsuperscript{42}.

f) For projects funded by Multilateral Development Banks (MDBs like The World Bank, Asian Development Bank etc.)/ Bilateral Funding Agencies (BFAs), where the procurement is governed by the conditions negotiated in the loan agreement, and where the project executing agencies from time to time further award works to various Autonomous Bodies (ABs)/ Central Public Sector Enterprises (CPSEs) etc., the Secretary of the Ministry/ Department responsible for execution of such project shall be the Competent Authority for approval for issuance of GTEs by such Autonomous Bodies/ CPSEs etc\textsuperscript{43}.

g) Exemption to semiconductor..

4.3.6 [Refer to para 4.3.5 (a) above]

4.3.6.1 Educational, Research institutions and other units will make full efforts towards reducing of imports in following manner. This will result in substantial effects both within the institutions and also through impact on the eco-system:-

a) Identification of equipment being procured time and again from abroad, and help developing them in India by identifying potential manufacturers and providing them technical help and expertise for developing the equipment. This programme will be coordinated by the Empowered Technology Group (constituted by Cabinet and chaired by the Principal Scientific Advisor (PSA).

b) Efforts to promote technology transfer through agreements or to encourage technological collaboration with foreign manufacturing in India at the Start-ups set up in Research Parks.

\textsuperscript{41}Notified vide OM No. 4/1/2021-PPD issued by Department of Expenditure dated 12.03.2021
\textsuperscript{42}Notified vide OM No. F.4/1/2021-PPD issued by Department of Expenditure dated 06.01.2022
\textsuperscript{43}Notified vide OM No. F.7/12/2021-PPD-i issued by Department of Expenditure dated 27.07.2021
c) Sharing and updating of information about the availability of research equipment across various Indian Institutes on a single portal (the I-STEM\textsuperscript{44} portal has been developed for this purpose) so that those can be utilized by the needy institutes.

d) Without compromising quality, Institutes should indicate alternative/ equivalent technical specifications that could suit their requirement, so that there are more chances of local manufacturers participate in the tendering process.

e) Regular interaction between academia and Indian industry organizations at the level of the institution about the requirement of equipment of foreign origin and for encouraging the domestic manufacturing.

f) Regular requirement of proprietary/ non-proprietary research consumables may be assessed and domestic alternatives are explored for use.

g) A national level programme for indigenous development of scientific equipment be initiated by the Office of PSA.

h) Without compromising quality, institutes should be flexible with specifications so that domestic manufactures are encouraged to meet requirements.

4.3.6.2 Guidelines for resorting to GTE

a) Market assessment should be done by the concerned institution, as certified by the Head of the Institution. Only after no Indian manufacturer is found, a GTE should be issued.

b) In case no Indian manufacturer/ suppliers are found, procurement may be done, through GTE, subject to compliance of provisions of GFR and requirement of procurement through GeM.

c) DEAN (R&D) or an appropriate authority within the institute will issue certificates as per para 4.3.6.3 below, before inviting GTE. As a reporting matter in the Board of Governors, such certificates should be tabled, and also shared with Office of the PSA, DPIIT and concerned Administrative Ministry.

d) The information about the procurement of equipment should be shared across various Educational and Research Institutes, through the I-STEM portal, already established for this purpose by the PSA’s office. This will allow the equipment to be used by other institutions too, for research purposes.

\textsuperscript{44}https://www.istem.gov.in/
e) Analyze the equipment being procured time and again from abroad, and help developing them in India by identifying potential manufacturers and providing them technical assistance and expertise for developing the equipment. Half yearly reports on this action to be shared by the Institutes with the Office of the PSA, DPIIT and concerned Administrative Ministry/ A national level scheme will also be initiated by the Office of PSA for indigenous development of scientific equipment.

f) Preference to local suppliers over foreign supplier as per the existing Government of India guidelines, should be observed as applicable.

4.3.6.3 **Certificates to be issued**

a) Confirmation of non-availability in India of particular equipment/ consumables of foreign origin through GeM and other sources.

b) Certification that locally available alternatives with equivalent specifications are not suitable for research purposes.

c) The non-availability of such equipment for research purposes with nearby research institutes or within the institute.

d) Certification of the requirement of proprietary items of foreign origin for research purposes (where applicable).

