



MADHYA PRADESH POWER GENERATING COMPANY LIMITED
OFFICE OF CHIEF FINANCIAL OFFICER MPPGCL
BLOCK No. 9, SHAKTI BHAWAN: JABALPUR

No. CFO / Cost Audit / 40.05/ 2023-24/2895

Jabalpur, Dated 27/03/2023

Subject: - Appointment of Cost Auditor for FY 2023-24

1. MP Power Generating Company Ltd, Jabalpur (MPPGCL), is the State owned power generating company of Madhya Pradesh with its Headquarter located at Jabalpur having its running Thermal & Hydel power stations located at various locations in the state of Madhya Pradesh Some Hydro stations have share with neighboring States of Rajasthan, Maharashtra and Uttar Pradesh as well as some hydro power stations of other states have share of MP State. The brief summary of existing units in operation as on 1st April 2022 is as under:-

Station		Installed Capacity		MPPGCL Share	Other State's Share		
		MW	Location	MW	MW	State's Name	
Thermal Plants	Amarkantak TPS		210.00	Amlai Railway Station, in District Anoopur ,Chachai, MP	210.00	0.00	
	Satpura TPS		1,330.00	Ghoradongri Railway Station, in District Betul, Sarni, MP	1,330.00	0.00	
	Sanjay Gandhi TPS		1,340.00	Pali Railway Station, in District Umaria, Birsinghpur, MP	1,340.00	0.00	
	Shri Singaji TPS		2,520.00	Dongalyia village, Khandwa Railway station in District Khandwa MP	2,520.00	0.00	
	Total Thermal		5,400.00		5,400.00	0.00	
Hydro Plants	Chambal	Gandhisagar	115.00	Located in Madhya Pradesh and operated by MPPGCL, Gandhisagar	57.50	57.50	Rajasthan
		R P Sagar	172.00	Located in Rajsthan and operated by RVPN Kota	86.00	86.00	Rajasthan
		Jawahar Sagar	99.00	Located in Rajsthan and operated by RVPN Kota.	49.50	49.50	Rajasthan
		Total Chambal	386.00		193.00	193.00	
	RaniAwantibai Sagar		90.00	About 40 km from Jabalpur in District Jabalpur Bargi, MP	90.00	0.00	
	Tons Complex (Sirmour, Deolond, Sipara, Zinna)		425.00	Sirmour, (near Rewa) MP	425.00	0.00	
	Birsinghpur		20.00	Pali Railway Station, in District Umaria,Birsinghpur, MP	20.00	0.00	
	Pench		160.00	Located near Seoni in District Umaria, Totladoh, Maharashtra	106.72	53.28	Maharashtra
	Rajghat		45.00	Chanderi MP	26.86	18.14	UP
	Madhikheda		60.00	Shivpuri district of MP	60.00	0.00	
	Total Hydro		1,186.00	0	921.58	264.42	



