



PMC Cell – MM

Oil and Natural Gas Corporation Ltd

Corporate Materials Management

2nd Floor, Tower-A, Deendayal Urja Bhawan,

5, Nelson Mandela Marg, Vasant Kunj, New Delhi -110 070

Tel – (011)26752004 Fax – (011) 26129091

Circular No. 35/2023-cum-BL Amendment No. BL/01/139 and BL/02/113

No. DLI/CORP-MM/2022/PMC/13(217)/1153412

Dated 30.05.2023

Sub: Concurrent application of Public Procurement Policy for Micro and Small Enterprises Order, 2012 and Public Procurement (Preference to Make in India) Order, 2017.

Reference is invited to Circular No. 38/2022 dated 08.09.2022 wherein interalia provisions allowing Preference to eligible MSE bidder(s) over Class-I Local Supplier(s) have been provided for incorporation in Tender Conditions in respect to Procurement (Preference to Make in India) Order, 2017(as amended).

Department of Expenditure, Ministry of Finance vide O.M. No. No.F.1/4/2021-PPD dated 18.05.2023 notified guidelines on 'Concurrent application of Public Procurement Policy for Micro and Small Enterprises Order, 2012 and Public Procurement (Preference to Make in India) Order, 2017', which has been Circulated by DPE vide O.M. No. DPE/3(3)/10-Fin. dated 29.05.2023 for information and strict compliance. Copy of the same is enclosed.

In view of above, BEC/ Tender conditions as intimated vide Annexure- D to Circular No. 38/2022 stand modified as per revised Annexure-D attached herewith.

Para 3(a), 3A(b) and 3A(c) mentioned in the revised provisions refers to PPP- MII Order, 2017(as amended) issued by DoE, Ministry of Finance. Work Centres may incorporate suitable para no., wherever required.

Similar provisions in other Tenders (e.g. Charter Hire of Rigs) shall be incorporated by concerned work Centre.

Above guidelines should be meticulously followed by all concerned.


(Sandeep Gupta)
ED-Chief MM Services 30/5/23

Distribution: (Through ONGC's intranet website 'reports.ongc.co.in').

All concerned may download the circular from the site. Hard copies are not distributed separately

Modified provisions replacing existing provisions on Concurrent application of Public Procurement Policy for Micro and Small Enterprises Order, 2012 and Public Procurement (Preference to Make in India) Order, 2017 (DoE O.M. No. No. F.1/4/2021-PPD dated 18.05.2023):

