

Min of Def (Fin) New Delhi

CoordA-58

Dated 10.11.2015

DPM-2009 Amendment - 1/2015

1. Amendment 1/2015 to DPM-2009 is issued as enclosed to this letter. The amendments in relevant paras of DPM-2009 are mentioned from Sl A to K. The essence of this amendment is that taxes and duties levied by central / state / local governments such as excise duty, VAT, service tax, Octroi / Entry tax, etc on final product will not be used in evaluation criteria for L-1 determination in those cases also, where only Indian bidders are competing. This amendment will be applicable with immediate effect.
2. This issues with the concurrence of FA (DS) and approval of Raksha Mantri.



(Rajnish Kumar)
JS & Additional FA (RK)

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SL A

Existing provisions (page 35)

- 4.13.1 **Preparation of the Comparative Statement of Tenders:** After opening of the commercial bids (of QR-compliant tenderers in the case of two bid system and after approval of the TEC report by the CFA), the procuring agency should prepare a comparative statement of tenders (CST). The comparative statement of tenders should be prepared with due care showing each element of cost (basic cost, taxes, levies, etc.) separately against each tenderer. The CST should be prepared soon after opening of the commercial bids and got vetted by the IFA as to its correctness, where financial powers are to be exercised with the concurrence of integrated finance.

New provisions (page 35)

- 4.13.1 **Preparation of the Comparative Statement of Tenders:** After opening of the commercial bids (of QR-compliant tenderers in the case of two bid system and after approval of the TEC report by the CFA), the procuring agency should prepare a comparative statement of tenders (CST). The comparative statement of tenders should be prepared with due care showing each element of cost (basic cost of items, freight, insurance, other requirements except levies, taxes and duties levied by Central/State/Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product) separately against each tenderer. The CST should be prepared soon after opening of the commercial bids and got vetted by the IFA as to its correctness, where financial powers are to be exercised with the concurrence of integrated finance.

SI B

Existing provisions (page 36)

- 4.13.2 **Commercial Evaluation:** Evaluation of commercial bids is the core activity in any purchase decision. If the correct evaluation of quoted rates, freight, insurance, taxes, duties and other expenses involved is not carried out as per the criteria incorporated in the RFP, purchase decision may become deficient and faulty. Detailed guidelines on establishing reasonability of prices and ranking of bids are contained in Chapter 13 of this Manual.

New provisions (page 36)

- 4.13.2 **Commercial Evaluation:** Evaluation of commercial bids is the core activity in any purchase decision. If the correct evaluation of quoted basic rates of items, installation, commissioning, freight, insurance, AMC and other requirements involved is not carried out as per the criteria incorporated in the RFP, purchase decision may become deficient and faulty. Detailed guidelines on establishing reasonability of prices and ranking of bids are contained in Chapter 13 of this Manual.

S1 C

Existing provisions (page 45)

4.21.1(e) **Evaluation and comparison of substantially responsive bids:** The evaluation and comparison of responsive bids shall be done on the prices of the goods offered inclusive of all levies & taxes, such as VAT, Excise Duty and other charges such as Packing & Forwarding, Freight and Insurance etc., as indicated in the price schedule of the Bid document but exclusive of Octroi/Entry Tax, which is to be paid extra as per actual, wherever applicable.

New provisions (page 45)

4.21.1(e) **Evaluation and comparison of substantially responsive bids:** The evaluation and comparison of responsive bids shall be done on the prices of the goods offered and other charges such as Packing & Forwarding, Freight and Insurance, AMC, etc, as indicated in the price schedule of the Bid document but excluding levies, taxes and duties such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product, which are to be paid extra as per actuals, wherever applicable.

SI D

Existing provisions (page 52)

- 5.7.1 **Responsibility of CFA in Purchase Decision:** The CFA must consider all aspects of the case, including the quoted terms and conditions of the contract, delivery period, taxes and duties applicable, freight, insurance and other charges and the compliance to the specification before a purchase decision is taken. One of the important responsibilities of the CFA to ensure proper ranking of all offers so that the decision making process is totally transparent. The financial implication should be considered as the all-inclusive cost to the User on delivery to the designated consignee(s). Conditional offers and those with specifications not in conformity with the tendered specifications (Essential QRs) should not be considered. Before according sanction, concurrence of integrated finance should be taken wherever the powers are exercisable subject to such concurrence.

