

O/o General Manager CFA
MM/TENDER

Chennai Telephones
2, Kushkumar Road,
Nungambakkam, Chennai -600 034



भारत संचार निगम लिमिटेड
(भारत सरकार का उद्यम)
BHARAT SANCHAR NIGAM LIMITED
(A Government of India Enterprise)

No. AGM (Tender)/EOI/Infrastructure Mtce/21-22/2

dtd. @ Chennai, the 21-07-2021

Sub: Corrigendum to the E-tender for EOI for Infrastructure maintenance at selected Locations in Chennai Telephones-Reg.

Ref: E-Tender No. . AGM (Tender)/EOI/Infrastructure Mtce/21-22/1 dt 07.07.2021

CORRIGENDUM

With reference to the above tender additional clauses 11 & 12 in section 5 Part A is included in the tender document as Addendum.


Assistant General Manager (Tender)
BSNL, Chennai Telephones

सहायक महानिर्देशक (टेंडर)
Assistant General Manager (Tender)
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ADDENDUM

Section 5- Part A

11. Restrictions under Rule 144(xi) of the General Financial Rules (GFRs) 2017, on grounds of Defense of India and National Security.
- 11.1 Bidder's from a country which shares a land border with India will not be eligible to participate in this tender, unless the bidder is registered with Department for Promotion of Industry and Internal Trade (DPIIT) under Order (Public procurement No. 1) issued by Ministry of Finance, Department of Expenditure in line with OM No. F.No.6/18/2019-PPD dt 23rd July, 2020 inserting Rule 144 (xi) in GFR 2017.
- 11.2 Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.
- 11.3 "Bidder" (including the term 'tenderer', 'consultant', or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- 11.4 "Bidder from a country which shares a land border with India" for the purpose of the Order means:-
- a. An entity incorporated, established or registered in such a country; or
 - b. A subsidiary of an entity incorporated, established or registered in such a country; or
 - c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
 - d. An entity whose beneficial owner is situated in such a country; or
 - e. An Indian (or other) agent of such an entity; or
 - f. A natural person who is a citizen of such a country; or
 - g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- 11.5 The beneficial owner for the purpose of 11.4 above will be as under:
- 11.5.1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.
- a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five percent of shares or capital or profits of the company;
 - b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
- 11.5.2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
- Read, Understood, agreed and complied with

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11.5.3. In case of unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;

11.5.4. Where no natural person is identified under 11.5.1 or 11.5.2 or 11.5.3 above, the beneficial owner is the relevant natural person who holds the position of senior managing official;

11.5.5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

11.6 An agent is a person employed to do any act for another, or to represent another in dealings with third person.

11.7 The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.

11.8 In respect of tenders, registration should be valid at the time of submission of bids and at the time of acceptance of bids.

11.9 Bidders not having a land border with India are to submit Annexure – I. Firms which do not submit Annexure – I will be considered as non-responsive and could be summarily rejected.

11.10 Bidders having a land border with India are to submit Annexure – II. Firms which do not submit Annexure – II will be considered as non-responsive and could be summarily rejected.

ANNEXURE - I

Certificate with regard to the bidder not having a land border with India

Tender No. _____ Date: _____

“I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that M/s. _____ is not from such a country.

For and on behalf of (Name of firm/entity) Authorized signatory

ANNEXURE – II

Certificate with regard to the bidder having a land border with India

Tender No. _____ Date: _____

I hereby certify that, M/s. _____ fulfills all requirements in this regard and is eligible to be considered. [Evidence of valid registration by the Competent Authority should be attached.

For and on behalf of (Name of firm/entity) Authorized signatory

Read, Understood, agreed and complied with

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12. Public Procurement(Preference to make in India) under rule 153(iii) of the General Financial Rules (GFRs)2017 as per Order no.P-45021/2/2017-PP(BE-II), Ministry of commerce and Industry Department for promotion of Industry and internal Trade(Public Procurement section)

12.1 Local content means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured(excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value in percent.

“Class-I Local supplier” means a supplier or service provider, whose goods , services or works offered for procurement, meets the minimum local content as prescribed for Class-I local supplier under the order.

Class-II local supplier means a supplier or service provider, whose goods , services or works offered for procurement, meets the minimum local content as prescribed for Class-II local supplier but less than that prescribed for class-I local supplier under the order

Non – Local supplier means a supplier or service provider, whose goods , services or works offered for procurement, has local content less than that prescribed for class-II local supplier under the order

L1-Means the lowest tender or Lowest bid or the lowest quotation received in a tender, bidding process or other procurement as adjudged in the evaluation process as per the tender or other procurement solicitation

Margin of purchase preference means the maximum extent to which the price quoted by a Class-I local supplier may be above the L1 for the purpose of preference.