Total (Thermal + Hydro)	6,586.00	0	6,321.58	264.42
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2. Turnover of MPPGCL was about Rs. 9120 Cr in FY 2022.
3. It is also to clarify that in pursuance with the existing provisions of law, MPPGCL is required to get its Annual Accounts audited by the Statutory Auditor appointed by C&AG. Thereafter, Supplementary Audit is also being conducted by AGMP. The process of Statutory Audit is normally completed in the month of August after financial closure in month of March every year.
4. Company with the approval of Government of India has appointed M/s Sanjay Bhargave & Company Cost Accountants Pune as a Statutory Cost Auditor of the company for the financial year FY 22-23 for existing Power Stations of the Company. The audit fees are Rs.150000/- inclusive of all expenses like travelling, out of pocket expenses, D.A. etc. for the Auditor and all its personnel but exclusive of GST. Firm will be provided accommodation, local conveyance facility at Power Stations subject to availability, however firm has to arrange accommodation /local conveyance at their own at HQ (Jabalpur). Service Tax as applicable will be paid extra at actual to firm.
5. The Company intends to initiate the process of selection of the Cost Accountant firm for its Cost Audit for FY 2023-24. Accordingly your most competitive offer is requested on the following terms and conditions:-
 - 5.1. **Scope of Work:-** Cost Audit of MPPGCL for FY 2023-24 as is elaborated as under
 - 5.2. Examination and Verification of the correctness of Cost Records maintained by MPPGCL for commercially running Power Houses at RAO and HQ level.
 - 5.3. Verification of the correctness of Annexure to the Cost Audit Report as prescribed by the Govt.
 - 5.4. Cost Audit work as per statutory provision and preparation of Cost Audit Report as per Companies (Cost Records and Audit) Rules, 2014 or as specified by statute from time to time.
 - 5.5. Reconciliation of Profit / loss as per Costing and Financial Accounting Records.
 - 5.6. Suggestions for improvement (requisite modifications and/or additions) to the present accounting system to facilitate proper cost analysis and cost record maintenance in future.
 - 5.7. Submission of Cost Audit Report as per statutory requirement. (One soft copy and one hard copy of each to be submitted to the Cost Audit Branch of the Ministry of Company Affairs as well as two soft copies and three hard copies each to be submitted to the company, well before prescribed time limit of 180 days from closing of Financial Year).
 - 5.8. Provide /Ensure Compliance Certificate as per Statutory requirement.



- 5.10. Filling of Cost Audit & Compliance Report (if any) in XBRL mode/any other mode with MCA or with any other Statutory Authority.
- 5.11. Any other activity / report to meet the statutory requirement of Cost Audit, as may be specified by Statutory Authorities, from time to time till completion of subject Cost Audit. Any changes in the scope of work due to change in requirement of statute or any Government department in future will be accommodated by firm at quoted fees.

6. LOCATIONS OF VARIOUS RAO ARE AS UNDER

- I. ATPS Chachai :- Near Amlai Railway Station, in District Anoopur
- II. STPS Sarni :- Near Ghoradongri Railway Station, in District Betul
- III. SGTPS Birsinghpur :- Near Pali Railway Station, in District Umariya
- IV. Tons: - (Looking after account of four Hydel Power Stations viz. Sirmour, Deolond, Silpara & Jhinna) about 40 km from Rewa district.
- V. COG&HS (looked after all hydro power stations except Tons complex) and HQ are located at Jabalpur
- VI. Shri Singaji, Thermal Power Project Dongalia Distt. Khandwa

At power stations, the accommodation and local conveyance shall be arranged by the company on availability basis at no cost. However, at HQ, you will be required to make your own arrangements for accommodation and local conveyance.

7. **Basis of Selection** :- The price bid of the firms meeting qualifying requirements of past experience and financial viability as elaborated in subsequent para of this tender shall be opened on due date of opening. The lowest offer for cost audit shall be computed on total quote of including Goods & Service tax.

Procedure for Submission of Bids:

- I. **Mandatory Documents:-** The Bidder have to submit these documents in hard copies in one envelop on or before due date of submission i.e. 21/04/2023 upto 04:00 Hrs.
 - i. It should super scribe that it contains the "**Offer against Open tender for appointment of Cost Auditor with Due Date of opening 24/04/2023 12:30 PM onwards**".
 - ii. Bids are required to be submitted in below mentioned address:-
Chief Financial Officer
MP Power Generating Company Limited



Block No. 09 ,Shakti Bhawan, Vidyut Nagar, Rampur, Jabalpur 482008

a) Prequalification Requirements

i. Should be Registered with Institute of Cost Accountants of India [ICAI] and Authorized to undertake Cost Audit:

