

F.No.11020/9/2021-SP-V
Government of India
Ministry of Youth Affairs & Sports
(Department of Sports)

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New Delhi, the 8 September, 2021.

ORDER

Sub: Exemption for reduction of Local Content for Items under procurement through NCSSR Scheme (National Centre for Sports Sciences and Research).

Whereas the Ministry of Commerce and Industry, Department for Promotion of Industry and Internal Trade (Public Procurement Section) have conveyed the policy of the Government of India to encourage 'Make in India' and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, to all Central Ministries/Departments/CP SUs and all concerned, vide their Order No. P-45021/2/2017-PP (BE-II) dated 16th September, 2020.

2. **Whereas**, the above cited Order dated 16th September, 2020, inter-alia requires that
- i. In procurement of all goods, services or works in respect of which the Nodal Ministry / Department has communicated that there is sufficient local capacity and local competition, only "Class-I local supplier", as defined under the said Order, shall be eligible to bid irrespective of purchase value.
 - ii. Only "Class-I local supplier" and "Class-II local supplier", as defined under the said Order, shall be eligible to bid in procurement undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries, "Non-local suppliers" shall also be eligible to bid along with "Class-I local suppliers" and "Class-II local suppliers".
 - iii. Subject to the provisions of the said Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to "Class-I local supplier" in procurement undertaken by procuring entities in the manner specified in the said Order.
 - iv. The margin of purchase preference shall be 20%.
 - v. 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.

Verification of local content:

- vi. 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.
- vii. 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.

viii. 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.

ix. 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.

3. Whereas the Sports Authority of India (SAI), is an Autonomous body under the aegis of the Ministry of Youth Affairs & Sports, Department of Sports, and by virtue of its status is bound by the provisions of the Order dated 16.09.2020.

4. Whereas, the SAI had initiated a process of procurement of the following Sports and Sports Sciences related equipment (Goods) for National Centres of Excellences.(NCOEs) to ensure quality sporting environment for their athletes, for which they had floated tenders and bidders were asked to submit a self-declaration regarding local content as per Clause 9(a) of the Order dated 16.09.2020 :

S.No.	Name of equipment	Discipline	Qty.	Unit Estimated Cost	Total Estimated Cost
1.	Treadmill- selection	Strength and Conditioning	28	Rs. 3,17,500.00	Rs.88,90,000.00
2.	Exercise Bikes		52	Rs. 2,15,000.00	Rs.1,11,80,000.00
3.	Elliptical Cross Trainers		26	Rs. 5,65,000.00	Rs.1,46,90,000.00
4.	Upper Body Trainers		15	Rs. 3,98,500.00	Rs.59,77,500.00
5.	Curved Treadmill- non-motorized		4	Rs. 4,53,000.00	Rs. 18,12,000.00
6.	Wireless Timing Gate		13	Rs. 20,00,000.00	Rs.2,60,00,000.00
Total					Rs.6,85,49,500.00

5. Whereas, the SAI, on evaluation of bids received from the bidders in response to the said Tender enquiry, they found that all the responsive bidders had quoted imported/foreign made items and had claimed local value addition by considering factors like transportation, insurance, installation, commissioning, and training and after sales service support like AMC etc.

6. Whereas SAI further sought clarification from the Department for Promotion of Industry and Internal Trade (DPIIT) in this regard and the DPIIT vide their OM dated 04.03.2021 (Annexure-1) have clarified that Imported Equipment cannot be quoted by bidders and can't be claimed as Class I/II Local Supplier and that such bidders will be treated as Non-Local Supplier and are not eligible to bid. The DPIIT have also clarified that bidders cannot claim themselves as Class-I Local supplier/Class-II Local supplier by claiming the services such as transportation, insurance, installation, commissioning, and training and after sales

service support like AMC/CMC etc, as local value addition.

7. Whereas in light of the foregoing, SAI cancelled the relevant tenders for all items as the bids received by SAI were not responsive, on grounds that they did not meet the requirement of having minimum local content as required by the Order dated 16.09.2020.

8. Whereas, in order to ascertain that there is sufficient local capacity and competition for the items to be procured, SAI had organized a vendor meet in coordination with FICCI, and the Indian manufacturers and in the meeting (minutes of the meeting at Annexure-2), wherein the following emerged :

- i. Indian Market is not currently ready for the high end cardio equipment listed in the tender.
- ii. Most of the listed items are proprietary in nature and hence it is not possible to substitute them with an Indian alternative.
- iii. Few manufacturers are in the process of forging partnerships with international Original Equipment Manufacturers (OEMs) for phased manufacturing in India, but it will take time.
- iv. Most of the fitness companies are importing similar machines though registered in India. Therefore, they are not a foreign supplier or a foreign OEM. But as per rules, the percentage of local value addition does not meet the Class 1 or Class 2 criteria
- v. Indian manufacturers are competent to make strength equipment and most of it is available locally.
- vi. While Indian made cardio equipment may be used for grass-root and intermediate level athletes, for elite athletes, exemption to procure high end imported equipment may be sought for their training for the time being.
- vii. The Government can consider long term leasing of these equipment since there are embargoes on purchase. Instead of CAPEX, SAI can consider leasing the said equipment for a period of 03 or 05 years - the typical working life of a heavily used equipment.