Nodal Ministry means the Ministry or Department identified pursuant to the order in respect of a particular items of goods or services or works

Procuring entity means a Ministry or department or attached or subordinate office of or autonomous body controlled by the Government of India and includes Government companies as defined in the Companies Act.

Works means all works as per Rule 130 of GFR – 2017 and will also include turnkey works.

12.2 Eligibility of Class-I local supplier/Class-II local supplier/Non-Local suppliers

- a) In procurement of all goods services or works in respect of which the nodal Ministry/Department has communicated that there is sufficient local capacity and local competition, only Class-I local supplier as defined under the order shall be eligible to bid

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irrespective of purchase value.

- b) Only Class-I local supplier and Class-II local supplier as defined under the order, shall be eligible to bid in procurements undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquires Non-local suppliers shall also be eligible to bid along with class-I local suppliers and Class-II local suppliers in procurement of all goods, services or works, not covered by sub para 12.2(a) above and with estimated value of purchases less than Rs.200 Crore. In accordance with Rule161(iv) of GFR,2017. Global tender enquiry shall not be issued except with the approval of competent authority as designated by Department of Expenditure.
- c) For the purpose of the order works include Engineering , Procurement and construction(EPC) contracts and services include System Integrator(SI) contracts

12.3 Purchase Preference:

a) Subject to the provisions of the order and to any specific instructions issued by the Nodal Ministry or in pursuance of the order ,purchase preference shall be given to Class- I local supplier in procurement undertaken by procuring entities in the manner specified here under

b) In the procurement of goods or works which are covered by para 12.2 (b) above and which are divisible in nature the Class-I local supplier shall get purchase preference over class-II local supplier as well as Non-local supplier as per following procedure.

i) Among all qualified bids, the lowest bid will be termed as L1, if L1 is Class-I local supplier the contract for full quantity will be awarded to L1.

ii) If L1 bid is not a class-I local supplier 50% of the order quantity shall be awarded to L1. Thereafter the lowest bidder among the Class-I local supplier will be invited to match the L1 price for the remaining 50% quantity subject to the class –I local supplier's quoted price falling within the margin of purchase preference and contract for that quantity shall be awarded to such class-I local supplier subject to matching the L1 price. In case such lowest eligible class-I local supplier fails to match the L1 price or accept less than the offered quantity the next higher class-I local supplier 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 on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.

c) In the procurements of goods or works which are covered by para 12.2(b) above and which are not divisible in nature and in procurement of services where the bid is evaluated on price alone, the class-I local supplier shall get purchase preference over class-II local supplier as well as Non-local supplier as per following procedure.

i) Among all qualified bids, the lowest bid will be termed as L1, if L1 is Class-I local supplier the contract will be awarded to L1.

ii) If L1 is not Class-I local supplier the lowest bidder among the Class-I local supplier will be invited to match the L1 price subject to class-I local suppliers quoted price falling within the margin of purchase preference and the contract shall be

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awarded to such Class-I local supplier subject to matching the L1 price.

iii) In case such lowest eligible class-I local supplier fails to match the L1 price, the class-I local supplier with the next higher bid 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 of the class-I local supplier within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder.

- d) Class- II local supplier will not get purchase preference in any procurement undertaken by procuring entities.

12.3.1 Applicability for contract to be awarded to multiple bidders.

In tenders where contract is awarded to multiple bidders subject to matching of L1 rated or otherwise, the Class-I local supplier shall get purchase preference over Class-II local supplier as well as Non-Local supplier as per following procedure.

- a) In case there is sufficient local capacity and competition for the item to be procure, as notified by the nodal Ministry, only Class-I local suppliers shall be eligible to bid. As such the multiple suppliers who would be awarded the contract should be all and only Class-I local suppliers.
- b) In other cases, Class-II local suppliers and Non-local suppliers may also participate in the bidding along with Class-I local suppliers as per provisions.
- c) If class I- local suppliers quality for award of contract for at least 50% of the tendered quantity in any tender the contract may be awarded to all the qualified bidders as per award criteria stipulated in the bid documents. However in case Class-I local suppliers do not qualify for award of contract for at least 50% of the tendered quantity, purchase preference should be given to the Class-I local supplier over class-II local supplier/Non local suppliers provided that their quoted rate fall within 20% margin of purchase preference of the highest quoted bidder considered for award of contract so as to ensure that the class-I local suppliers taken in totality are considered for award of contract for at least 50% of the tendered quantity.
- d) First purchase preference has to be given to the lowest quoting Class-I local supplier whose quoted rates fall within 20% margin of purchase preference subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. If the lowest quoting Class-I local supplier does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to next higher Class-I local supplier falling within in 20% margin of purchase preference and so on.
- e) To avoid ambiguity during bid evaluation process the procuring entities may stipulate its own tender specific criteria for award of contract amongst different bidders including the procedure for purchase preference to Class-I local supplier within the broad policy guidelines in sub-paras above.