1. Clause-Tender Conditions:

Clause No.	Modified provision										
38.3/ 36.3/ 29.3 of booklet MM01/MMO 2/Services respectively	<p>Concurrent application of Public Procurement Policy for Micro and Small Enterprises Order, 2012 and Public Procurement (Preference to Make in India) Order, 2017 (DoE O.M. No. No. F.1/4/2021-PPD dated 18.05.2023):</p> <p>1. The Class-I local suppliers, under PPP-MII Order, participating in any government tender, may or may not be MSEs, as defined under the MSME Act. Similarly, MSEs participating in any government tender, may or may not be Class-I local suppliers. Suppliers may be categorised in following four broad categories for consideration or applicability of purchase preference:</p> <table border="1"> <thead> <tr> <th>Category</th><th>Terminology</th></tr> </thead> <tbody> <tr> <td>Supplier is both MSE & Class-I local supplier.</td><td>"MSE Class-I local supplier"</td></tr> <tr> <td>Supplier is MSE but not Class-I local supplier.</td><td>"MSE but non-Class-I local supplier"</td></tr> <tr> <td>Supplier is not MSE but is Class-I local supplier.</td><td>"Non-MSE but Class-I local supplier"</td></tr> <tr> <td>Supplier is neither MSE nor Class-I local.</td><td>"Non-MSE non-Class-I local supplier"</td></tr> </tbody> </table> <p>2. The applicability of PPP-MSE Order and PPP-MII Order in various scenarios, involving simultaneous purchase preference to MSEs and Class-I local suppliers under PPP-MSE Order and PPP-MII Order respectively, shall be as under:</p> <p>a) Items covered under Para 3(a) of PPP- MII Order, 2017 for which Nodal Ministry has notified sufficient local capacity and competition: For these items, only Class-I local suppliers are eligible to bid irrespective of purchase value. Hence, Class-II local suppliers or Non-local suppliers, including MSEs which are Class-II local suppliers/ Non-local suppliers, are not eligible to bid. Possible scenarios can be as under:</p> <p>(i) L-1 is "MSE Class-I local supplier" - 100% of the tendered quantity is to be awarded to L-1.</p> <p>(ii) L-1 is "Non-MSE but Class-I local supplier" - Purchase preference is given to MSEs as per PPP-MSE Order. Balance quantity is to be awarded to the L-1 bidder.</p> <p>b) Items reserved exclusively for procurement from MSEs as per PPP-MSE Order: These items are reserved exclusively for purchase from MSEs.</p>	Category	Terminology	Supplier is both MSE & Class-I local supplier.	"MSE Class-I local supplier"	Supplier is MSE but not Class-I local supplier.	"MSE but non-Class-I local supplier"	Supplier is not MSE but is Class-I local supplier.	"Non-MSE but Class-I local supplier"	Supplier is neither MSE nor Class-I local.	"Non-MSE non-Class-I local supplier"
Category	Terminology										
Supplier is both MSE & Class-I local supplier.	"MSE Class-I local supplier"										
Supplier is MSE but not Class-I local supplier.	"MSE but non-Class-I local supplier"										
Supplier is not MSE but is Class-I local supplier.	"Non-MSE but Class-I local supplier"										
Supplier is neither MSE nor Class-I local.	"Non-MSE non-Class-I local supplier"										

Hence, non-MSEs are not eligible to bid for these items. Possible scenarios can be as under:

- (i) L-1 is "MSE Class-I local supplier" - 100% of the tendered quantity is to be awarded to L-1.
- (ii) L-1 is "MSE non-Class-I local supplier" - Purchase preference is to be given to Class-I local supplier as per PPP-MII Order. Balance quantity, is to be awarded to L-1 bidder.

c) *If items are neither notified for sufficient local capacity nor reserved for MSEs, then the process will be as follows:*

c (a) Items covered under Para 3A(b) of PPP-MII Order are divisible items and both MSEs as well as Class-I local suppliers are eligible for purchase preference. Possible scenarios can be as under:

- (i) L-1 is "MSE Class-I local supplier" - 100% of the tendered quantity is to be awarded to L-1.
- (ii) L-1 is "Non-MSE but Class-I local supplier" - Purchase preference is to be given to MSEs, if eligible, as per PPP-MSE Order. Balance quantity is to be awarded to L-1 bidder.
- (iii) L-1 is "MSE but non-Class-I local supplier" - Purchase preference is to be given to Class-I local suppliers, if eligible, as per PPP-MII Order. Balance quantity is to be awarded to L-1 bidder.
- (iv) L-1 is "Non-MSE non-Class-I local supplier" - Purchase preference is to be given to MSEs as per PPP-MSE Order. Thereafter, purchase preference is to be given to Class-I local suppliers for "50% of the tendered quantity minus quantity allotted to MSEs above" as per PPP- MII Order. For the balance quantity, contract is (to be awarded to L-1 bidder. *(Kindly refer to the illustrative example in the annexure-PP).*

c (b) Items covered under Para 3A(c) of PPP-MII Order, 2017 are non- divisible items and both MSEs as well as Class-I local suppliers are eligible for purchase preference. Possible scenarios can be as under:

- (i) L-1 is "MSE Class-I local supplier"- Contract is awarded to L-1.
- (ii) L-1 is not "MSE Class-I local supplier" but the "MSE Class-I local supplier" falls within 15% margin of purchase preference - Purchase preference is to be given to lowest quoting "MSE Class-I local supplier". If lowest quoting "MSE Class-I local supplier" does not accept the L-1 rates, the next higher "MSE Class-I local supplier" falling within 15% margin of purchase preference is to be given purchase preference and so on.
- (iii) If conditions mentioned in sub paras (i) and (ii) above are not met i.e. L-1 is neither "MSE Class-I local supplier" nor "MSE Class-I local supplier" is eligible to take benefit of purchase preference, the contract is to be awarded/ purchase preference to be given in different possible scenarios as under:

	<p>A. L1 is "MSE but non-Class-I local supplier" or "Non-MSE but Class-I local supplier" – Contract is be awarded to L1.</p> <p>B. L1 is "Non-MSE non-Class-I local supplier" - First purchase preference to be given to MSE as per PPP-MSE Order. If MSE not eligible/ does not accept - purchase preference to be given to Class- I Local supplier as per PPP-MII Order. If Class-I Local supplier also not eligible/ does not accept – contract to be awarded to L-1.</p> <p>d) <i>Items reserved for both MSEs and Class-I local suppliers:</i> These items are reserved exclusively for purchase from MSEs as well as Class-I local suppliers. Hence, only "MSE Class-I local supplier" are eligible to bid for these items. Non-MSEs/Class-II local suppliers/ Non-local suppliers cannot bid for these items. Hence the question of purchase preference does not arise.</p> <p>e) Non-local suppliers, including MSEs falling in the category of Non-local suppliers, shall be eligible to bid only against Global Tender Enquiry.</p>
--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

2. Clause- BEC

Clause No.	Existing provisions	Modified provisions	Remarks
C.2.3 of BEC-Goods-ICB/NCB	Allowing Preference to eligible MSE bidder(s) over Class-I Local Supplier(s) (For the tenders where tender quantity cannot be divided/split or cannot be procured from multiple sources, following provisions shall be incorporated in the tender conditions where purchase preference to both Class-I Local Supplier (in terms of PPP-MII order) and MSEs is applicable):	Concurrent application of Public Procurement Policy for Micro and Small Enterprises Order, 2012 and Public Procurement (Preference to Make in India) Order, 2017	Complete clause modified
C.3.3 of BEC services-ICB		The applicability of PPP-MSE Order and PPP-MII Order in various scenarios, involving simultaneous purchase preference to MSEs and Class-I local suppliers under PPP-MSE Order and PPP-MII Order respectively, shall be governed as per provisions of DoE O.M. No. F.1/4/2021-PPD dated 18.05.2023 as brought out at Clause No..... of Instruction to Bidders. (Relevant clause no. to be inserted by Work Centre).	
C.1.4.3 of BEC Services-NCB	(i) Where both MSE and Class-I Local Supplier are entitled to Purchase Preference and neither of them is L-1, eligible MSE(s) (in order of ranking among MSEs) shall		

	<p>get preference over eligible Class-I Local Supplier to match its rates with that of L-1 bidder. However, if eligible MSE(s) decline(s) to match down the price, then the eligible Class-I Local Supplier in order of ranking among themselves shall be given the opportunity to match down its price to the price of L-1 bidder.</p> <p>(ii) Where MSE is already L-1 in the tender evaluation, contract shall be straightway awarded to MSE, without considering any Purchase Preference for Class-I local Supplier.</p> <p>(iii) In case L1 bidder is a Class-I/Class-II/Non-Local Supplier, purchase preference shall be resorted to MSE bidder as per 'PPP for MSE-Order 2012'.</p>		
C.2.3.1 of BEC-Goods-ICB/NCB	(For the tenders where tender quantity can be divided/split)		
C.3.3.1 of BEC services-ICB	Distribution of quantities among the eligible MSE(s) and <u>Class-I Local Supplier</u> shall be as per the quantities of the respective policy and the balance quantity shall be awarded to the non-eligible L-1 bidder.		
C.1.4.3.1 of BEC Services-NCB			

Example explaining applicability in scenario explained in para 2 c (a)(iv) (of 1. Clause-Tender Conditions) above

(Scenario: Divisible items, both MSEs as well as Class-I local suppliers eligible for purchase preference and L-1 is "Non-MSE non-Class-I local supplier")

Item - Desktop computer

Qty - 50 Nos.