New provisions (page 52)

- 5.7.1 **Responsibility of CFA in Purchase Decision:** The CFA must consider all aspects of the case, including the quoted terms and conditions of the contract, delivery period, freight, insurance and other charges and the compliance to the specification before a purchase decision is taken. One of the important responsibilities of the CFA to ensure proper ranking of all offers so that the decision making process is totally transparent. Conditional offers and those with specifications not in conformity with the tendered specifications (Essential QRs) should not be considered. Before according sanction, concurrence of integrated finance should be taken wherever the powers are exercisable subject to such concurrence.

SI E

Existing provisions (page 126)

13.3.2 (a) When the competition is only among the Indian Suppliers, the F.O.R Prices at destination (Consignee's premises) should be the basis for ranking of quotations.

New provisions (page 126)

13.3.2 (a) When the competition is only among the Indian Suppliers, the F.O.R Prices at Destination, less levies, taxes and duties levied by Central/State/Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product, should generally be the basis for ranking of quotations.

S I F

Existing provisions (pages 178-179)

14 (b) In respect of Indigenous bidders

i) General

1. If Bidder desires to ask for excise duty or Sales Tax / VAT extra, the same must be specifically stated. In the absence of any such stipulation, it will be presumed that the prices include all such charges and no claim for the same will be entertained.
2. If reimbursement of any Duty/Tax is intended as extra over the quoted prices, the Bidder must specifically say so. In the absence of any such stipulation it will be presumed that the prices quoted are firm and final and no claim on account of such duty/tax will be entreated after the opening of tenders.
3. If a Bidder chooses to quote a price inclusive of any duty/tax and does not confirm inclusive of such duty/tax so included is firm and final, he should clearly indicate the rate of such duty/tax and quantum of such duty/tax included in the price. Failure to do so may result in ignoring of such offers summarily.
4. If a Bidder is exempted from payment of any duty/tax upto any value of supplies from them, he should clearly state that no such duty/tax will be charged by him up to the limit of exemption which he may have. If any concession is available in regard to rate/quantum of any Duty/tax, it should be brought out clearly. Stipulations like, the said duty/tax was presently not applicable but the same will be charged if it becomes leviable later on, will not be accepted unless in such cases it is clearly stated by a Bidder that such duty/tax will not be charged by him even if the same becomes applicable later on. In respect of the Bidders, who fail to comply with this requirement, their quoted prices shall be loaded with the quantum of such duty/tax which is normally applicable on the item in question for the purpose of comparing their prices with other Bidders.
5. Any change in any duty/tax upward/downward as a result of any statutory variation in excise taking place within contract terms shall be allowed to the extent of actual quantum of such duty/tax paid by the supplier. Similarly, in case of downward revision in any duty/tax, the actual quantum of reduction of such duty/tax shall be reimbursed to the Buyer by the Seller. All such adjustments shall include all reliefs, exemptions, rebates, concession etc. if any obtained by the Seller.

New provisions (pages 178-179)

14 (b) In respect of Indigenous bidders

i) General

1. Bidders must indicate separately the relevant Taxes/Duties likely to be paid in connection with delivery of completed goods specified in RFP. In absence of this, the total cost quoted by them in their bids will be taken into account in the ranking of bids.
2. If a Bidder is exempted from payment of any duty/tax upto any value of supplies from them, he should clearly state that no such duty/tax will be charged by them up to the limit of exemption which they may have. If any concession is available in regard to rate/quantum of any Duty/tax, it should be brought out clearly. In such cases, relevant certificate will be issued by the Buyer later to enable the Seller to obtain exemptions from taxation authorities.
3. Any changes in levies, taxes and duties levied by Central/State/Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product upward as a result of any statutory variation taking place within contract period shall be allowed reimbursement by the Buyer, to the extent of actual quantum of such duty/tax paid by the Seller. Similarly, in case of downward revision in any such duty/tax, the actual quantum of reduction of such duty/tax shall be reimbursed to the Buyer by the Seller. All such adjustments shall include all reliefs, exemptions, rebates, concession etc, if any, obtained by the Seller. Section 64-A of Sales of Goods Act will be relevant in this situation.
4. Levies, taxes and duties levied by Central/State/Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product will be paid by the Buyer on actuals, based on relevant documentary evidence. Taxes and duties on input items will not be paid by Buyer and they may not be indicted separately in the bids. Bidders are required to include the same in the pricing of their product.