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- 12.4 Exemption of small purchase: Notwithstanding anything contained in paragraph 12.2 procurements where the estimated value to be procured is less than Rs.5 lakhs shall be exempt from the order. However it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions in the order.
- 12.5 Minimum Local content: The local content requirement to categorize a supplier as Class-I local supplier is minimum 50% .For Class-II local supplier, the local content requirement is minimum 20%.Nodal Ministry/ Department may prescribe only a higher percentage of minimum local content requirement to categorize a supplier as Class-I local supplier/ Class-II local supplier. For the items for which nodal ministry/Department has not prescribed higher minimum local content , it shall be 50% and 20% for Class-I local supplier/ Class-II local supplier respectively.
- 12.6 Margin of purchase preference: The margin of purchase preference shall be 20%
- 12.7.1 The Class-I local supplier/ Class-II local supplier at the time of bidding or solicitation shall be required to indicate percentage of local content and provide self –certification that the items offered meets the local content requirement for Class-I local supplier/ Class-II local supplier. Also shall give details of the location(s) at which the local value addition is made.
- 12.7.2 In cases of procurement for a value in excess of Rs.10 Cores. The class-I local supplier./ class-II local supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company(in case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
- 12.7.3 Decisions on complaints relating to implementation of the order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.
- 12.7.4 Nodal/Ministry may constitute committees with internal and external experts for independent verification of self-declarations and auditors'/accountant's certificated on random basis and in the case of complaints.
- 12.7.5 Nodal Ministries and procuring entities may prescribe fees for such complaints.
- 12.7.6 False declaration will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per rule 151(iii) of General Financial Rules along with such other actions as may be permissible under law.
- 12.7.7. A supplier who has been debarred by any procuring entity for violation of the order shall not be eligible for preference under this order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall

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take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph 12.7.8 below.

12.7.8 The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that

- i) The fact and duration of debarment for violation of the order by any procuring entity are promptly brought to the notice of member-Convenor of the standing committee and the Department of Expenditure through the concerned Ministry/Department or in some other manner.
- ii) On a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s)
- iii) In respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in the such manner that ongoing procurements are not disrupted.

12.8 a) Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.

b) Procuring entities shall endeavour to see that eligibility conditions including on matters like turnover production capability and financial strength do not result in unreasonable exclusion of Class-I local supplier/Class-II local supplier who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.

c) Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs a and b above .

d. Reciprocity Clause

- i. When a Nodal Ministry/Department identifies that Indian suppliers of an item are not allowed to participate and /or compete in procurement by any foreign government , due to restrictive tender conditions which have direct or Indirect effect of barring Indian companies such as registration in the procuring country, execution of projects of specific value in the procuring country ect. It shall provide such details to all its procuring entities including CMDs/CEOs of PSEs/PSUs . State Governments and other procurement agencies under their administrative control and GeM for appropriate reciprocal action.
- ii. Entities of countries which have been identified by the nodal Ministry/Department as not allowing Indian companies to participate in their Government procurement for any item related to that nodal Ministry shall not be allowed to participate in

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Government procurement in Indian for all items related to that nodal Ministry/Department permitting their participation.

- iii. The stipulation in (ii) above shall be part of all tenders invited by the Central Government procuring entities stated in (i) above. All purchases on GeM shall also necessarily have the above provisions for items identified by Nodal Ministry/Department.
 - iv. State Governments should be encouraged to incorporate similar provisions in their respective tenders.
 - v. The term entity of a country shall have the same meaning as under the FDI policy of DPIIT as amended from time to time.
- e. Specifying foreign certifications/ unreasonable technical specification/ brands/ models in the bid document is restrictive and discriminatory practice against local suppliers if foreign certification is required to be stipulated because of non-availability of Indian Standards and/or for any reason, the same shall be done only after written approval of secretary of the Department concerned or any other Authority having been designated such power by the secretary of the Department concerned.
- f. All administrative Ministries/Departments whose procurement exceeds Rs.1000 crore per annum shall notify/update their procurement projections every year including those of the PSEs/PSUs for next 5 years on their respective website.

Read, Understood, agreed and complied with

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