Details of bids received

Sr. No.	Name of bidder	Rates quoted	Price Ranking	Status of bidder
1.	A	100	L1	"Non-MSE non- Class-I local supplier"
2.	B	110	L2	"Non-MSE but Class-I local supplier"
3.	c	112	L3	"MSE but non- Class-I local supplier"
4.	D	115	L4	"Non-MSE but Class-I local supplier"
5.	E	118	L5	"MSE but non- Class-I local supplier"
6.	F	120	L6	"MSE Class-I local supplier"

1. In this case, first purchase preference is to be given to MSEs as per PPP-MSE Order for 25% of tendered quantity of 50 Nos. i.e. 12.5 Nos. (rounded off to the next whole number say 13 Nos). Accordingly, invite L3 (bidder C), whose quoted rates falls within 15% margin of purchase preference to match L1 price i.e. Rs. 100/- for quantity of 13 Nos. Bidder "E" and "F", although MSEs, will not get purchase preference since their quoted rates don't fall within 15% margin of purchase preference. Bidder C will be considered for order of 13 Nos. on confirmation of reduction of price.
2. For 50% of balance quantity of 37 number (tendered quantity of 50-13 awarded to bidder C; assuming bidder C has confirmed to accept L1 rates), purchase preference will be given to lowest Class-I local supplier as per PPP-MII Order. Accordingly, bidder B will be invited to match L-1 price for 50% of 37 Nos i.e. 18.5 (say 19 Nos of computers). If bidder "B" does not accept the L1 price i.e. price of Rs. 100/- per unit, next higher Class-I local supplier falling within 20% margin of purchase preference, i.e. bidder "D", may be invited to match L-1 price for 19 Nos. of computers and so on....
3. For remaining quantity i.e. 18 Nos (50-13-19), the contract will be awarded to lowest quoting bidder i.e. Bidder "A", who is L-1 in the example.

-xxxx-

F. No. DPE/3(3)/10-Fin.
Government of India
Ministry of Finance
Department of Public Enterprises

Block No. 14, CGO Complex,
Lodi Road, New Delhi-110003
Dated the 29th May, 2023

To,

Chief Executives of all CPSEs

Subject:- Concurrent application of Public Procurement Policy for Micro and Small Enterprises Order, 2012 and Public Procurement (Preference to Make in India) Order, 2017 - regarding

Sir/Madam,

The undersigned is directed to forward herewith a copy of Department of Expenditure O.M. dated 18th May, 2023 on the subject mentioned above for information and strict compliance.

Encl : As stated


(Kailash Bhandari)
Deputy Director
Tel : 2436-6247

Copy to :- Shri Kanwalpreet, Director, Department of Expenditure, Room No. 264-C,
North Block, New Delhi.

No.F.1/4/2021-PPD
Government of India
Ministry of Finance
Department of Expenditure
Public Procurement Division

264-C, North Block, New Delhi.
18.05.2023.

OFFICE MEMORANDUM

Subject: Concurrent application of Public Procurement Policy for Micro and Small Enterprises Order, 2012 and Public Procurement (Preference to Make in India) Order, 2017.

The undersigned is directed to refer two Preferential Procurement Orders mandated for the Public Procurement in India, namely:

- i. Public Procurement Policy for Micro and Small Enterprises (MSEs) Order dated 23.03.2012 (PPP-MSE Order) issued by Ministry of Micro, Small and Medium Enterprises (MoMSME) in exercise of the powers conferred in Section 11 of the MSME Development Act, 2006. (Last revised on 09.11.2018)
 - ii. Public Procurement (Preference to Make in India) Order, 2017 (PPP-MII order), under Rule 153(iii) of the General Financial Rules (GFRs) 2017, approved by the Cabinet. Implementation of this PPP-MII order is monitored by Department for Promotion of Industry and Internal Trade (DPIIT). (Last revised on 16.09.2020.)
2. It has been brought to the notice of this Department that concurrent application of these two orders are creating confusion to the procuring entities and different procuring entities interpret them differently. In order to bring predictability both to the procuring entities as well as bidders, following guidelines are being issued.