### 4.3.7 **GTE - Risks and Mitigations**

<table>
<thead>
<tr>
<th>Risks</th>
<th>Mitigations</th>
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</thead>
<tbody>
<tr>
<td>Risks are same as in OTE</td>
<td>Same mitigation as in case of OTE also applies here.</td>
</tr>
<tr>
<td>Moreover, publicity may not reach targeted foreign bidders</td>
<td>NIT should also be sent to commercial attachés in foreign embassies in India and to Indian embassies in relevant foreign countries for inviting the attention of likely foreign bidders. The selection of the embassies will depend on the possibility of availability of the required goods in such countries.</td>
</tr>
<tr>
<td>Involvement of agents of foreign bidders in GTE procurements is also a major risk area</td>
<td>Procurements should preferably be made directly from the manufacturers. Either the agent on behalf of the foreign principal or the foreign principal directly could bid in a tender, but not both. Further, in cases where agents participate in a tender on behalf of one manufacturer, they should not be allowed to quote on behalf of another manufacturer along with the first manufacturer. Commissions and scope of services to/by the agents should be explicit and transparent in the</td>
</tr>
</tbody>
</table>

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4.3.7 GTE - Risks and Mitigations

<table>
<thead>
<tr>
<th>Risks</th>
<th>Mitigations</th>
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<tbody>
<tr>
<td></td>
<td>bids/contracts</td>
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4.4 Limited Tender Enquiry (LTE)

4.4.1 LTE is a restricted competition procurement, where a preselected list of vendors is directly approached for bidding; bids from uninvited bidders are treated as unsolicited and are normally not entertained, except in special circumstances. This mode provides a short and simple procedure, but may not provide as good a VIM as in case of open tendering – still a good balance for procurements below a threshold. LTE procedures should be default mode of procurement when the estimated value of procurement is between Rs. 2.5 lakh to Rs. 25 lakh (Rupees two and a half Lakh to Twenty-five Lakh). The bidding documents should be simple normally consisting a single page with terms and conditions printed overleaf.

(Rule 162 of GFR 2017)

4.4.2 Terms and Conditions

i) Copies of the bidding documents should be sent free of cost (except in case of priced specifications/drawings) directly by speed post/courier/e-mail to firms which are registered vendors/contractors. Further, Procuring Entity should also mandatorily publish its limited tender enquiries on Central Public Procurement Portal (CPPP). Apart from CPPP, the organisations should publish the tender enquiries on the Department’s or Ministry’s web site.

ii) A simplified single Page Bid Document (Annexure 5) should be used, instead of a detailed Bid Document. The minimum number of bidders to whom LTE should be sent is more than three. In case less than three approved vendors/contractors are available, LTE may be sent to the available approved vendors/contractors with approval of the CA, duly recording the reasons. The
requirement should then be marked for development of more sources by the Supplier Registration section.

### 4.4.3 LTE - Risks and Mitigations

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<thead>
<tr>
<th>Risk</th>
<th>Mitigation</th>
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<tbody>
<tr>
<td>Major risk in this mode is that the demand may be artificially split to avoid OTE or higher level approvals</td>
<td>The e-procurement portal maybe programmed to raise an alert if the same item is attempted to be procured through LTE repeatedly. Audit should take up a larger percentage of cases in LTE for review.</td>
</tr>
<tr>
<td>There is a risk that LTE may not attract sufficient number of bids and sometimes there may be a single acceptable offer. This may be because of an insufficient database of registered/known vendors. It could also be due to bid documents not reaching the targeted bidders – intentionally or otherwise. It could also be due to bidders not getting adequate time for submission of bids. On the other hand, unsolicited bidders may also quote – causing a transparency dilemma about consideration of such offers.</td>
<td>Maintenance of list of registered suppliers is a sine-qua-non for LTE. The List of registered vendors needs to be reviewed perpetually to ensure adequate number of qualified suppliers To ensure sufficient response, in addition to mails/emails to selected vendors, web-based publicity should be given for limited tenders, with suitable clarifications that unsolicited bids shall not be considered. Further a limited or open tender which results in only one effective offer shall be treated as a single tender enquiry situation, with relevant powers of approval etc. Adequate time should be given for submission of quotes, which should not be less than three weeks. A longer period (six weeks) could be given in case of import of the materials and, in complex cases, if justifications are given and allowed.</td>
</tr>
<tr>
<td>There is also a risk that the selection of vendors may not be transparent. At the evaluation stage, some invited bidders may be passed over on grounds of being ineligible/unreliable.</td>
<td>All major procuring Departments must keep a list of registered bidders for use in restricted bidding. Suppliers or contractors should be selected in a non-discriminatory manner. All past successful vendors/bidders should invariably be invited. In case it is proposed to exclude any registered/approved vendor/contractor from being shortlisted for inviting LTE, detailed reasons, such as failure in supply, should be duly recorded and approval of the CA be taken before exclusion. The selection of bidders</td>
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4.4.3 LTE - Risks and Mitigations