- a. The individual / firm should provide copy of latest Certificate of Practice [CoP] issued by ICAI for all the partners appearing in registration certificate valid up to 31st March 2023, and copy of registration certificate issued to firm by the Institute should be submitted. Further it is pertinent to mention that Cost Accountant/Cost Accountant firm should hold all valid certificates/documents before starting the work of audit.
- b. A self-certification that neither the partners nor the firm in any manner have been disqualified by ICAI for undertaking the subject assignment on the date of offer.

ii. Should have adequate experience of Cost Audit particularly of Coal Based thermal power station

The firm / Cost Accountant must have undertaken the Cost Audit of Power Generating Company, essentially for Coal Based Thermal Power Generation Company. The documentary evidence in the form of Letter of appointments / copy of orders in the name of firm or its partner for the work done as Cost Auditor should be provided for **any Coal Based Thermal power station have at least one unit of 210 MW capacity (except power station for captive consumption)** In case the experience criterion is met on the basis of experience of partner then his name should appear in Registration certificate issued to firm by Institute.

iii. The firm Should have adequate financial soundness.

The professional receipts of the firm should be at least Rs. 10 lakh taken together in FY 21 and FY 22. The firms should submit copy of Audited Balance Sheet & P&L Account with UDIN in support of the Turnover, in case firm is not under compulsory audit then firm has to submit copy of self-signed IT Returns/GST returns for FY21 & FY22 for verification.

- iv. Signed copy of Commercial Details of Firm for prequalification criterion as per Annexure I.
- v. Compliance Certificates as per Annexure II.
- vi. The credential and experience details duly supported by documents.



- b) Please note that offers not meeting the prequalification requirements as above are liable to be rejected.

c) **Certificate of acceptance of Terms and Conditions of tender**

- i. A certificate (Annexure III) that all the terms and conditions of the tender of MPPGCL are acceptable and there is no deviation. Please note offers submitted with deviations are liable to be disqualified.

8. **Prices:-** Please offer your lowest quote on **lump sum basis, inclusive of travel expenses and DA etc of your resource persons & supporting staff**, if required to visit to our site locations, **Power stations** as detailed in **para 1** and **HQ** etc for the purpose of audit.

No other charges, except Goods & Service Tax, shall be paid extra as per actual. In case, Goods & Service Tax is not applicable on your firm, please specifically intimate. Unless it is exclusively mentioned that Goods & Service Tax is not applicable, the quoted prices shall be loaded with prevailing rate of Goods & Service tax, for evaluation purposes. However, Goods & Service tax shall be paid as per actual. In case it is mentioned that Goods & Service tax is not applicable than the same shall not be paid even if it become applicable at subsequent stage. The firm will have to bear the same.

9. **Minimum Price/Audit Fee:-** Minimum price/Audit fee for the tender is Rs 1,57,500.
10. **Payments:-** The payment against your bill on completion of scope of work as per tender shall be made after 45 days of the submission of bill. No interest shall be payable on delayed payments, if any. No mobilization advance / midterm payment shall be made.
11. **Period for completion of Work :-** The work should be completed within 180 days from the end of Financial year or as per Statutory time limit specified / amended from time to time by the competent authorities.
12. **Penalty:-** In case of delay in completion of Cost Audit and submission of final report from the time permitted by statutory authorities ,penalty @3% per week ,subject to a maximum of 10% of the Audit Fee (excluding Goods & Service Tax) shall be levied. GST will also be recovered from the firm.
13. If any such case the decision of MD, MPPGCL shall be final and binding both on the firm and the Company.



14. **Officer In charge:** The Deputy Director (A/c) shall be the officer in charge for the contract. For all routine matters covered under the scope of this contract, clarification if any may be sought from him. His guidance / suggestion and opinion shall be final in normal course of the contract. In case of any major conflict of opinion, the matter may be discussed with Chief Financial Officer (CFO), MPPGCL.
15. **Disputes :-** In case of any / all disputes arising out of this contract, which could not be resolved mutually by the Firms and Chief Financial Officer (CFO), MPPGCL, the matter may be decided by a Competent Court at Jabalpur only.
16. **Validity:** The offer shall be valid for a period of 180 days from the date of opening of tenders.