Guidelines

3. The Class-I local suppliers, under PPP-MII Order, participating in any government tender, may or may not be MSEs, as defined under the MSME Act. Similarly, MSEs participating in any government tender, may or may not be Class-I local suppliers. Suppliers may be categorised in following four broad categories for consideration or applicability of purchase preference:

Category	Terminology
Supplier is both MSE & Class-I local supplier.	"MSE Class-I local supplier"
Supplier is MSE but not Class-I local supplier.	"MSE but non-Class-I local supplier"
Supplier is not MSE but is Class-I local supplier.	"Non-MSE but Class-I local supplier"
Supplier is neither MSE nor Class-I local.	"Non-MSE non-Class-I local supplier"

4. The applicability of PPP-MSE Order and PPP-MII Order in various scenarios, involving simultaneous purchase preference to MSEs and Class-I local suppliers under PPP-MSE Order and PPP-MII Order respectively, shall be as under:

a) *Items covered under Para 3(a) of PPP- MII Order, 2017 for which Nodal Ministry has notified sufficient local capacity and competition:* For these items, only Class-I local suppliers are eligible to bid irrespective of purchase value. Hence, Class-II local suppliers or Non-local suppliers, including MSEs which are Class-II local suppliers/ Non-local suppliers, are not eligible to bid. Possible scenarios can be as under:

- (i) L-1 is "MSE Class-I local supplier" - 100% of the tendered quantity is to be awarded to L-1.
- (ii) L-1 is "Non-MSE but Class-I local supplier" - Purchase preference is given to MSEs as per PPP-MSE Order. Balance quantity is to be awarded to the L-1 bidder.

b) *Items reserved exclusively for procurement from MSEs as per PPP-MSE Order:* These items are reserved exclusively for purchase from MSEs. Hence, non-MSEs are not eligible to bid for these items. Possible scenarios can be as under:

- (i) L-1 is "MSE Class-I local supplier" - 100% of the tendered quantity is to be awarded to L-1.
- (ii) L-1 is "MSE non-Class-I local supplier" - Purchase preference is to be given to Class-I local supplier as per PPP-MII Order. Balance quantity, is to be awarded to L-1 bidder.

c) *If items are neither notified for sufficient local capacity nor reserved for MSEs, then the process will be as follows:*

c (a) Items covered under Para 3A(b) of PPP-MII Order are divisible items and both MSEs as well as Class-I local suppliers are eligible for purchase preference. Possible scenarios can be as under:

- (i) L-1 is "MSE Class-I local supplier" - 100% of the tendered quantity is to be awarded to L-1.
- (ii) L-1 is "Non-MSE but Class-I local supplier" - Purchase preference is to be given to MSEs, if eligible, as per PPP-MSE Order. Balance quantity is to be awarded to L-1 bidder.
- (iii) L-1 is "MSE but non-Class-I local supplier" - Purchase preference is to be given to Class-I local suppliers, if eligible, as per PPP-MII Order. Balance quantity is to be awarded to L-1 bidder.
- (iv) L-1 is "Non-MSE non-Class-I local supplier" - Purchase preference is to be given to MSEs as per PPP-MSE Order. Thereafter, purchase preference is to be given to Class-I local suppliers for "50% of the tendered quantity minus quantity allotted to MSEs

above" as per PPP- MII Order. For the balance quantity, contract is to be awarded to L-1 bidder. (Kindly refer to the illustrative example in the annexure).

