# Bihar Government

## Finance Department

### Notification

**Notification No.** M-4-03/2021...8550.../**F.** **Patna, Date**...07-08-2024...

In exercise of the powers conferred under Rule 131 (B) of the Bihar Finance Rules, 1950, the State Government hereby makes the following policy for preference to local industrial units/ enterprises in the procurement of goods and services.

## Chapter I - Preliminary

| # | Title | Description |
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| 1. | **Short title, extent, and commencement** | |
| | | (1) This policy may be called the Bihar Purchase Preference Policy, 2024.<br>(2) It shall extend to the whole of the State of Bihar.<br>(3) It shall come into force immediately on its publication in the Official Gazette. |
| 2. | **Objectives** | |
| | | The objective of this policy shall be as follows, namely:<br>(1) To facilitate growth of local industrial units/ enterprises and to maximize employment opportunities for the local people of the State of Bihar,<br>(2) Increased participation by local industrial units/ enterprises in the procurements undertaken by the procuring entity with special focus on Bihar Micro and Small Enterprises (MSEs) and Start-Ups, and<br>(3) Enhancement of competitiveness amongst the local industrial units/ enterprises with special focus on Bihar Micro and Small Enterprises (MSEs) and Start-Ups. |
| 3. | **Definitions** | |
| | | (1) "Bihar Micro and Small Enterprises (BMSEs)" shall mean a micro and small enterprise which has its own production facilities within the territorial jurisdiction of Bihar, has a valid Udyam Registration and shall meet the minimum local content requirement;<br>(2) "Consultancy services" covers a range of services that are of an advisory or professional nature and are provided by consultants. These services typically involve providing expert or strategic advice e.g., management consultants, policy consultants or communications consultants. Advisory and project related consultancy services which include, for example: feasibility studies, project management, engineering services, architectural services, finance accounting and taxation services, training |

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| | | and development. It may include small works or supply of goods or other services which are incidental or consequential to such services if the value of works or goods or both does not exceed that of the consultancy services themselves;<br>(3) "Industrial Units/ Enterprises" hereinafter referred as 'Enterprises' shall have the same meaning as defined in the Micro, Small and Medium Enterprises Development Act, 2006 (Refer Section 2(e)) as amended from time to time);<br>(4) "Goods" means all goods as per Rule 125 of the Bihar Finance Rules, 1950 (as amended from time to time) and will also include services or works incidental to the supply of good if the value of services or works or both does not exceed that of the goods themselves;<br>(5) "L1" means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.<br>(6) "Local content" means the amount of value added in Bihar which shall, unless otherwise prescribed by the Competent Authority laid down under this policy, be the total value of the items procured (excluding net domestic indirect taxes) minus the value of content brought from outside Bihar as a proportion of the total value, in percent.;<br>(7) "Local Industrial Unit/ Enterprise" hereinafter referred as "Local Enterprise" means an enterprise, whose goods, or services offered for procurement, meets the minimum local content and other related criteria as prescribed under this policy. It shall also include "Special Category of Enterprises" as defined under Clause 9;<br>(8) "Margin of purchase preference" means the maximum extent to which the price quoted by a "Local Enterprise' may be above the L1 for the purpose of purchase preference;<br>(9) "Micro Enterprises" shall have the same meaning as defined in the Micro, Small and Medium Enterprises Development Act, 2006 and as amended from time to time;<br>(10) "Nodal Department" means the Department identified pursuant to this policy which shall notify the subject matter of procurement for purchase preference purpose for different categories of procurement (i.e. goods or services) for which sufficient local capacity and local competition exists in the State. "Department of Industries" is the Nodal Department for Goods Procurement and the respective Administrative Department will be the Nodal Department for Services procurement.<br>(11) "Non-Local Industrial Unit/ Enterprise" hereinafter referred as "Non-Local Enterprise" means an enterprise, whose goods or services offered for procurement, has the local content less than that prescribed for local enterprise under this policy; |