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<tr>
<th>Risk</th>
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<td>should be with due diligence, to ensure that bidders who do not meet eligibility criteria do not get shortlisted. At the evaluation stage, in LTE, passing over of a duly shortlisted bidder on grounds of poor past performance or eligibility may raise questions about transparency.</td>
</tr>
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</table>

4.5 Special Limited Tender Enquiry for Procurements More than Rs. 25 (Rupees twenty-five) Lakh

4.5.1 LTE mode, even for values higher than Rs. 25 lakh (Rupees Twenty-five Lakh) (Rule 162 of GFR 2017), where normally OTE should have been done, is permissible in certain special circumstances as follows. Powers to sanction procurement on LTE basis in such special cases may be laid down in SoPP based on a certificate of urgency signed by the indenter. This mode has the merit of being quicker but VfM obtained may be less than in case of OTE; hence it should be restricted to rare situations:

i) The competent authority in the Ministry / Department certifies that there is an existing or prospective urgency for operational or technical requirements and any additional expenditure involved by not procuring through advertised tender enquiry is justified in view of urgency. The Ministry/Department should also put on record the nature of the urgency and reasons why the procurement could not be anticipated earlier.

ii) There are sufficient reasons, to be recorded in writing by the competent authority, indicating that it will not be in public interest to procure the goods through advertised tender enquiry.

iii) The sources of supply are definitely known and possibility of fresh source(s) beyond those being tapped is remote.

iv) Nature of items to be procured is such that pre-verification of competence of firm is essential, hence requires registration of firms.; and

v) Government policy designates procurement from specific agencies.
4.5.2 Terms and Conditions

i) The tendering process would be same as in the case of a normal LTE described above. However, the bidding documents are more detailed as in the case of OTE; and

ii) The indenter should certify that there is an existing or prospective urgency for operational or technical requirements and any additional expenditure involved by not procuring through an advertised tender enquiry is justified in view of urgency. The indenter should also put on record the nature of the urgency and reasons why the procurement could not be anticipated.

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<tr>
<th>4.5.3 SLTE - Risks and Mitigations</th>
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<tbody>
<tr>
<td><strong>Risk</strong></td>
</tr>
<tr>
<td>Risks as applicable in both LTE and OTE are also applicable here. In addition there is a risk that this mode may be used unjustifiably to avoid open tendering (OTE).</td>
</tr>
</tbody>
</table>

4.6 Proprietary Article Certificate

4.6.1 In procurement of goods, certain items are procured only from Original Equipment Manufacturers (OEMs) or manufacturers having proprietary rights (or their authorised dealers/stockists) against a PAC certificate (Annexure 6) signed by the appropriate authority. Once a PAC is signed at the designated level as per SoPP, the powers of procurement are the same as in normal conditions as per the delegation of powers. This mode may be shortest but since it may provide lesser VfM as compared to LTE/OTE and also strains the transparency principle, it should be used only in justifiable situations.
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(Rule 166 of GFR 2017)

4.6.2 Terms and Conditions

i) Users should enclose, with their Indent, a PAC certificate indicating the justification and approval at the appropriate level as per DPFR/ SoPP, for sourcing an item from OEM or PAC firms or their authorised agents;

ii) Proprietary items shall be purchased only from a nominated manufacturer or its authorised dealer as recorded in the PAC certificate;

iii) In certain unavoidable cases, the procuring authority may have no alternative but to waive payment of EMD/SD for procurement on a proprietary basis;

iv) To the extent feasible, the firm may be asked to certify that the rates quoted by them are the same and not higher than those quoted with other Government, public sector or private organisations;

v) In case of PAC/single tender procurements⁴⁵:

a) Reports relating to such awards should be submitted to the Ministry every quarter;

b) Internal audit may be required to check at least 10 (ten) per cent of such cases; and

c) Details of such contracts should be published on the website of the Procuring Entity.