17. **Submission & Opening of Offers:**

- a. Your offer in the desired manner must be submitted on before 04:00 pm on **21/04/2023**. The same shall be opened on **24/04/2023** at 12:30 pm onwards in presence of the representative, who wishes to witness the process of opening. Company is not liable for any delay in submission by whatsoever means.

- b. The offers must be submitted in the Annexures as specified in this tender document.

18. **Evaluation Criterion:-**

In case participating firms quote same audit fee, in such scenario evaluation of the firms offers will be done comparing below mention three criteria in following order of precedence.

Criteria	Order of Precedence	Particulars
First Criteria (Experience)	1	Numbers of Cost Audit assignment done (Completed) for Coal Based Thermal Power Station having at least one unit of 210 MW Capacity or above (excluding those for Captive Use) on the basis of Letter of appointments/copy of orders in the name of firm or its partner.
Second Criteria (Strength of the Firm)	2	No. of FCMA Partners in the Firm as per Firm Card as on 01 April 2022
Third Criteria (Financial Strength of the Firm)	3	Sum of Gross Professional Receipts of the Firm of FY 2020-21 and FY 2021-22 as per ITR/GSTR or Audited P&L.

Note: - Supposing three firms have quoted same fees for cost audit, then the firm who has maximum number of assignment as mention in particulars columns will be selected for award of work. If again there is a tie on first criteria, then evaluation will be done on second



criteria and firm who has more number of FCMA partner will be selected for award of work. This way evaluation will be carried on.

19. Bidding Process:- Bidders are required to submit their bid strictly in following manner:

19.1. Main Envelop:- This Envelop should contain following two envelopes and super scribe that it contains "**Offer against Open tender for appointment of Cost Auditor with Due Date of opening 24/04/2023 12:30 pm onwards**".

19.1.1. First Envelop: - Documents related with all Prequalification Requirements, Credentials and experience. It should super scribe that it contains "Prequalification Requirement Documents".

19.1.2. Second Envelop:- Duly filled Price Bid Format and it should super scribe that it contains " Price Bid "

All above envelopes are required to be properly sealed.

20. Disqualification

- I. If the firm fail to meet the minimum qualification criteria as specified.
- II. If the firm's offer is submitted with deviation in terms and conditions.
- III. MPPGCL may, in its own sole discretion, and at any time during the evaluation process, disqualify any applicant, if the applicant has:
 - i. Submitted the proposal after the deadline fixed.
 - ii. Made misleading or false representation in the forms.
- IV. Prices quoted below minimum price amount will not be considered for appointment [please refer para 9] and will be rejected.
- V. Price bids sent openly or in First envelop would liable for rejection.
- VI. Bidder firm or partners thereof engaged in any other work of / with MPPGCL are disqualified for bidding in this tender/inquiry on the basis of interest of conflict.
- VII. Notwithstanding to any provisions, MPPGCL reserves the right to reject any / all the offers and/or scrap this Tender, without assigning any reason.
- VIII. Offers should be sent as per bidding process mentioned in para 19/n. Offer sent through email or other electronic mode will not be considered.

21. Instructions for participation of bidders from a country which shares a land border with India

- I. Any bidder (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) from a country which shares a land border with India will be eligible to bid in the Tenders covered in the NIT only if the bidder is registered with the Competent



Authority. (Ref. Ministry of Finance GoI Order No. 6/18/2019 ~PPD Dtd.23.07.2020 uploaded with this NIT)

- II. "Bidder from a country which shares a land border with India" for the purpose of this clause 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 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
- III. The beneficial owner for the purpose of II above will be us under:
- 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.
Explanation-
 - a. "Controlling ownership interest" means ownership of or entitlement to more than twenty five per cent 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 shareholder's agreements or voting agreements.
 - 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.
 - 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;
 - 4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;




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.
- IV. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
- V. 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.
- VI. **Certificate to be submitted bidders in compliance of above:**

Certificate for Tenders: "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 this bidder is not from such a country" OR

"If from such a country, has been registered with the Competent Authority. I hereby certify that this bidder fulfils all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"

Certificate for Lenders for Works involving possibility of sub-contracting

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries"; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority and will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"


Rupesh M Shah
Chief Financial Officer
MPPGCL Jabalpur.