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| | | (12) "Other services" (including the term 'Non-consultancy services' in certain contexts) are defined by exclusion as services that cannot be classified as Consultancy Services. Other services involve routine repetitive physical or procedural non-intellectual outcomes for which quantum and performance standards can be tangibly identified and consistently applied and are bid and contracted on such basis. It may include small works, supply of goods or consultancy service, which are incidental or consequential to such services if the value of small works or goods or consultancy service or all combined together does not exceed that of the other services themselves. Other services may include transport services; logistics; carrying and forwarding (C & F services); courier services; upkeep and maintenance of office/buildings/ Estates (other than Civil & Electrical Works etc.); drilling, aerial/ drone photography, satellite imagery, mapping and similar operations etc.;<br>(13) "Procuring entity": For the purpose of this policy, "Procuring Entity" means<br>(a) any department of the State Government or it's attached or subordinate office;<br>(b) any body established or constituted by the constitution of India whose expenditure is met from Consolidated Fund of State;<br>(c) any body or board or corporation or public sector enterprise or authority or society or trust or autonomous body (by whatever name called) established and controlled or financed by an Act of the State Legislature or a body established and controlled or financed by the State Government;<br>(d) any other body which the State Government may, by Notification, specify to be a procuring entity for purpose of this policy, being a body that receives substantial financial assistance from the State Government in so far as the utilization of such assistance towards procurement is concerned;<br>(14) "Services" means any subject matter of procurement other than goods or works and includes physical, maintenance, professional, intellectual, consultancy and advisory services or any service classified or declared as such by a procuring entity and does not include appointment of any person made by any procuring entity;<br>(15) "Small Enterprises" shall have the same meaning as defined in the Micro, Small and Medium Enterprises Development Act, 2006 and as amended from time to time;<br>(16) "Special Category of enterprises" means a Micro and Small Enterprises (MSEs) situated and operated in Bihar and acknowledged with Udyam Registration including Start-ups (as defined in Bihar Start-up Policy 2022 as amended from time to time). |

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| 4. | **Applicability** | |
| | | (1) This policy is applicable to all procuring entities subject to the exemptions provided under Sub-Clause (2),(3), and(4) below. |
| | | (2) In externally aided projects, the procurement procedures stipulated in terms of such projects shall be governed by Rule 30 (xviii) of the Bihar Finance Rules 1950, as amended from time to time. |
| | | (3) Provided that before granting permission, Finance Department shall satisfy itself that the procurement procedure stipulated in terms of such assistance or agreement, are in consonance with the "Transparency, competition, fairness and elimination of arbitrariness in the procurement process and "Efficiency, Economy and Accountability in Public Procurement System. (Refer Rule 131R and Rule 131S of the Bihar Finance Rules, 1950 as amended from time to time). |
| | | (4) Subject to such notifications as may be issued in this regard by the Finance Department, the provision of Chapters II of this policy shall not apply to:<br>(a) Any procurement where the estimated cost or value of which is less than the threshold value as Finance Department may, by notification, specify for different classes or categories of procurements or procuring entities;<br>(b) Emergency procurement necessary for the management of any disaster as defined in Clause (d) of Section 2 of the Disaster Management Act, 2005 (Central Act No. 53 of 2005);<br>(c) the urgent procurement under Parliamentary, Assembly, Panchayat and local body elections;<br>(d) procurement by a procuring entity specified under sub-clause 3(13) from its subsidiary company or joint venture company in which such procuring entity has more than fifty percent share;<br>(e) subject matter of procurement for different categories (due to insufficient local capacity and local competition) has been exempted from the provision of this policy, duly notified by the Nodal Department; and<br>(f) any other procurement, as may be notified by Finance Department. |