4.6.3 PAC - Risks and Mitigations

<table>
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<tr>
<th>Risk</th>
<th>Mitigation</th>
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<tbody>
<tr>
<td>There is a risk that this mode may get used unjustifiably to restrict competition. Such risks get aggravated, in case of secrecy about such procedures as alternative vendor/contractors may not even come to know about such opportunities</td>
<td>The delegation of powers should be restricted for signing of PAC. Audit may take-up 10 (ten) per cent of cases of PAC procurements for review. Even in PAC procurements the NIT and the Award of Contract should be put on the website of CPPP and Procuring Entity.</td>
</tr>
<tr>
<td>Once approved, there is a risk of a nexus getting developed and the mode may continue to be used for many years,</td>
<td>No item should be procured on PAC basis for more than three years, after which a mandatory OTE mode may be</td>
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4.6.3 PAC - Risks and Mitigations

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<thead>
<tr>
<th>Risk</th>
<th>Mitigation</th>
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<tbody>
<tr>
<td>without fresh application of mind</td>
<td>used, to test the market</td>
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<tr>
<td>The bidder may charge a price higher than the market</td>
<td>The firm should be asked to accept a “fall clause” undertaking that, in case it supplies or quotes a lower rate to other Governments, public sector or private organisations, it would reimburse the excess. Negotiations may be called for to get prices reduced</td>
</tr>
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</table>

4.7 Single Tender Enquiry (STE) without a PAC

4.7.1 A tender invitation to one firm only without a PAC certificate is called a single tender. This mode may be shortest but since it may provide lesser VfM as compared to LTE/OTE and may also strain the transparency principle, it should be resorted to only under following conditions:

i) In a case of existing or prospective emergency relating to operational or technical requirements to be certified by the indenter, the required goods are necessarily to be purchased from a particular source subject to the reason for such decision being recorded and approval of the competent authority obtained.

ii) For standardization of machinery or components or spare parts to be compatible to the existing sets of machinery/equipment (on the advice of a competent technical expert and approved by the competent authority), the required goods are to be purchased only from a selected firm.

(Rule 166 of GFR 2017)

4.7.2 Terms and Conditions

i) The reasons for a STE and selection of a particular firm must be recorded and approved by the CA as per the delegation of powers laid down at in DPF/SoPP, prior to single tendering. Unlike in PAC, powers of procurement of STE are more restricted; and

ii) Other terms and conditions of PAC procurement mentioned above would also apply in this case.
iii) All works/purchase/ consultancy contracts awarded on nomination basis should be brought to the notice of following authorities for information-

(a) The Secretary, in case of ministries/departments.

(b) The Board of directors or equivalent managing body, in case of Public Sector Undertakings, Public Sector Banks, Insurance companies, etc;

(c) The Chief Executive of the organisation where such a managing body is not in existence.

1. The report relating to such awards on nomination basis shall be submitted to the Secretary/Board/Chief Executive /equivalent managing body, every quarter.

2. The audit committee or similar unit in the organisation may be required to check at least 10% of such cases.

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<th>Risk</th>
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<tr>
<td>Same but more heightened risks than PAC are present in this mode. Selection of a single vendor may be non-transparent and unjustified</td>
<td>Same mitigation strategies as in the case of PAC should apply. Procurements on a STE basis should be made from reputed firms after determining reasonableness of rates. Powers of procurement of STE should be severely restricted.</td>
</tr>
</tbody>
</table>

4.7.3 STE - Risks and Mitigations

4.8 Drawals against Rate Contract (RC)/Framework Contract (FC)

a) 4.8.1 RC is essentially a price agreement with the vendors/contractors at a specified price and terms and conditions during the period covered by the RC. No quantity is mentioned nor is any minimum commitment guaranteed in the RC. RC is most frequently used in procurement of goods, but can as well be used mutatis mutandis in works, services and consultancy – where it is commonly known as a Framework Contract (FC). For appropriate items (please see para 4.8.3 below), drawals against an existing RC exploits the power of collaboration/ clubbing of numerous small and frequent requirements and thus provides best VfM along with a simple and quick procedure. However, entering into a new RC may have the same procedural complexity,
prolonged timeframe and systemic cost as in OTE, which may not be viable for low volumes. In view of Government e Marketplace (please see para 4.17 below) coming into operation, Rate Contract is not required to be executed for common use items like computers, printers, photocopiers, paper and stationary, other office items like furniture, bottled water etc., which are being placed on GeM and will now be applicable only for specialized and engineering items which are not available on GeM, and are identified as common use items and are needed on recurring basis by various Central Government Ministries or Departments..

