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July 26, 2022

Shri Alkesh Kumar Sharma, IAS  
Secretary,  
Ministry of Electronics and Information Technology,  
Electronics Niketan, 6, CGO Complex,  
Lodhi Road, New Delhi, 110003

**Subject: Indicating brand names, foreign certifications and restrictive conditions in tenders by government entities for procurement of UPS equipment**

Respected Sir,

I am writing to you on behalf of MAIT, India's apex ICT Industry body. Founded in 1982, MAIT represents India's Telecom manufacturers, IT Hardware manufacturers, Recyclers, PROs, Testing Laboratories and affiliate associations.

MAIT on behalf of the industry extends its heartiest thanks to Ministry of Electronics and Information Technology, GoI in their support on wide ranging matters related to business and compliance. We also acknowledge the good work being undertaken by MeitY to make India Atmanirbhar in the electronics sector.

Our Hon'ble PM has launched Atmanirbhar Bharat Abhiyan, the aim is to make the country and its citizens independent and self-reliant in all senses. Also, government has issued Public Procurement (Preference to Make in India) [PPP-MII] Order 2017 vide the Department for Promotion of Industry and Internal Trade (DPIIT) Order to encourage 'Make in India' and to promote manufacturing and production of goods, services and works in India with a view to enhancing income and employment.

Despite the encouragement from the Govt it has been observed that in public procurement from Govt entities are specifying restrictive conditions asking for specific brands, foreign certifications and approvals from foreign entities in contravention to Public Procurement (Preference to Make in India) order 2017 issued by DPIIT and also in contravention to Rule 144(i) (b) & Rule 144(iii) of GFR 2017. A few examples of the same are listed below

1. **UPTIME Certification:** Centre for Development of Advanced Technology (C-DAC) had released an RFP for DATA center at NOIDA asking for the Tier III certification from UPTIME institute. Tender Details- Tender No. Tier III data centre /30(5)/2019-20-MMG (Uptime Certification).

Uptime Institute created the data center Tier classification levels over 25 years ago, and today, they remain the international standard for data center performance. Uptime Institute's data center classifications are divided into four Tiers that define criteria for maintenance, power, cooling and fault capabilities, no such classification levels are available in India. Uptime Institute charges a hefty fee per annum for such certification.

2. **Brand restrictions:** C-DAC in Tender No CDACP/NSM-DC-UPS/2020/310 under section IV – schedule of requirement in clause 7.5 for Lithium-ion battery has clearly asked for the make of battery from specific brands only which in contravention to Rule 144 (i) (b) of GFR 2017. Also, they rejected few RFP, when people quoted one of the Brand, specified, citing they are from China, on Land sharing Criteria., (though in UPS the main function is UPS, and Battery is a component, and how you can restrict component not to be used in a whole UPS (citing land sharing issues, and when you mentioned the Brand of the same).

### 3. Frost and Sullivan ranking for UPS manufacturers:

- a. Frost and Sullivan is an American business consulting firm which analyses the market size based on per year sales and preferred brands. To be in the listing of F&S a fee of approx. 15 lacs to 20 lacs is required to be paid per year by the manufacturer.
- b. Central University of Himachal Pradesh in its Tender No.1-18 /CUHP/GeM/05 with heading "Supply, Installation, Testing and Commissioning of UPS 600 VA (166 Nos)" under the criteria 01 section 05 has stated- "OEM should comply to **Frost & Sullivan** Report to be among top 5 OEMs/brands of the UPS (report/document required)".
- c. Indian Institute of Technology, Kanpur in Tender No: CC/IITK/09/1035 dated 6.11.2019 for purchase of Modular UPS has also asked for the F&S ranking for the procurement of UPS. (Under Annexure -1, eligibility criteria of OEM and bidder: serial no- 03 states- OEM should be ranked in any renowned ranking agency like **Frost and Sullivan** or equivalent)

4. **Gartner's Leaders quadrant:** IIT Patna in its Tender No.: IITP/S&P/EPR/1/CC-70/2021-22 states "OEM should be in the **Gartner's** leader's quadrant". National Centre for Disease Informatics and Research (Indian Council of Medical Research) in its tender NCDIR/ICMR/311/2019 also states "The OEM should feature as a leader / challenger in **Gartner's** Magic quadrant of latest year". Gartner is a technological research and consulting firm based in America which conducts research on technology and market trends.

Through the stated cases, it can be observed that the public entities carrying out public procurement are placing restrictive conditions (specific brand names & foreign certification) is violating Rule 144 (i) (b) of GFR 2017 and Public Procurement (Preference to Make in India) order 2017.

Since the examples specified above are pertaining to UPS & Data centres both of which come under the provision of MeitY, we would request that the Ministry issue a relevant instruction which clarify the matter & remove restrictive conditions related to the Public Procurement.

With regards,



Col AA Jafri, Retd  
Dy COO  
(Acting Director General - MAIT)

CC: Shri Amitesh Kumar Sinha, IRAS, Joint Secretary, MeitY

CC: Smt. Asha Nangia, Sr. Director, MeitY

CC: Shri Magesh Ethirajan, Director General, C-DAC