

Additional Terms & conditions

(to be enclosed where the tenders to be issued with Purchase Preference clause)

In line with Public Procurement (Preference to Make in India), Order 2017 & its various amendments issued by Govt. of India from time to time & with a view to support the Indian industries, HAL has implemented "Purchase Preference Policy". **The "Purchase Preference" is applicable for the "Class-I Local Supplier" for the goods/services/works covered in this tender subject to the following terms & conditions:**

Note:

**(a) The subject item falls under INDIVISIBLE category.**

**(b) The offers sought only from Class-I & Class-II Local suppliers, out of local suppliers.**

1. Definitions:

- a. **Class-I local supplier** means a supplier or service provider, whose goods, services or works offered for procurement meets the minimum local content of 50%.
  - b. **Class-II local supplier** means a supplier or service provider, whose goods, services or works offered for procurement meets the minimum local content of 20%.
  - c. **Non- local supplier** means a supplier or service provider, whose goods, services or works offered for procurement has local content less than 20%.
  - d. **Foreign Supplier** means an overseas supplier.
2. Local content' means the amount of value added in India (i.e., indigenous items/services added in the offered products/services/works) which shall 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/IGST) as a proportion of the total value, in percent
  3. The margin of Purchase Preference shall be upto 20%.
  4. 'Margin of purchase preference' means the maximum extent to which the price quoted by the "Class-I local supplier" above the L1 (landed cost).
  5. 'L1' means the lowest technically accepted tender / bid / quotation (i.e. lowest landed cost including duties, taxes and freight & Insurance).
  6. 'Works' means all works as per Rule 130 of GFR- 2017, and will also include 'turnkey works'. Works includes Engineering, Procurement and Construction (EPC) contracts and services include System Integrator (SI) contracts.

## 7. Purchase Preference:

### A. Goods/Services/Works which are divisible in nature (required quantity greater than 1 or not a package basis or not Aircraft LRUs):

- i. If L1 is 'Class-I local supplier', the order/contract for full quantity shall be awarded to L1 bidder.
- ii. If L1 bid is not from a 'Class-I local supplier', 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the L1 price for the remaining 50% quantity subject to the Class-I local supplier's quoted price falling within the margin of purchase preference (i.e. 20%) and contract for that quantity shall be awarded to such Class-I local supplier subject to matching the L1 price (inclusive of duties, taxes and freight & insurance).
- iii. 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 cases where none of the 'Class-I local supplier' within the margin of purchase preference agree to match L1 price, in such cases 100% quantity shall be ordered on original L1 bidder.
- iv. In case no offers received from 'Class-I local supplier' or none of the 'Class-I local supplier' falls within the margin of purchase preference of 20%, the order shall be processed on L1 vendor.
- v. In case L1 bidder (not a 'Class-I local supplier') is not accepting splitting of order on 50:50 basis, in that case the order/contract shall be awarded to such 'Class-I local supplier' for full quantity subject to matching the L1 price.
- vi. Regarding MSEs (Indian vendors):

The following additional aspect as indicated below would applicable for procurement which are falls under divisible category (i.e., not applicable for indivisible category), in case of participation of MSEs in the tendering.

- If any Indian vendor satisfies the requirement of MSEs stipulation and also falls within the purchase preference margin as called for in MSME policy (in case of matching L1 price) will be considered for ordering 25% of tendered quantity, the balance quantity / works will be considered for distribution amongst all bidders (including MSEs) as per this purchase preference policy.
- In case no MSEs qualifies for purchase preference or do not match with L1 price then the total tendered quantity will be distributed amongst all bidders as per this purchase preference policy.

B. Goods/Works which are not divisible (required quantity is 1 or as a package or Aircraft LRUs in case of goods) and Services:

- i. If L1 is from a 'Class-I local supplier' the contract will be awarded to L1 bidder.
- ii. If L1 is not from a '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 (i.e. 20%) and the contract shall be awarded to such 'Class-I local supplier' subject to matching the L1 price (inclusive of duties, taxes and freight & insurance).
- iii. 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 order/contract shall be awarded accordingly. In case where none of the 'Class-I local supplier' within the margin of purchase preference agree to match the L1 price then the order/contract shall be awarded to the original L1 Bidder.