MADHYA PRADESH POWER GENERATING COMPANY LIMITED
OFFICE OF CHIEF FINANCIAL OFFICER MPPGCL
BLOCK No. 9, SHAKTI BHAWAN: JABALPUR

Commercial Details of Firm for prequalification criterion of firm

ANNEXURE: I

1	Full Name of the firm as per Registration certificate no with ICAI	
2	Location of Head Quarter and Branches	
3	Full Address of Head Quarter	Name of the Person
		Contact Phone Numbers
		Postal Address of Office
		e-mail id
4	Details of branch looking for the contract under question,	Name of the Person
		Contact Phone Numbers
		Postal Address of Office
		e-mail id
5	Details of Partners[1]	Total Partners
		FCMA Partners
6	Details of Certificate of Practice issued by ICAI[2]	
7	Details of Experience[3]	Year
8	Details of Annual Turnover[4]	Annual Turnover in Rs. as shown in Audited P&L Account/ ITR/GSTR
		Gross Professional Receipt
		Gross Professional Receipts as shown in ITR/GSTR/ Audited P&L.
		FY 20-21
		FY 21-22
9	Details of Employees / Staff	
10	Details of Major clients	
11	Details of works executed especially for power utilities	
12	Whether firm Registered in MSMEDA? If yes provide self signed copy of registration in MSMEDA. Benefit should only be provided on providing validity certificate as and when required.	



13 Details of Cost Audit conducted of the Thermal Power House.

S.NO.	Name of the Organization / Thermal Power station having Unit (Capacity 210 MW and Above)	Turnover (In Crores)	Whether documentary evidence of Audit has been submitted? (It is mandatory for the purpose of evaluation)
i			
ii			
iii			
Total No. of Assignments			
14	Any other detail, if wish to provide		

1. Please intimate Names and Details (ICAI registration no. etc.) of all the partners of the firm, along with details of their qualification and period of partnership. You may annex these details in separate sheet.
2. Please enclose the copies of latest CoP issued for all partners of the firm by ICAI in 1st April 2022
3. The documentary evidence in the form of Letter of appointments / copy of orders in the name of firm or its partner for the work done as Cost Auditor of any thermal power station. Offers not meeting the prequalification requirement as above are liable to be rejected. In case the experience criterion is met on the basis of experience of partner, then his name should appear in Registration certificate issued to firm by Institute as on 1st April 2022. Self Attested copy of Registration Certificate shall be provided.
4. Audited P&L and Balance sheet/ITR/GSTR for past two years (FY 21 & 22) may please be submitted to prove the minimum financial capability criteria. The turnover towards professional fee shall be considered for evaluating eligibility. Turnover mentioned in SI. no No 8 should be matched with Audited Financial Statement i.e. P&L and Balance sheet or ITR/GSTR.
5. All documents are required to be seal and self certified by the partner or proprietor.

Authorized Signatory of The Firm

Name:-

Signature:-

Seal of the Company:-



MADHYA PRADESH POWER GENERATING COMPANY LIMITED
OFFICE OF CHIEF FINANCIAL OFFICER MPPGCL
BLOCK No. 9, SHAKTI BHAWAN: JABALPUR

ANNEXURE: II

COPMLIANCE CERTIFICATES

1. This is to certify that our Firm is free from any disqualifications as specified under Section 141(3) read with section 148 and sub-section (5) of the Companies Act, 2013.
2. This is to certify that all the partners are holding Certificate of Practice issued by the Institute of Cost Accountants of India and are in whole time practice.
3. Firm's PAN No. is _____.
4. This is to certify that Firm & all the partners are having Arm's length relationship with the MPPGCL.