### 4.8.2 Rate Contracts - Risks and Mitigations

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<th><strong>Risk</strong></th>
<th><strong>Mitigation</strong></th>
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<tr>
<td>Rate contract is not a right mode of procurement for critical, strategic and vital requirements, since the buyer – seller relationships is tripartite and the timely supply of requirements and penalties thereof can be so strictly enforced as in other modes of procurements. Moreover the RC holder is more beholden to the Central Purchase Organisation than to end-customer. In situations of items with inadequate annual or seasonal capacities in market, the RC holders may dump material on Procuring entity at wrong seasons and starve them in working seasons. This happens in say Cement, when Government Buyers are likely to be saddled with huge supplies during rainy season, but RC holders may divert bulk of supplies to private market in working season. RC Purchase is not suitable for requirements of dynamic Technological and price changes e.g. PCs, Laptops, Tablets, Servers, Mobile Phones – where the price of older models may crash as soon as a model is announced. RC holders may slow down supplies initially, but dump supplier when prices crash in the market.</td>
<td>RCs may be avoided for critical/ strategic and vital requirements. Central Purchase Organisation may also tighten up enforcement of delivery performance and penalties thereof. For seasonal and short-supply items CPO may monitor and provide clauses to prevent dumping and starving of supplies. In Technologically fast changing products, CPO may keep watch on the market prices and renegotiate prices as soon as market prices fall significantly due to new arrivals.</td>
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</table>
### 4.8.2 Rate Contracts - Risks and Mitigations

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<th>Risk</th>
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<tr>
<td>The existence of RCs may not be adequately made known to possible users. Moreover, the reverse risk is that many different offices may keep procuring the same item independently, thus missing the potential benefits of bulk prices and simplified processes if such items were brought under an RC</td>
<td>The descriptions, specifications and other salient details of all RCs appropriately updated, should be available on the website of DGS&amp;D and Procuring Entity as well as the e-Procurement portal. The e-procurement system should be able to offer alerts about availability of RC, if an attempt is made to float a tender for the same item. To derive benefit from bulk prices in RC, all offices should furnish to the RC agency, their annual requirement of items to enable finalising of RCs after inviting quotations. DGS&amp;D may also extract information from e-procurement portals.</td>
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<tr>
<td>RC procurements are at risk of being ordered in excess of actual requirements, since the procurement scrutiny may not be as intense as in case of other modes of procurements.</td>
<td>The quantity being ordered should be subject to the same level of scrutiny as in other modes of procurement to ensure that there is no abnormal unexplainable trend in procurement.</td>
</tr>
<tr>
<td>Wherever there are parallel RCs for the same item from a number of firms, there may be intense and often unhealthy lobbying (including corrupt practices) from them to seek orders.</td>
<td>Departments must put in place adequate guidelines to handle RC procurements, including a transparent system of choosing the RC holders by rotation in a transparent manner in case of parallel RCs. The delegation of powers in this regard should also be restricted keeping these risks in view. A suggest guidelines is given below: 1 For selecting the DGS&amp;D Rate contract holders for ordering, following factors may be kept in view: (i) The Rate Contract Price; (ii) The past performance of firm with reference to their capacity, quality of supplies as well as timely delivery of the goods; (iii) The delivery date committed by the firm with respect to the delivery requirement of the Procuring Entity; (iv) The proximity of the rate contract holder wherever the proximity is...</td>
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4.8.2 Rate Contracts - Risks and Mitigations

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<tr>
<th>Risk</th>
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<tr>
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<td>considered crucial for timely delivery, ease of progressing and from the point of view of logistics and contract management etc.; and</td>
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<td></td>
<td>(v) The need for reputed brands in the case of sensitive, critical and selective applications.</td>
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<tr>
<td></td>
<td>(vi) In case of number of firms meeting such criteria, orders may be split or rotated in a transparent manner.</td>
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<tr>
<td></td>
<td>2. The Procuring Entity should maintain suitable records of RC firms for past performance in respect of timely delivery and quality.</td>
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<td></td>
<td>3. Wherever, there are failures against the rate contract in terms of timely delivery and quality of goods, such failures should be reported to DGS&amp;D and direct alternate procurement action may be taken in order to ensure timely availability of quality materials to meet the needs of the Procuring Entity.</td>
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</tbody>
</table>

4.9 Direct Procurement without Quotation

4.9.1 Direct procurement of goods without formal quotations is normally done for the smallest value procurements. This is also called petty purchase. It should be used for off-the-shelf goods of simple and standard specifications and when the required goods (of required specification or within required delivery period etc.) are not available on GeM\textsuperscript{46}. However, it is mandatory for a buyer to generate a “GeM Availability Report and Past Transaction Summary” (GeMAR&PTS)\textsuperscript{47} with a unique ID on GeM portal using his login credentials on GeM for procurement outside GeM. 