8. Technically acceptable offers only will be considered for further process.

9. Self Certification and Auditor Certificate:

- i. The 'Class I & II local suppliers' should provide a "Self Certification" as per the format enclosed at Appendix-B(Type-I) along with technical offer indicating the % of local content along with details of the location(s) at which the local value addition is made along with the technical offer.
- ii. In cases the quoted price is in excess of Rs.10 Crs (including duties, taxes and freight & Insurance), the 'Class-I & II local supplier' shall provide a certificate as per the format enclosed at Appendix-B(Type-II) 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 case of suppliers other than companies) indicating the percentage of local content along with the technical offer.
- iii. The above sought "Self-certification" shall be provided on vendor's letter head. On similar line for Rs.10 Crs. & above, the certificate need to be provided by the concerned authority as brought out above.
- iv. In case of online tender, scanned copy of the certificate need to be uploaded along with tender and parallelly the hard copy of original certificate should be submitted to the Division through post/courier.
- v. In case tender calls for the offers from only Class I & II local suppliers:

- a. Any bidder has not indicated any % of Local content and also not provided Self Certification, they fall under non local category. As such those offers also will not be considered & rejected.
    - b. Further, the offered product should meet the minimum local content requirement of 50% for Class-I local supplier & minimum local content requirement of 20% for Class-II local supplier. If the offered minimum local content is less than called for in the tender, the offer will not be considered & rejected, as the offer is sought from local suppliers with notified MLC.
  - vi. In case tender calls for the offers from any suppliers:
    - a. In case the offers sought from any suppliers (i.e. including non-local supplier / overseas supplier), suppliers should provide "Self Certification" indicating the % of local content offered along with details of the location(s) at which the local value addition is made. The purchase preference shall not be applicable (i) in case of non-submission of "Self Certification" and (ii) in case of the offered minimum local content is less than 50%.
    - b. In case a supplier fails to indicate MLC in the specified place in Technical bid & also forgets to enclose the Self Certification, such bidder will be treated as Non-Local supplier & will be dealt accordingly as per the RFQ stipulation.
  - vii. It is expected that the bidder has to indicate MLC as part of offer & Self Certificate and Auditor might have also indicated MLC as per their certification. In case there is difference in those values, the lowest of them will be considered as the applicable MLC & the offer will be dealt accordingly. Other MLC information will be treated as invalid.
10. A committee (with an external expert from a practicing cost accountant or practicing chartered accountant, if required) constituted for independent verification, shall verify the self-certificate (or) auditor's / accountant's certificates (as applicable) on random basis, as per the requirements.
  11. In case of a complaint received from any supplier indicating a need for review / verification of Local content of successful vendor / awarded vendor, for accepting a complaint from such complainant (w.r.t the false declaration given by the successful vendor / awarded vendor on the local content), a complaint fee of Rs.2 Lakhs or 1% of the locally manufactured items being procured (subject to a maximum Rs.5 Lakhs), whichever was higher, to be paid by demand draft by the complainant. In case, the complaint is found to be incorrect, the complaint fee shall be forfeited. In case, the complaint is upheld and found to be substantially correct, deposited fee of the complainant would be refunded without any interest.
  12. False declarations will be in breach of code of the integrity for which a bidder or its successor's will not be eligible/debarred for purchase preference from further tenders / pending tenders for two years along with other actions as may be applicable.

13. Further, in case the violation/false declaration established, in such case, a penalty amount upto 2% value of the each order will be deducted on such defaulted bidders.
14. The Public Procurement (Preference to Make in India), Order 2017 issued by Govt. of India indicates that if there are any general or specific restrictive clauses to restrict participation of Indian companies in those countries procurement tenders, reciprocity clause need to be invoked as per the order. Hence, if HAL or Govt. of India come across that Indian suppliers of an item are not allowed to participate and/or compete in procurement by your government, the bid submitted by you will be not be considered and excluded from eligibility for procurement. This aspect may please be taken note off.