## Chapter II – Purchase Preference

| # | Title | Description |
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| 5. | **Categories of Procurement** | |
| | | This policy shall cover the following categories of procurement:<br>(1) Goods<br>(2) Services (Consulting services, Non-Consulting and other services) |
| 6. | **Minimum Local Content and other related criteria for "Local Enterprise"** | |
| | | (1) The minimum local content requirement for goods and service-related procurement is 30%.<br>(2) For "Goods" related procurement - Local Enterprise shall be an entity registered in the State of Bihar and shall have a production facility in the State of Bihar.<br>(3) For "Service" related procurement- Local Enterprise shall be an entity registered in the State of Bihar. The entity shall be operational in the State for a minimum period of one year from the bid publication date. It must have filed GST return and paid GST in last 1 year prior to bid publication date and should have engaged 50% local people with respect to total employment generated by it in the state of Bihar prior to bid publication date. |
| 7. | **Purchase Preference (General)** | |
| | | (1) Purchase preference shall be given to "Local Enterprise" in procurements undertaken by procuring entities in the manner specified under these policies.<br>(2) In procurement of all goods or services in respect of which the Nodal Department has communicated that there is sufficient local capacity and local competition, only 'Local Enterprise' shall be eligible to bid irrespective of purchase value.<br>(3) In procurement of all goods or services, not covered by sub-clause 7(2), and with estimated value of purchases less than Rs. 100 Crore, Global Tender Enquiry shall not be issued except with the approval of Finance Department. |

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| | | (4) It shall be mandatory for the procuring entity to record reasons in writing and pass a speaking order in all cases where purchase preference related criteria is not being adhered to as provided under this policy which interalia, would be in the case of either non-participation in the bidding process by local enterprises or inability by local enterprise to match the lowest bid price offered subject to meeting the criteria related to margin of purchase preference.<br><br>(5) Enterprises engaged in simply trading and packaging which doesn't result in value addition shall not be eligible under this policy. |
| 8. | **Margin of Purchase Preference** | |
| | | The margin of purchase preference shall be 15% for the procurement of goods and services. |
| 9. | **Special Category of Enterprises** | |
| | | A procuring entity shall provide additional preferences to the special category of enterprises mentioned below as prescribed under Clause 13.<br><br>(a) Micro and Small Enterprises (MSEs) situated and operated in Bihar and acknowledged with Udyam Registration.<br>(b) Start-ups (as defined in Bihar Start-up Policy 2022 as amended from time to time).<br><br>Provided further that the special category of enterprises fulfil the following criteria: (i) Not declared ineligible under the extant policies of the State, (ii) Quality of goods and services produced is sufficiently good for the purpose. |
| 10. | **Purchase Preference for Goods Procurement** | |
| | | (1) **Divisible Supplies** – In the procurements of goods (excluding goods from exclusive list), which are not covered by Sub-Clause 7(2) and are divisible in nature, where the bid is evaluated on price alone, the "Local Enterprise" shall get purchase preference over "Non-Local Enterprise", as per following procedure:<br><br>(a) Among all qualified bids, the lowest bid will be termed as L1. If L1 is a "Local Enterprise-", then L1 is the selected as supplier for 100% quantity.<br><br>(b) If L1 is a "Non-Local Enterprise" then the following procedure for purchase preference shall be followed:<br><br>(i) 75% of the order quantity shall be awarded to L1. |