*The procedure is the simplest and quickest but ViM may be poor; hence it is suitable only in very low value, urgent and simple requirements in the following situations:* 

\textsuperscript{46}As stipulated in Department of Expenditure OM No. 6/1/2018-PPD dated 19.01.2018  
\textsuperscript{47}Notified vide OM No. F.6.18.2019-PPD issued by Department of Expenditure dated 11.06.2021.
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i) Procurements do not exceed the threshold (for each requirement) of Rs. 25,000 (Rupees Twenty-five Thousand) for each case;

ii) The requirement is urgent but was not covered in the procurement plan; and

iii) The requirement is for off-the-shelf goods of simple and standard specifications. Examples of procurement are day-to-day needs of the office and field units, and so on.

(Rule 154 of GFR 2017)

4.9.2 Terms and Conditions

i) The competent officer of the procuring entity can initiate and complete this purchase after diligent enquiries from the market and filling the certificate prescribed (Annexure 7). Such powers to a limited extent can also be given to various user sections for operational needs.

ii) Normally an imprest amount (with facilities for cheque payments) sufficient for two months' estimated procurements can be sanctioned for such officers to handle such procurements. The imprest amount can be recouped on monthly basis by submission of expense vouchers.

iii) In a summary form, records should be kept of the vendors/contractors approached and prices indicated by them.

iv) Selection of seller by diligent market enquiry is of essence of this mode of procurement.

v) In larger cities, the presence of reputed Shopping Malls may also be included in the market survey. Reputed internet shopping portals may also be explored.

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<tr>
<th>4.9.3 Direct Procurement without Quotations - Risks and Mitigations</th>
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<td><strong>Risk</strong></td>
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<tr>
<td>The main risk is splitting of demand to avoid higher approvals or higher modes of procurements.</td>
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</table>
4.9.3 Direct Procurement without Quotations - Risks and Mitigations

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<tr>
<th>Risk</th>
<th>Mitigation</th>
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<tr>
<td>Over a period of time intentionally or otherwise, the due diligence of enquiries from market may degenerate into a mechanical obtaining of quotations, leading to development of nexus and crony suppliers. Vendor selection may actually be manipulated with fake supporting vouchers. Since such small value materials do not undergo accounting and inventory control, the risk of development of a nexus, leakages and fake procurements and payments are there. The same set of vendors may get patronised repeatedly for a wide variety of requirements. Since only cursory visual inspections are done, quality may be at risk.</td>
<td>Supervisors should cross check a percentage of cases in the market for prices, fake vouchers, and so on. Supervisors should also check that the same vendor(s) is not being patronised repeatedly. For the sake of transparency, payments should be made by cheque or through Electronic Clearance Service except that cash payment may be allowed up to Rs. 5,000 (Rupees Five thousand). Staff involved with such procurements should not continue in the same role for long and should be rotated frequently.</td>
</tr>
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</table>

4.10 Direct Procurement by Purchase Committee

4.10.1 This mode of procurement is used for procurements valued above Rs. 25,000/- (Rupees Twenty-five Thousand) and upto Rs. 2,50,000 (Rupees Two Lakh Fifty Thousand) only on each occasion. It is made by a local purchase committee constituted by HOD only in case when a certain item is not available on the GeM portal (of required specification or within required delivery period etc.)\(^{48}\). However, it is mandatory for a buyer to generate a “GeM Availability Report and Past Transaction Summary” (GeMAR&PTS)\(^{49}\) with a unique ID on GeM portal using his login credentials on GeM for procurement outside GeM. This mode of procurement is

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\(^{48}\) As stipulated in Department of Expenditure OM No. 6/1/2018-PPD dated 19.01.2018

\(^{49}\) Notified vide OM No. F.6.18.2019-PPD issued by Department of Expenditure dated 11\textsuperscript{th} June, 2021.