Gist of RSTV Big Picture - Changes in Public Procurement Rules

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What's in the news?

- The Government of India has amended the General Financial Rules 2017 to enable imposition of restrictions on bidders from countries which share a land border with India on the grounds of national security and defence.
- As per the order of The Department of Expenditure, any bidder from such countries will be eligible to bid in any procurement, be it goods, services or works, if and only if the bidder is registered with the Competent Authority.
- **Competent Authority?**
    - The Competent Authority for registration will be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT).
- Political and security clearance from the Ministries of External Affairs and Home Affairs respectively will be mandatory.

What are the new changes in the rules?

- The public procurement or extended Government funded procurement through state governments in India is outside the purview of World Trade Organisation (WTO).
    - India has not signed the Agreement on Government Procurement (GPA).
    - Public procurement in India is therefore governed by the national laws.
- Registration of vendors is a standard practice, which is now being extended to the bidders from countries sharing land borders with India
- The Government has made few exceptions to this rule -
    - Procurement of Covid-19 medical supplies upto December 31, 2020.
    - Countries to which the Government extends credit or provides development assistance, even if they share a land border with India.
    - Private companies.
- For national security reasons, the competent authority (registration committee) shall not be required to give reasons for rejection/cancellation of registration of a bidder.
- The order is applicable to the central government and constitutionally, directions have been given to the state Governments.
- It will also include public sector banks, financial institutions and public private partnership units which receive financial support from the government.

Why were these changes needed in the General Financial Rules 2017?

- Earlier, when the Government invited bids from foreign bidders, it could not have different rules for companies from different countries. Therefore a subsection 11 has been added to rule 144 , which says that the Government can exclude or impose conditions on bidders from certain countries.

- To maintain uniformity in its implementation , the Central Government has given directions to the State Governments to follow the same rule under , Under article 257(1) of the Constitution.

Recent Developments:

- This is not an isolated move but a part of many initiatives already being taken up by the Indian government.
  - The government has changed Foreign Direct Investment (FDI) policy by putting a ban on investments made from countries sharing a border with India via the automatic route.
    - Under the automatic route, the companies inform government authorities about the investment only after the investment has been made, hence, preventing government intervention during the process.
  - The Government has disallowed global tenders in government procurement up to Rs 200 crore, to boost the business of Indian Micro, Small and Medium Enterprises (MSMEs).
  - The government procurement portal Government e-Marketplace (GeM) has made it mandatory for sellers to mention "country of origin" on products they wish to sell through the platform.
  - GEM has also enabled a provision for indication of the percentage of local contents in the products, with a view to promote 'Make in India'.

What is the aim behind the move?

- To insulate the economy from foreign companies from which Indian MSMEs and other manufacturers are facing unfair competition, especially as they are in loss due to the Covid-19 induced market recession.
- To prompt Atma Nirbhar Bharat or self-reliant India.
- To discourage Chinese companies from entering the market by imposing security and political clearances, due to the associated security threats.
  - The move came after People's Bank of China (PBoC) increased its shareholding in Housing Development Finance Corporation (HDFC) to more than one per cent.
- It is a clear message to other countries that national security and interests come first in the changing geopolitical global situation.

How much impetus will it give to the domestic companies?

- Indian bidders face policy and registration restrictions in other countries including China as well.
- Now, financially strong Indian contractors will be encouraged to bid for large projects such as highway, telecom , power distribution etc.
- Government is planning an Import monitoring mechanism to :
  - Impose product-specific monitoring systems.
  - Allowing imported goods only through licensing by adding them to the restricted list.
- It will encourage innovation in Indian manufacturing and services sector besides promoting research and development.

Best way forward:

- Making credit more affordable and accessible for Indian companies to promote Ease of Doing Business is the need of the hour.
- Private companies need to build resilience to be able to survive without Chinese components, goods and services.

- Spare parts being sourced from China can be procured from other countries.
- The consumers need to change their price and brand preferences given the changing market situation, as the new investment and procurement rules come in.

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