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| | | (ii) The lowest bidder among the "Local Enterprise" within the margin of purchase preference will be invited to match the L1 price for the remaining 25% of the quantity, and contract for that quantity shall be awarded to such "Local Enterprise" subject to matching the L1 price. In case such lowest eligible "Local Enterprise" fails to match the L1 price or accepts less than the offered quantity, the next higher "Local Enterprise" 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 case some quantity is still left uncovered by "Local Enterprise", then such balance quantity may also be ordered to the L1 bidder.<br><br>**Note**: In case more than one local enterprises have quoted the same price and are within the margin of purchase preference, the applicable order quantity mentioned above shall be equally divided amongst those. |
| | | (2) **Non-Divisible Supplies** – In the procurements of goods, which are not covered by Sub-Clause 7(2) above and which are not divisible in nature, the "Local Enterprise" shall get purchase preference over "Non-Local Enterprise", as per following procedure:<br><br>(a) Among all qualified bids, the lowest bid will be termed as L1. If L1 is "'Local Enterprise" then the contract for full quantity will be awarded to such local enterprise.<br><br>(b) If L1 is a "Non-Local Enterprise", then the following procedure for purchase preference shall be followed:<br><br>(i) The lowest bidder among "Local Enterprise" within the margin of purchase preference shall be invited to match the L1 price, and the contract shall be awarded to such "Local Enterprise" subject to matching the L1 price and so on. In case such lowest eligible "Local Enterprise" fails to match the L1 price, the next higher "Local Enterprise" within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the "Local Enterprises" within the margin of purchase preference matches the L1 price, the contract shall be awarded as per sub-Clause 10(2)(b)(i).<br><br>(ii) In case there are no local enterprises within the margin of purchase preference or are not able to match the L1 price, the contract order for 100% quantity shall be awarded to the L1 bidder. |
| | | (3) If works (including turnkey contracts) are taken from any agency, then it shall be mandatory for the said agency to purchase at least 20% of the raw materials or essential materials for the work (earmarked materials/ raw materials by the Industries Department/ respective Administrative Departments) from the local enterprises. Accordingly, conditions will be laid |

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| | | down in the tender. Royalty items like Sand, Brick, stone crush etc. shall be excluded from the total value of the works contract. |
| 11. | **Purchase Preference for Services Procurement** | |
| | | (1) The preference shall be given to "Local Enterprise" in case of procurement of services meeting the following criteria(s):<br>(a) Should be an entity registered in the State of Bihar and have an office in the State (including State GST registration),<br>(b) Should be operational in the State for a minimum period of one year prior to the bid publication date,<br>(c) Should have filed GST return and paid GST for at least one year prior to the bid publication date,<br>(d) Should have engaged 50% local people with respect to total employment generated by it in the state of Bihar prior to bid publication date, and<br>(e) At least 50% of the contracted service value (on the basis of invoicing) shall be performed by the registered office in the state.<br>**Exclusions:**<br>(a) In case of services which are highly technical or complex in nature requiring expertise to be brought from outside the state, the provisions mentioned above may not be applicable.<br>(b) Procuring entity shall be responsible to decide on the quality of service required by them and apply above provision accordingly.<br>***Note:*** *This exclusion shall not be applicable to the procurement of services which are non-technical in nature.* |
| | | (2) In the procurements of services, which are not covered by Sub-Clause 7(2) above where the bid is evaluated on price alone, the "Local Enterprise" shall get purchase preference over "Non-Local Enterprise", as per following procedure:<br>(a) Among all qualified bids, the lowest bid will be termed as L1. If L1 is "Local Enterprise", the contract will be awarded in full to L1.<br>(b) If L1 is a "Non-Local Enterprise", the lowest bidder among "Local Enterprise", will be invited to match the L1 price subject to Local Enterprise's quoted price falling within the margin of purchase preference, and the contract for total quantity shall be awarded to such "Local Enterprise" subject to matching the L1 price and so on.<br>(c) In case such lowest eligible "Local Enterprise" fails to match the L1 price, the "Local Enterprise" with the next higher bid within the margin |