- c (b) Items covered under Para 3A(c) of PPP-MII Order, 2017 are non-divisible items and both MSEs as well as Class-I local suppliers are eligible for purchase preference. Possible scenarios can be as under:
- (i) L-1 is "MSE Class-I local supplier" - Contract is awarded to L-1.
 - (ii) L-1 is not "MSE Class-I local supplier" but the "MSE Class-I local supplier" falls within 15% margin of purchase preference - Purchase preference is to be given to lowest quoting "MSE Class-I local supplier". If lowest quoting "MSE Class-I local supplier" does not accept the L-1 rates, the next higher "MSE Class-I local supplier" falling within 15% margin of purchase preference is to be given purchase preference and so on.
 - (iii) If conditions mentioned in sub paras (i) and (ii) above are not met i.e. L-1 is neither "MSE Class-I local supplier" nor "MSE Class-I local supplier" is eligible to take benefit of purchase preference, the contract is to be awarded/ purchase preference to be given in different possible scenarios as under:
 - A. L1 is "MSE but non-Class-I local supplier" or "Non-MSE but Class-I local supplier" – Contract is to be awarded to L1.
 - B. L1 is "Non-MSE non-Class-I local supplier" - First purchase preference to be given to MSE as per PPP-MSE Order. If MSE not eligible/ does not accept - purchase preference to be given to Class- I Local supplier as per PPP-MII Order. If Class-I Local supplier also not eligible/ does not accept – contract to be awarded to L-1.
- d) *Items reserved for both MSEs and Class-I local suppliers:* These items are reserved exclusively for purchase from MSEs as well as Class-I local suppliers. Hence, only "MSE Class-I local supplier" are eligible to bid for these items. Non-MSEs/Class-II local suppliers/ Non-local suppliers cannot bid for these items. Hence the question of purchase preference does not arise.
- e) Non-local suppliers, including MSEs falling in the category of Non-local suppliers, shall be eligible to bid only against Global Tender Enquiry.


(Kanwalpreet)
Director

Tel.: -223093811; email: - kanwal.irss@gov.in

To

1. Secretaries of all Central Government Ministries/ Departments.
2. Secretary Department of Public Enterprises with a request for issuing suitable instructions to all Central Public Sector Enterprises in this regard.

Example explaining applicability in scenario explained in para 4 c (a)(iv)

(Scenario: Divisible items, both MSEs as well as Class-I local suppliers eligible for purchase preference and L-1 is "Non-MSE non-Class-I local supplier")

Item – Desktop computer

Qty – 50 Nos.

Details of bids received

Sr. No.	Name of bidder	Rates quoted	Price Ranking	Status of bidder
1.	A	100	L1	"Non-MSE non- Class-I local supplier"
2.	B	110	L2	"Non-MSE but Class-I local supplier"
3.	C	112	L3	"MSE but non- Class-I local supplier"
4.	D	115	L4	"Non-MSE but Class-I local supplier"
5.	E	118	L5	"MSE but non- Class-I local supplier"
6.	F	120	L6	"MSE Class-I local supplier"

1. In this case, first purchase preference is to be given to MSEs as per PPP-MSE Order for 25% of tendered quantity of 50 Nos. i.e. 12.5 Nos. (rounded off to the next whole number say 13 Nos). Accordingly, invite L3 (bidder C), whose quoted rates falls within 15% margin of purchase preference to match L1 price i.e. Rs. 100/- for quantity of 13 Nos. Bidder "E" and "F", although MSEs, will not get purchase preference since their quoted rates don't fall within 15% margin of purchase preference. Bidder C will be considered for order of 13 Nos. on confirmation of reduction of price.
2. For 50% of balance quantity of 37 number (tendered quantity of 50 – 13 awarded to bidder C; assuming bidder C has confirmed to accept L1 rates), purchase preference will be given to lowest Class-I local supplier as per PPP-MII Order. Accordingly, bidder B will be invited to match L-1 price for 50% of 37 Nos i.e. 18.5 (say 19 Nos of computers). If bidder "B" does not accept the L1 price i.e. price of Rs. 100/- per unit, next higher Class-I local supplier falling within 20% margin of purchase preference, i.e. bidder "D", may be invited to match L-1 price for 19 Nos. of computers and so on.
3. For remaining quantity i.e. 18 Nos (50-13-19), the contract will be awarded to lowest quoting bidder i.e. Bidder "A", who is L-1 in the example.