9. Whereas, Clause 13 of the Order dated 16.09.2020 provides that 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.

10. Whereas, Clause 13A of the Order dated 16.09.2020 provides that 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.

11. Whereas as per the APPENDIX–A (APPROVED PRODUCT CATEGORIES AND ASSOCIATED MINISTRY/ DEPARTMENT) to the Public Procurement (Preference to Make in India) Order 2017 (Annexure 3), Department of Sports has not been notified as an Associated Department for any category of product, including Sports Goods. Further, no other Ministry/Department has been notified as Nodal for Sports/Fitness Goods either. Therefore, the provisions pertaining to “Nodal Ministry” do not apply to the instant case.

12. Whereas, it is evident from the above, reduction of local content to zero for any procurement, which is tantamount to exempting the item from Operation of the said Order, may be resorted to only after all other measures to comply with the order fail.

13. Whereas, SAI has confirmed that

- i. the qualification criteria mentioned in the tender(s) floated for items under consideration was kept at bare minimum and in line with guidelines of procurement manual. The evaluation was also done in line with existing procurement guidelines providing exemption in prior turn over and experience to Indian manufacturers who have valid MSME certification. No Indian manufacturer was disqualified on the basis of non-compliance to qualification criteria during evaluation.
- ii. all the items proposed to be procured are high end equipment and are proposed for national and international athletes training at SAI NCOEs. The specifications of these high end equipment have been drafted by an expert committee of SAI and cannot be altered as they are set at minimum standard and quality required for national and international athletes.
- iii. there is no current possibility of joint venture with foreign OEMs, definition of threshold value above which exemption in local content may be given to foreign companies in joint venture with Indian manufacturers as per 13 A of DPIIT order dated 16.09.2020, may be decided at a later stage after Industry interaction.
- iv. all the responsive bids received by them in response to earlier tenders for the items proposed to be procured and previous purchases of similar items were from foreign manufacturers, and have reasoned that reducing the local content below prescribed level to a lower value may not result in successful procurement of these items and hence the minimum local content consideration may be waived off completely.

14. Whereas, in light of the situation elucidated in the preceding Paras, SAI has proposed that an exemption from DPIIT order dated 16.09.2020 for a period of 3 years may be accorded, subject to assessment at the end of 3 years, so that the proposed procurement can materialize.

15. Whereas the matter has been examined by the Department of Sports in consultation with the Internal Finance Division, Ministry of Youth Affairs & Sports, who have concurred to the proposal for reduction of Local Content to Zero for procurement of the items indicated in Para-4 of this Order, for various Sports & Sports Sciences related equipment (Goods) for National Centres of Excellences (NCOES) to ensure quality sporting environment for an athletes, subject to approval of Hon'ble Minister of Youth Affairs & Sports, and also subject to following all necessary codal formalities, fulfillment of the guidelines of DPIIT especially

that the goods/items for which exemption is being sought are not manufactured by local/domestic manufacturers.

16. Whereas Clause 14 (**Powers to grant exemption and to reduce minimum local content**) of the Order No. P-45021/2/2017-PP (BE-II) dated 16th September, 2020 provides that 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 :

- a. reduce the minimum local content below the prescribed level; or
- b. reduce the margin of purchase preference below 20%; or
- c. 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.

17. Therefore, after careful consideration of the circumstances leading to failure of tender enquiries by SAI for procurement of equipment indicated in Para 4 of this Order, and inputs from FICCI and relevant industry members, in exercise of the conferred under Clause 14 of the Order No. P-45021/2/2017-PP (BE-II) dated 16th September, 2020, approval of Hon'ble Minister of Youth Affairs and Sports, is hereby conveyed to reduction of local content to Zero (0) in case of procurement of the following equipment by the SAI :

S.No.	Name of equipment	Discipline
1.	Treadmill- selection	Strength and Conditioning
2.	Exercise Bikes	
3.	Elliptical Cross Trainers	
4.	Upper Body Trainers	
5.	Curved Treadmill- non-motorized	
6.	Wireless Timing Gate	

18. This reduction will be applicable only to the items indicated above. This reduction will not apply to procurement of any item in future, the specification of which deviates from the specification of the above products proposed to be procured. In case of future procurement, if the specification of any item deviates from the specification of an item approved for reduction of local content under this Order, then fresh proposal for reduction of local content will have to be submitted by SAI to this Ministry.

19. This Order will be in operation for a period of three years from the date of issue, subject to the condition that the local content requirements in respect of the above items will be reviewed by SAI annually with a view to increasing them, and item-wise report on the

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prevalent situation with respect to availability of local content in respect of each item will be submitted to this Department for review. The operation of this Order may be modified or terminated any time by this Department.

(Arun Kumar Yadav)

Director

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The Director General,
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Copy to : Joint Secretary (DPIIT), as Member – Convenor of the Standing Committee constituted vide Clause 16 of Ministry of Commerce and Industry, Department for Promotion of Industry and Internal Trade (Public Procurement Section) Order No. P-45021/2/2017-PP (BE-II) dated 16th September, 2020.