Authorized Signatory of The Firm

Name

Signature

Seal of the Company



ANNEXURE: III

Certificate of Acceptance

All the terms and conditions of the tender of MPPGCL are acceptable and there is no deviation.

**Authorized Signatory of The
Firm**

Name :-

Signature:-

Seal of the Company:-



Declaration by Cost Accountant Firm

It is to certify that Institute of Cost Accountants of India disqualifies neither the firm nor its partners.

Authorized Signatory of The Firm

Name :-

Signature:-

Seal of the Company:-



Price Bid

Tender no. CFO/Cost Audit/40.05/2023-24/_____ dated _____

S. No	Scope of Work	Amount in Rs.	
		In Figures	
1	Lump sum Amount for Cost Audit for the Power stations of MPPGCL for FY 2023-24 (INCLUSIVE OF ALL EXPENSES)		
2	Goods and Service Tax	In Figures	
3	Total	In Figures	
		In Words	

Note: In case of ambiguity of rates in words and figures, the lowest of two shall be considered.

Authorized Signatory of The Firm

Name :-

Signature:-

Seal of the Company:-

[1] The Goods & Service tax is to be paid extra. In case your firm is not liable to make payment of Goods & service tax on account of this contract, then for the purpose of evaluation and contract the same shall be considered nil. Therefore the factual status should be clearly mentioned. Incase of any ambiguous / conditional statement, loading of present rate of Goods & Service tax shall be made for bid evaluation purposes.



Annexure-V

Check List

Particulars	Please Tick	
	YES	NO
PQR Requirements		
Copy Of Registration Certificate of the firm.		
Copy of Latest COP issued by ICAI as on 01/04/2022 for all partners		
Letter of Appointment as Cost Auditor for Any Thermal Power Station (atleast 210 MW) Completed Assignment		
Document in support of Professional Receipts of the firm		
a) Audited Balance Sheet & P&L or copy of ITR/GSTR (if Not under compulsory Audit) for FY 21		
a) Audited Balance Sheet & P&L or copy of ITR/GSTR (if Not under compulsory Audit) for FY 22		
Total:(Turnover of the for FY 21 and FY 22 Taken together should be more than Rs.10 lakh)		
Techno Commercial Requirements		
Techno Commercial detail as per Annexure I filled		
Compliance Certificate as per Annexure II Filled		
Acceptance of Commercial terms without deviation Annexure III Filled		
Self Certification that Neither the firm nor the partners are Disqualified by ICAI Annexure IV Filled		
Check List as per Annexure V filled		
Certificate to be submitted in compliance of bidders from a country which shares a land border with India		
Bidding Process		
Whether PQR Sealed in Separate Envelop?(Envelop 1)		
Whether Priced bid Sealed in Separate Envelop?(Envelop 2)		
Whether two envelops sealed in main envelop?		
Whether all envelop duly super scribed?		

F.No.6/18/2019-PPD
Ministry of Finance
Department of Expenditure
Public Procurement Division

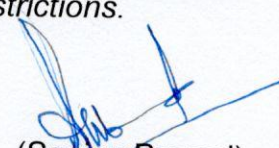
161, North Block,
New Delhi
23rd July, 2020

Office Memorandum

Subject: Insertion of Rule 144 (xi) in the General Financial Rules (GFRs), 2017

Rule 144 of the General Financial Rules 2017 entitled 'Fundamental principles of public buying', has been amended by inserting sub-rule (xi) as under:

Notwithstanding anything contained in these Rules, Department of Expenditure may, by order in writing, impose restrictions, including prior registration and/or screening, on procurement from bidders from a country or countries, or a class of countries, on grounds of defence of India, or matters directly or indirectly related thereto including national security; no procurement shall be made in violation of such restrictions.


