

**File No: 8(78)/2010-IPHW  
Ministry of Communications and Information Technology  
Department of Electronics and Information Technology**

Dated: April --, 2013

**GUIDELINES FOR PROVIDING PREFERENCE TO DOMESTICALLY MANUFACTURED ELECTRONIC PRODUCTS DUE TO SECURITY CONSIDERATIONS**

**Reference: Notification No. 8(78)/2010-IPHW dated 10.2.2012**

## 1. Background

- 1.1 The Government has notified the policy for providing preference to domestically manufactured electronic products in procurement due to security considerations and in Government procurement vide Notification No.8(78)/2010-IPHW dated 10.2.2012 (hereinafter called the Policy). Clause 8 of the said policy states that detailed guidelines for operationalizing the policy would be issued after the policy is notified.
- 1.2 Clause 2.2.1 of the Policy refers to its applicability to the procurement of electronic products having security implications. The products having security implications are those which are necessary for the protection of the essential security interests of the country, or are necessary for the protection of human, animal or plant life and health. The Policy also provides that the Ministries/Departments concerned would notify electronic product/s having security implications and the agencies deploying such products. The notified agencies will be required to procure the notified electronic product from a domestic manufacturer as prescribed. In furtherance of the Policy notification, the following guidelines are issued for providing preference to domestically manufactured electronic products in procurement of electronic products having security implications.

## 2. Definitions

- (i) "Bill of Material": Bill of Material (BOM), for the purposes of the Policy will be sum of costs of all inputs which go into the product (including duties and taxes levied on procurement of inputs except those for which credit / set-off can be taken) including parts, sub-parts, components, assemblies, manufacturing costs including cost of design and development/ assembling / testing/ sourcing/ power/ finance/ logistics/ insurance done in-house, and/or by external Electronic Manufacturing Service provider, royalties or licensee fee for IPR, and/or in-house R&D costs incurred/amortized to create IPR, embedded and other software integral to the device. The "profit after tax" and warranty cost of the manufacturer is not part of the BOM. Similarly, Sales and Marketing expenses including distribution charges, dealer commission, Branding and promotion are also not part of the BOM.
- (ii) "Ex-factory price" is the price declared by the manufacturer of the electronic product. All duties and taxes levied on the electronic product shall not be part of ex-factory price.
- (iii) "Bill of Material sourced from domestic manufacturers": BOM sourced from domestic manufacturers would be the sum of the costs of all inputs which go into the (This sentence is incomplete and the BoM is not getting defined) (including duties, levies and taxes levied on

**Comment [JAC1]:** Splitting the R&D cost by country is really complex and can have multiple interpretations for companies with global R&D setup. If a product/program was developed by R&D centers in multiple countries the sub-optimal choices to derive India specific R&D could be: R&D budget; # of Engineers; # of Engineering hours; value of feature; .... Any of these measure will add to the complexity of book-keeping.

**Comment [JAC2]:** Bill of Material is an inappropriate and not a practical way of measuring Value Addition as the BoM is confidential business information.

procurement of inputs except those for which credit / set-off can be taken) and which have not been imported. An imported material or service including royalty, IPR/technical fees, which is sold by a domestic trader or intermediary, shall not be considered as a domestically sourced BOM.

- (iv) "Department of Electronics and Information Technology": Department of Electronics and Information Technology (DeitY) means the Department of Electronics and Information Technology, formerly called Department of Information Technology (DIT), Ministry of Communications and Information Technology, Government of India.
- (v) "Department of Telecommunications": Department of Telecommunications (DOT) means the Department of Telecommunications, Ministry of Communications and Information Technology, Government of India.
- (vi) "Domestically Manufactured Electronic Products (DMEP)": Domestically Manufactured Electronic Products are those electronic products which are manufactured by entities that are registered and established in India, including in Special Economic Zones (SEZs), and engaged in manufacture of such electronic products in India and would include OEM and their Contract Manufacturers, but not traders. In addition, such products shall meet the criteria of domestic value-addition as laid down in the Policy, for being classified as DMEP.
- (vii) "Domestic Manufacturer": Domestic Manufacturer is a manufacturer of domestically manufactured electronic products (DMEP).
- (viii) "Electronic products having security implications": Electronic products notified under Clause 3.1.1 of these Guidelines
- (ix) "Inputs to an electronic product" include parts, sub-parts, components, assemblies, manufacturing costs including cost of design and development/ assembling/ testing/ sourcing/ power /finance /logistics/ insurance done in-house, and/or by external Electronic Manufacturing Service provider, royalties or licensee fee for IPR, and/or in-house R&D costs incurred/amortized to create IPR, embedded and other software integral to the specific product.
- (x) "Managed Service Provider (MSP)": A Managed Service Provider (MSP) is a provider of Information Technology (IT) and Communication related services, who provides such services by establishing Information Technology (IT) / Communication infrastructure. A Managed Service Provider includes System Integrators or Equipment Vendors, providing such services. (Need to define MSP, when it does not create or establish such infrastructure but just provides MS based on Infrastructure created by others)
- (xi) "Notification": Notification is an order issued under the Policy and Guidelines issued there under which specifies the preference to be provided to DMEP.
- (xii) "Policy": The policy notified by DeitY vide Reference No.8(78)/2010-IPHW dated 10.2.2012.
- ~~(xiii)~~ "Procurement of Electronic Products": Procurement of electronic products in the context of the Policy includes procuring service from Managed Service Providers. We do not understand the clause. Please clarify.