SI G

Existing provisions (page 210)

1. (c) (i) In cases where only indigenous Bidders are competing, all taxes and duties (including those for which exemption certificates are issued) quoted by the Bidders will be considered. The ultimate cost to the Buyer would be the deciding factor for ranking of Bids.

New provisions (page 210)

1. (c) (i) In cases where only Indian Bidders are competing, L-1 bidder will be determined by excluding levies, taxes and duties levied by Central/State/Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product, as quoted by bidders.

SI H

Existing DPM-2009 (page 210)

1. (d) The Bidders are required to spell out the rates of Customs duty, Excise duty, VAT, Service Tax, etc in unambiguous terms; otherwise their offers will be loaded with the maximum rates of duties and taxes for the purpose of comparison of prices. If reimbursement of Customs duty / Excise Duty / VAT is intended as extra, over the quoted prices, the Bidder must specifically say so. In the absence of any such stipulation it will be presumed that the prices quoted are firm and final and no claim on account of such duties will be entrained after the opening of tenders. If a Bidder chooses to quote a price inclusive of any duty and does not confirm inclusive of such duty so included is firm and final, he should clearly indicate the rate of such duty and quantum of excise duty included in the price. Failure to do so may result in ignoring of such offers summarily. If a Bidder is exempted from payment of Customs duty / Excise Duty / VAT duty upto any value of supplies from them, they should clearly state that no excise duty will be charged by them up to the limit of exemption which they may have. If any concession is available in regard to rate/quantum of Customs duty / Excise Duty / VAT, it should be brought out clearly. Stipulations like, excise duty was presently not applicable but the same will be charged if it becomes leviable later on, will not be accepted unless in such cases it is clearly stated by a Bidder that excise duty will not be charged by him even if the same becomes applicable later on. In respect of the Bidders who fail to comply with this requirement, their quoted prices shall be loaded with the quantum of excise duty which is normally applicable on the item in question for the purpose of comparing their prices with other Bidders. The same logic applies to Customs duty and VAT also.

Proposed DPM-2009 (page 210)

(The complete para is to be deleted)

SI I

Existing provisions (page 212-213)

2. Price Bid Format: The Price Bid Format is given below and Bidders are required to fill this up correctly with full details:

a. Basic cost of the item/items:

	Item	Unit price	Qty	Total
i.	A			
ii.	B			
iii.	C			
iv.	Total of Basic Price			

b. Accessories

c. Installation / Commissioning charges

d. Training

e. Technical literature

f. Tools

g. AMC with spares

h. AMC without spares

i. Any other item

j. Is Excise Duty extra?

k. If yes, mention the following –

- i. Total value of items on which Excise Duty is leviable:
- ii. Rate of Excise duty (item-wise if different ED is applicable):
- iii. Surcharge on Excise duty, if applicable?
- iv. Total value of excise duty payable:

l. Is Excise Duty Exemption (EDE) required:

m. If yes, then mention and enclose the following:

- i. Excise notification number under which EDE can be given:

n. Is VAT extra?

o. If yes, then mention the following:

- i. Total value on which VAT is leviable:
 - ii. Rate of VAT:
 - iii. Total value of VAT leviable:

- p. Is Service Tax extra?