(Sanjay Prasad)
Joint Secretary (PPD)
Email ID: js.pfc2.doe@gov.in
Telephone: 011-23093882

To,

- (1) Secretaries of All Ministries/ Departments of Government of India
- (2) Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi



F.No.6/18/2019-PPD
Ministry of Finance
Department of Expenditure
Public Procurement Division

161, North Block,
New Delhi
23rd July, 2020

Order (Public Procurement No. 1)

Subject: Restrictions under Rule 144 (xi) of the General Financial Rules (GFRs), 2017

Attention is invited to this office OM no. 6/18/2019-PPD dated 23rd July 2020 inserting Rule 144 (xi) in GFRs 2017. In this regard, the following is hereby ordered under Rule 144 (xi) on the grounds stated therein:

Requirement of registration

1. Any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in **Annex I**.
2. This Order shall not apply to (i) cases where orders have been placed or contract has been concluded or letter/notice of award/ acceptance (LoA) has been issued on or before the date of this order; and (ii) cases falling under **Annex II**.

Transitional cases

3. Tenders where no contract has been concluded or no LoA has been issued so far shall be handled in the following manner: -
 - a) *In tenders which are yet to be opened, or where evaluation of technical bid or the first exclusionary qualificatory stage (i.e. the first stage at which the qualifications of tenderers are evaluated and unqualified bidders are excluded) has not been completed:* No contracts shall be placed on bidders from such countries. Tenders received from bidders from such countries shall be dealt with as if they are non-compliant with the tender conditions and the tender shall be processed accordingly.
 - b) *If the tendering process has crossed the first exclusionary qualificatory stage:* If the qualified bidders include bidders from such countries, the

entire process shall be scrapped and initiated *de novo*. The *de novo* process shall adhere to the conditions prescribed in this Order.

- c) As far as practicable, and in cases of doubt about whether a bidder falls under paragraph 1, a certificate shall be obtained from the bidder whose bid is proposed to be considered or accepted, in terms of paras 8, 9 and 10 read with para 1 of this Order.

Incorporation in tender conditions

- 4. In tenders to be issued after the date of this order, the provisions of paragraph 1 and of other relevant provisions of this Order shall be incorporated in the tender conditions.

Applicability

- 5. Apart from Ministries / Departments, attached and subordinate bodies, notwithstanding anything contained in Rule 1 of the GFRs 2017, this Order shall also be applicable
 - a. to all Autonomous Bodies;
 - b. to public sector banks and public sector financial institutions; and
 - c. subject to any orders of the Department of Public Enterprises, to all Central Public Sector Enterprises; and
 - d. to procurement in Public Private Partnership projects receiving financial support from the Government or public sector enterprises/ undertakings.
 - e. Union Territories, National Capital Territory of Delhi and all agencies/ undertakings thereof

Definitions

- 6. "Bidder" for the purpose of this Order (including the term 'tenderer', 'consultant' 'vendor' 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.
- 7. "Tender" for the purpose of this Order will include other forms of procurement, except where the context requires otherwise.
- 8. "Bidder from a country which shares a land border with India" for the purpose of this 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

9. "Beneficial owner" for the purpose of paragraph 8 above will be as under:

- (i) 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(s), has a controlling ownership interest or who exercises control through other means.

Explanation—

- a. "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;
- b. "Control" shall include the right to appoint the 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;

- (ii) 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;

- (iii) In case of an 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;

- (iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;

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(v) 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.

10. "Agent" for the purpose of this Order is a person employed to do any act for another, or to represent another in dealings with third persons.

Sub-contracting in works contracts

11. In works contracts, including turnkey contracts, contractors 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. The definition of "contractor from a country which shares a land border with India" shall be as in paragraph 8 above. This shall not apply to sub-contracts already awarded on or before the date of this Order.