- (xiii) "Profit after Tax" would mean the net profit earned by the company after deducting all expenses like interest, depreciation and income tax.
- (xiv) "Public entity": Public entity is an entity which qualifies as a public authority under the RTI Act.
- (xv) "Verticals": Verticals in the context of electronic products are the entire line of products used in various segments of Electronic Hardware sector, and include Telecom; Mobile and hand held devices; Broadcasting; IT and Office Automation; Consumer electronics and Mass communication products; Automotive electronics; Industrial electronics; Electronic Test, Measuring and Analytical Instruments; LED products; Smart cards; Radio-frequency identification (RFID); Avionics; Strategic Electronics including Defense, Space and Atomic Energy; Medical electronics; Solar photovoltaics; power electronics. (Please clarify if Verticals and segments are being used interchangeably)

### 3. Notifying electronic products having security implications

3.1.1 Each Ministry/Department, within its domain, shall notify such electronic products as are necessary for the:

- (a) protection of the essential security interests of the country, or
- (b) protection of human, animal or plant life and health.

Provided that the rationale for such electronic products being covered under the sub-clause (a) or (b) shall be clearly detailed while notifying such items.

3.1.2 Concerned Ministry/Department may consult the Ministry of Home Affairs and Ministry of Defence while taking necessary action under Clause 3.1.1 above.

3.1.3 A Ministry/Department may designate an authority to notify electronic product/s under Clause 3.1.1 which may take a decision on which projects and which electronic products used in the said project have security implications and notify them accordingly. A Ministry/Department may designate more than one authority for this purpose.

3.2 While notifying electronic products under Clause 3.1.1 above, the Ministry/Department shall

- a. specify the Project(s) and the electronic products used in such project(s) that have security implications;
- b. state the technical specifications, as necessary, to describe the electronic products unambiguously;
- c. specify the procuring agencies engaged in procuring the said electronic product having security implications. The procuring agency may be a public entity or a private entity;
- d. specify percentage of total procurement, in value terms, for which preference is to be provided to the DMEP while procuring electronic products having security implications;

e. specify product wise, the quantum of domestic value-addition, and such other requirements for an electronic product to qualify as DMEP;

Provided further that the value addition required for an input of the DMEP to be classified as domestically sourced Bill of Material may be such as specified.

Provided that the concerned Ministry/ Department will constitute an independent and competent committee consisting of representatives from Government, user industry and technology OEMs which will also further that a Ministry/Department may also provide a road map for developing a manufacturing ecosystem of electronic products having security implications.

e. The concerned Ministry/Department or the designated notifying authority may provide the linkage and rationale between the security requirement and the domestic value addition requirement for the domestically manufactured electronic products having security implications.

3.3 It shall be mandatory for all public and private entities so notified under clause 3.2 to provide preference to domestically manufactured electronic products in respect of the products and the projects so notified.

3.4 It shall be the responsibility of concerned Ministry/Department to ensure that preference as prescribed for the notified electronic products is provided by public and private entities as per the notification. The Ministry / Department while notifying domestically manufactured electronic products having security implications may also specify suitable enforcement mechanism for successful implementation of the notification.

3.5 No notification under the clause will have retrospective effect.

#### 4. Procedure for procurement

4.1 Each Department wanting to procure equipment will make and publish their procurement manual which will give the procedures for procurement. This manual should be in the public domain. The procuring agencies shall follow their own procuring procedure subject to the preference to be provided to DMEP as per the notification

4.2 For public entities, procedure as specified in the guidelines for providing preference to domestically manufactured electronic products in government procurement shall apply, mutatis mutandis.