- q. If yes, then mention the following:
 - i. Total value of Services on which Service Tax is leviable:
 - ii. Rate of Service Tax leviable:
 - iii. Total value of Service Tax leviable:

- r. Is Custom Duty Exemption (CDE) required:

- s. If yes, then mention the following:
 - i. Custom notification number under which CDE can be given(Enclose a copy):
 - ii. CIF value of stores to be imported:
 - iii. Rate of Customs Duty payable:
 - iv. Total amount of Customs Duty payable:

- t. Octroi / Entry taxes:

- u. Any other Taxes / Duties / Overheads / Other costs:

- v. Grand Total:
 - i. Excluding AMC and spares
 - ii. Including AMC with spares

 - iii. Including AMC without spares

New provisions (page 212-213)

2. **Price Bid Format (to be used for L-1 determination):** The Price Bid Format in general is given below and Bidders are required to fill this up correctly with full details, as required under Part-II of RFP (The format indicated below is only as an illustration. This format should be filled up with items / requirements as mentioned in Part-II of RFP.) -

Basic price of -

a. Item (s) -

	Item	Unit price	Qty	Total
i.	A			
ii.	B			
iii.	C			
iv.	Total price of item (s)			

- b. Accessories
- c. Installation / Commissioning
- d. Training
- e. Technical literature
- f. Tools
- g. AMC
- h. Any other requirement

Note. 1. Determination of L-1 will be done based on total of basic prices (not including levies, taxes and duties levied by Central/State/Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product) of all items / requirements as mentioned above.

3. **Additional information in Price Bid on Taxes and Duties (not in scope of L-1 determination) -**

- a. Is Excise Duty extra?
- b. If yes, mention the following -
 - i. Total value of items on which Excise Duty is leviable
 - ii. Rate of Excise duty (item-wise if different ED is applicable)
 - iii. Surcharge on Excise duty, if applicable
 - iv. Total value of excise duty payable
- c. Is Excise Duty Exemption (EDE) required
- d. If yes, then mention and enclose the following:
 - i. Excise notification number under which EDE can be given
- e. Is VAT extra

f. If yes, then mention the following -

- i. Total value on which VAT is leviable
- ii. Rate of VAT
- iii. Total value of VAT leviable

g. Is Service Tax extra

h. If yes, then mention the following -

- i. Total value of Services on which Service Tax is leviable
- ii. Rate of Service Tax leviable
- iii. Total value of Service Tax leviable

j. Is Custom Duty Exemption (CDE) required

k. If yes, then mention the following -

- i. Custom notification number under which CDE can be given (enclose a copy)
- ii. CIF value of stores to be imported
- iii. Rate of Customs Duty payable
- iv. Total amount of Customs Duty payable

l. Octroi / Entry taxes

m. Any other Taxes / Duties

Sl J

Existing provisions (pages 221)

14. (b) In case of Indigenous Seller

i) General

1. If Bidder desires to ask for excise duty or Sales Tax / VAT extra, the same must be specifically stated. In the absence of any such stipulation, it will be presumed that the prices include all such charges and no claim for the same will be entertained.
2. If reimbursement of any Duty/Tax is intended as extra over the quoted prices, the Bidder must specifically say so. In the absence of any such stipulation it will be presumed that the prices quoted are firm and final and no claim on account of such duty/tax will be entreated after the opening of tenders.
3. If a Bidder chooses to quote a price inclusive of any duty/tax and does not confirm inclusive of such duty/tax so included is firm and final, he should clearly indicate the rate of such duty/tax and quantum of such duty/tax included in the price. Failure to do so may result in ignoring of such offers summarily.
4. If a Bidder is exempted from payment of any duty/tax upto any value of supplies from them, he should clearly state that no such duty/tax will be charged by him up to the limit of exemption which he may have. If any concession is available in regard to rate/quantum of any Duty/tax, it should be brought out clearly. Stipulations like, the said duty/tax was presently not applicable but the same will be charged if it becomes leviable later on, will not be accepted unless in such cases it is clearly stated by a Bidder that such duty/tax will not be charged by him even if the same becomes applicable later on. In respect of the Bidders, who fail to comply with this requirement, their quoted prices shall be loaded with the quantum of such duty/tax which is normally applicable on the item in question for the purpose of comparing their prices with other Bidders.
5. Any change in any duty/tax upward/downward as a result of any statutory variation in excise taking place within Supply Order terms shall be allowed to the extent of actual quantum of such duty/tax paid by the supplier. Similarly, in case of downward revision in any duty/tax, the actual quantum of reduction of such duty/tax shall be reimbursed to the Buyer by the Seller. All such adjustments shall include all reliefs, exemptions, rebates, concession etc. if any obtained by the Seller.