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| | | of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the "Local Enterprise" within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder. |
| 12. | **Exemption of small purchases** | |
| | . | Notwithstanding anything contained in Clause 7, 10 and 11, procurements where the estimated value to be procured is up to Rs. 5,00,000 (Rupees Five Lakh only) shall be exempt from the purchase preference related provisions. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this policy. |
| 13. | **Preferences for special category of enterprises** | |
| | | In order to facilitate growth of special category of enterprises in Bihar and provide opportunity to local enterprises and create avenues for employment generation, Special Category of Enterprises in Bihar shall be given preferential treatment as prescribed below:<br>(1) Tender sets shall be made available free of cost and exemption from payment of earnest money deposit/bid security to Special Category of Enterprises.<br>(2) The criteria of turnover or age of the firm shall be relaxed by 50% for the Special Category of Enterprises provided they meet the technical specifications of the goods or services to be supplied.<br>(3) Special Category of Enterprise will have to deposit 50% of the performance security amount. However, if they fail to supply after receiving the purchase order, without any appropriate reason, action will be taken against them as per the extant provisions of the Bihar Finance Rules.<br>(4) List of items shall be reserved for exclusive procurement from Special Category of Enterprises (also referred as "Exclusive List) under Sub-Clause 7(2) above. This shall be notified by the concerned Nodal Department from time to time as per the procurement priorities of the state. Procurement of such goods shall be made on the basis of competitive bidding amongst Special Category of Enterprises only. The State Government may also, by notification issued from time to time, remove such reserved items from "Exclusive List" on any valid ground such as lack of reasonable capacity and competition etc.<br>(5) For enhancing participation of Special Category of Enterprises in government procurement, the concerned Department or Procuring Entities may conduct Vendor Development Programmes or Buyer Seller Meets for Special Category of Enterprises.<br>(6) Special Provision for Procurement from Start-Ups on Nomination or |

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| | | Limited Tender<br>(a) In-charge Secretary of an Administrative Department can award work related to goods and services upto a total value of Rs. 50 Lakhs (Rupees Fifty Lakhs only) on nomination basis to Start-ups in their area of work in a year subject to a maximum limit of Rs. 10 Lakhs (Rupees Ten Lakhs only) to one Start-up. The financial limit of Rs. 50 Lakhs (Rupees Fifty Lakhs only) is fixed in a year for an Administrative Department irrespective of the number of beneficiary start-ups under this provision. One Start-up can avail this benefit only once in its lifetime under this policy.<br>(b) Administrative Departments may opt for Limited Tender amongst start-ups for work related to goods and services up to Rs. 25 Lakhs (Twenty-Five Lakhs) and order may be awarded to the lowest bidder in such cases. |
| 14. | **Requirement for specification in advance** | |
| | | The minimum local content and the margin of purchase preference shall be specified in the notice inviting tenders and shall not be varied during a particular procurement transaction. |
| 15. | **Specifications in Tenders** | |
| | | Procuring entities shall endeavour to see that eligibility condition, including on matters like turnover, Earnest Money Deposit, Years of operations, production capability and financial strength do not result in unreasonable exclusion of Local Enterprise who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the Local Enterprise. |
| 16. | **Verification of local content** | |
| | | (1) The local enterprise at the time of tender or bidding shall be required to indicate percentage of local content and provide self-certification that the item offered (quantifying the infrastructure such as the production unit, manpower, electricity consumption, raw material & land possession/building premises) meets the local content requirement for local enterprise as the case may be. They shall also give details of the location(s) at which the local value addition is made.<br>(2) In case of procurement for the value in excess of Rs. 5 crores, the local enterprise shall be required to provide a certificate from the auditor of the company (in the case of companies) or from a practicing cost accountant or chartered accountant (in respect of enterprises other than companies) giving the percentage of local content quantifying the infrastructure such as the production unit, manpower, electricity consumption, raw material & land possession/building premises. |

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| 17. | **Grievance Redressal** | |
| | | Decisions on complaints relating to implementation of this policy shall be taken by the in-charge Secretary of the concerned Administrative Department who shall be empowered to look into procurement related complaints relating to the procuring entity and shall pass speaking orders which shall be duly recorded and made available to all concerned including the complainants. |
| 18. | **Action for non-compliance of the Policy** | |
| | | In case any complain is received for non-compliance of the Purchase Preference policy, Administrative Department may initiate inquiry and take appropriate action accordingly.<br>(1) In case restrictive or discriminatory conditions against Local Enterprises are included in bid documents; an inquiry shall be conducted by the Head of Department undertaking the procurement (including procurement by any entity under its administrative control) to fix responsibility for the same. Thereafter, appropriate action, administrative or otherwise, shall be taken against erring officials of procurement entities under relevant provisions.<br>(2) Administrative Departments may constitute committees with internal and external experts (including representatives from Nodal Departments as applicable) for independent verification of self-declarations and auditor's/ accountant's certificates on random basis and in the case of complaints.<br>(3) False declarations will be in breach of the Code of Integrity under relevant provision of the Bihar Finance Rules for which a bidder or its successors can be debarred for up to two years along with such other actions as may be permissible under the extant rules. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under the extant rules. |
| 19. | **Manufacture under license/ technology collaboration agreements** | |
| | | Nodal Department may make special provisions for exempting enterprises, manufacturers or bidders from meeting the stipulated local content requirement if the product is being manufactured in Bihar under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement/ transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase in local content. |