#### 5. Value addition and Self-Certification

The procedure and norms for assessing the value addition and for self-certification shall be as specified in the guidelines for providing preference to domestically manufactured electronic products in Government procurement.

i. Value addition will be based on internationally well accepted and recognised manufacturing practices. The three stages as laid out in Substantial Transformation should be accepted as meeting the VA criteria in line with the policy. These three stages include:

a) Stage 1: Final Assembly & Test (FAT)- to be deemed to constitute value add of 25%

- b) Stage 2: FAT + PCBA (Printed Circuit Board Assembly) - to be deemed to constitute value add of 50%
- c) Stage 3: FAT+ PCBA + domestic component sourcing - to be deemed to constitute value add of 80%

## 6. Compliance

6.1 Every Ministry/Department shall monitor the implementation of the Policy.

6.2 With respect to preference to domestically manufactured electronic products having security implications each Ministry/Department shall ensure that

- a. electronic products having security implications are notified under Clause 3 of these guidelines;
- b. concerned procuring agencies provide preference to domestically manufactured electronic products notified;
- c. efforts are made to create a manufacturing ecosystem within the country for electronic products having security implications;
- d. a road map for developing a manufacturing ecosystem of electronic products having security implications should be provided which would facilitate the industry to enhance domestic manufacturing capabilities for those products;
- e. Complaints regarding lack of compliance of the policy are addressed in a time bound manner.

## 7. Monitoring

7.1 Department of Electronics and Information Technology (DeitY) shall be the nodal Department to monitor the implementation of the scheme.

7.2 Each Ministry/Department shall annually, in the month of June, send a declaration indicating the extent of compliance to the policy and reasons for non-compliance thereof, during the preceding financial year.

## 8. Reference to Department of Electronics and Information Technology

In case of a question whether an item being procured is an electronic product to be covered under the proposed policy, the matter would be referred to the Department of Electronics and Information Technology (DeitY) for clarification.

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Form 1

**Format for Self Certification regarding Domestic Value Addition in an Electronic Product**

**Comment [JAC3]:** Country of origin declaration in product (Made in India label) via substantial transformation norms should be allowed as an alternate to self-certification as it provides even greater commitment.

Date:

I \_\_\_\_\_ S/o, D/o, W/o \_\_\_\_\_, Resident of \_\_\_\_\_ do hereby solemnly affirm and declare as under:

1. That I will agree to abide by the terms and conditions of the policy of Government of India issued vide Notification No: 8(78)/2010-IPHW dated 10.2.2012.
2. That the information furnished hereinafter is correct to best of my knowledge and belief and I undertake to produce relevant records before the procuring authority or any authority so nominated by the Department of Electronics and Information Technology, Government of India for the purpose of assessing the domestic value-addition.
3. That the domestic value addition for all inputs which constitute the said electronic product has been verified by me and I am responsible for the correctness of the claims made therein.
4. That in the event of the domestic value addition of the product mentioned herein is found to be incorrect and not meeting the prescribed value-addition norms, based on the assessment of an authority so nominated by the Department of Electronics and Information Technology, Government of India for the purpose of assessing the domestic value-addition, ~~I will be disqualified for getting any domestic market preference for a period of 36 months. In addition, I will bear all costs of such an assessment. undertake corrective actions to rectify the domestic value addition of the product as specified by the Authority~~
5. That I have complied with all conditions referred to in the Notification No.. wherein preference to domestically manufactured electronic products having security implications is provided, ~~and that the procuring authority is hereby authorized to forfeit and adjust my EMD and other security amount towards such assessment cost and I undertake to pay the balance, if any, forthwith.~~

**Comment [JAC4]:** A disqualification amounting to 36 months will only drive away the manufacturers rather than incentivize compliance to the stated goal of enhancing manufacturing. This condition will be a major inheriting/deterrent factor to encourage investments.

I agree to maintain the following information as a soft copy in the Company's record for a period of 58 years and shall make this available for verification to any statutory authorities.

- i. Name and details of the Domestic Manufacturer (Registered Office, Manufacturing unit location, nature of legal entity)
- ii. Date on which this certificate is issued
- iii. Electronic Product for which the certificate is produced
- iv. Procuring agency to whom the certificate is furnished

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- v. Percentage of domestic value addition claimed
- vi. Name and contact details of the unit of the manufacturer
- vii. Sale Price of the product
- viii. Ex-Factory Price of the product
- ix. Freight, insurance and handling
- x. Total Bill of Material
- xi. List and total cost value of inputs used for manufacture of the electronic product
- xii. List and total cost of inputs which are domestically sourced. Please attach certificates from suppliers, if the input is not in-house.
- xiii. List and cost of inputs which are imported, directly or indirectly

**For and on behalf of \_\_\_\_\_ (Name of firm/entity)**

Authorized signatory (To be duly authorized by the Board of Directors)  
**<Insert Name, Designation and Contact No.>**