New provisions (pages 221)

14. (b) In case of Indigenous Seller

(i) General

- a. If any concession is available in regard to rate/quantum of any Duty/tax, as mentioned by the Seller in their bids, relevant certificate will be issued by the Buyer to enable the Seller to obtain exemptions from taxation authorities.
- b. Any changes in levies, taxes and duties levied by Central/State/Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product upward as a result of any statutory variation taking place within contract period shall be allowed reimbursement by the Buyer, to the extent of actual quantum of such duty/tax paid by the Seller. Similarly, in case of downward revision in any such duty/tax, the actual quantum of reduction of such duty/tax shall be reimbursed to the Buyer by the Seller. All such adjustments shall include all reliefs, exemptions, rebates, concession etc, if any, obtained by the Seller. Section 64-A of Sales of Goods Act will be relevant in this situation.
- c. Levies, taxes and duties levied by Central/State/Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product will be paid by the Buyer on actuals, based on relevant documentary evidence. Taxes and duties on input items will not be paid by Buyer and they may not be indicted separately in the bids. Bidders are required to include the same in the pricing of their product.

SL K

Existing provisions (page 258)

14 (b) In case of Indigenous Seller

i) General

1. If Bidder desires to ask for excise duty or Sales Tax / VAT extra, the same must be specifically stated. In the absence of any such stipulation, it will be presumed that the prices include all such charges and no claim for the same will be entertained.
2. If reimbursement of any Duty/Tax is intended as extra over the quoted prices, the Bidder must specifically say so. In the absence of any such stipulation it will be presumed that the prices quoted are firm and final and no claim on account of such duty/tax will be entertained after the opening of tenders.
3. If a Bidder chooses to quote a price inclusive of any duty/tax and does not confirm inclusive of such duty/tax so included is firm and final, he should clearly indicate the rate of such duty/tax and quantum of such duty/tax included in the price. Failure to do so may result in ignoring of such offers summarily.
4. If a Bidder is exempted from payment of any duty/tax upto any value of supplies from them, he should clearly state that no such duty/tax will be charged by him up to the limit of exemption which he may have. If any concession is available in regard to rate/quantum of any Duty/tax, it should be brought out clearly. Stipulations like, the said duty/tax was presently not applicable but the same will be charged if it becomes leviable later on, will not be accepted unless in such cases it is clearly stated by a Bidder that such duty/tax will not be charged by him even if the same becomes applicable later on. In respect of the Bidders, who fail to comply with this requirement, their quoted prices shall be loaded with the quantum of such duty/tax which is normally applicable on the item in question for the purpose of comparing their prices with other Bidders.
5. Any change in any duty/tax upward/downward as a result of any statutory variation in excise taking place within contract terms shall be allowed to the extent of actual quantum of such duty/tax paid by the supplier. Similarly, in case of downward revision in any duty/tax, the actual quantum of reduction of such duty/tax shall be reimbursed to the Buyer by the Seller. All such

adjustments shall include all reliefs, exemptions, rebates, concession etc. if any obtained by the Seller.

New provisions (pages 258)

14 (b) In case of Indigenous Seller

(i) General

- a. If any concession is available in regard to rate/quantum of any Duty/tax, as mentioned by the Seller in their bids, relevant certificate will be issued by the Buyer to enable the Seller to obtain exemptions from taxation authorities.
- b. Any changes in levies, taxes and duties levied by Central/State/Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product upward as a result of any statutory variation taking place within contract period shall be allowed reimbursement by the Buyer, to the extent of actual quantum of such duty/tax paid by the Seller. Similarly, in case of downward revision in any such duty/tax, the actual quantum of reduction of such duty/tax shall be reimbursed to the Buyer by the Seller. All such adjustments shall include all reliefs, exemptions, rebates, concession etc, if any, obtained by the Seller. Section 64-A of Sales of Goods Act will be relevant in this situation.
- c. Levies, taxes and duties levied by Central/State/Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product will be paid by the Buyer on actuals, based on relevant documentary evidence. Taxes and duties on input items will not be paid by Buyer and they may not be indicted separately in the bids. Bidders are required to include the same in the pricing of their product.