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| 20. | **Powers to grant exemption** | |
| | | (1) The Administrative Department undertaking the procurement (including procurement by any entity under its administrative control), with the approval of the Competent Authority, may by written order, for reasons to be recorded in writing,<br>(a) modify the margin of purchase preference as prescribed under Clause 8, or<br>(b) exempt any particular procurement from purchase preference.<br>(2) A copy of every such order shall be provided to the Finance Department and concerned Nodal Department.<br>(3) Competent Authorities to issue written order for exemption or modification of margin of purchase preference are:-<br>(a) above Rs. 5,00,000-up to Rs.25,00,000/-Secretary (in-charge), Administrative Department<br>(b) above Rs. 25,00,000 – up to Rs.1,00,00,000/-Minister-in-Charge<br>(c) above Rs. 1,00,00,000/ – State Cabinet<br>However, this provision shall not apply to the exclusions as made in clause 11 of this policy. |
| 21. | **State Purchase Preference Standing Committee (SPPSC)** | |
| | | (1) A State Purchase Preference Standing Committee shall be constituted by the Finance Department which shall be headed by Chief Secretary. Additional Chief Secretary/ Principal Secretary/Secretary of the Finance Department, Industries Department, Commercial Taxes Department and Information Technology Department shall be the member of the Committee. Chief Secretary may co-opt other members including technical experts as required. An officer not below the rank of joint secretary designated by the Finance Department shall be the member secretary of the Committee.<br>(2) The State Purchase Preference Standing Committee shall meet as often as necessary, but not less than once in three months. The Committee:<br>(a) Shall oversee the implementation of this policy and issues arising therefrom and make recommendations to procurement entities and concerned Administrative Department.<br>(b) Shall assess and periodically monitor compliance with this policy. |

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| | | (c) may review the local content requirements with a view to increase/decrease them, subject to availability of sufficient local competition with adequate quality.<br>(d) May review the margin of purchase preference and proportion/percentage of procurement from local enterprises as mentioned in clause 10 of this policy.<br>(e) May require furnishing of details or returns regarding compliance with this policy and related matters.<br>(f) May assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures.<br>(g) Shall oversee the implementation of this policy and issue necessary instructions if a subject matter of procurement concerns more than two departments.<br>(h) May consider any other issue relating to this policy which may arise. |
| 22. | **Powers to amend/ modify provisions in this policy** | |
| | | Finance Department may review and notify any modification related to percentage of local content and proportion/percentage of procurement from local enterprises as mentioned in clause 6 & 10 of this policy on the recommendation of the State Purchase Preference Standing Committee constituted under clause 21 of this policy. |

By order of the Governor of Bihar,

**(Lokesh Kumar Singh)**
Secretary (Resource) 07/8/2024

**Memo:-**M-4-03/2021 8550 **/F.** **Patna, Dated** 07-08-2024

**Copy forwarded to:-**Accountant General, Bihar, Virchand Patel Path, Patna-800001 for information and necessary action.

**Secretary (Resource)**
07/8/2024

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**Copy forwarded to:-** All Additional Chief Secretary/ Principal Secretary/ Secretary/ /All Head of Department/All Divisional Commissioner/All District Magistrate/All Treasury officer, Bihar for information and necessary action.

**Secretary (Resource)**
07/8/2024

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**Secretary (Resource)**
07/8/2024