Certificate regarding compliance

12. A certificate shall be taken from bidders in the tender documents regarding their compliance with this Order. If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate termination and further legal action in accordance with law.

Validity of registration

13. In respect of tenders, registration should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly registered at the time of acceptance / placement of order, registration shall not be a relevant consideration during contract execution.

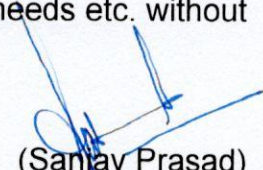
Government E-Marketplace

14. The Government E-Marketplace shall, as soon as possible, require all vendors/ bidders registered with GeM to give a certificate regarding compliance with this Order, and after the date fixed by it, shall remove non-compliant entities from GeM unless/ until they are registered in accordance with this Order.

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Model Clauses/ Certificates

15. Model Clauses and Model Certificates which may be inserted in tenders / obtained from Bidders are enclosed as **Annex III**. While adhering to the substance of the Order, procuring entities are free to appropriately modify the wording of these clauses based on their past experience, local needs etc. without making any reference to this Department.


(Sanjay Prasad)
Joint Secretary (PPD)
Email ID: js.pfc2.doe@gov.in
Telephone: 011-23093882

To

- (1) Secretaries of All Ministries/ Departments of Government of India for information and necessary action. They are also requested to inform these provisions to all procuring entities.
- (2) Secretary, Department of Public Enterprises with a request to immediately reiterate these orders in respect of Public Enterprises.
- (3) Secretary DPIIT with a request to initiate action as provided under Annex I
- (4) Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi

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Annex I: Competent Authority and Procedure for Registration

- A. The Competent Authority for the purpose of registration under this Order shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT)*.
- B. The Registration Committee shall have the following members*:
- i. An officer, not below the rank of Joint Secretary, designated for this purpose by DPIIT, who shall be the Chairman;
 - ii. Officers (ordinarily not below the rank of Joint Secretary) representing the Ministry of Home Affairs, Ministry of External Affairs, and of those Departments whose sectors are covered by applications under consideration;
 - iii. Any other officer whose presence is deemed necessary by the Chairman of the Committee.
- C. DPIIT shall lay down the method of application, format etc. for such bidders as stated in para 1 of this Order.
- D. On receipt of an application seeking registration from a bidder from a country covered by para 1 of this Order, the Competent Authority shall first seek political and security clearances from the Ministry of External Affairs and Ministry of Home Affairs, as per guidelines issued from time to time. Registration shall not be given unless political and security clearance have both been received.
- E. The Ministry of External Affairs and Ministry of Home Affairs may issue guidelines for internal use regarding the procedure for scrutiny of such applications by them.
- F. The decision of the Competent Authority, to register such bidder may be for all kinds of tenders or for a specified type(s) of goods or services, and may be for a specified or unspecified duration of time, as deemed fit. The decision of the Competent Authority shall be final.
- G. Registration shall not be granted unless the representatives of the Ministries of Home Affairs and External Affairs on the Committee concur*.
- H. Registration granted by the Competent Authority of the Government of India shall be valid not only for procurement by Central Government and its agencies/ public enterprises etc. but **also for procurement by State Governments and their agencies/ public enterprises etc. No fresh registration at the State level shall be required.**

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- I. The Competent Authority is empowered to cancel the registration already granted if it determines that there is sufficient cause. Such cancellation by itself, however, will not affect the execution of contracts already awarded. Pending cancellation, it may also suspend the registration of a bidder, and the bidder shall not be eligible to bid in any further tenders during the period of suspension.
- J. For national security reasons, the Competent Authority shall not be required to give reasons for rejection / cancellation of registration of a bidder.
- K. In transitional cases falling under para 3 of this Order, where it is felt that it will not be practicable to exclude bidders from a country which shares a land border with India, a reference seeking permission to consider such bidders shall be made by the procuring entity to the Competent Authority, giving full information and detailed reasons. The Competent Authority shall decide whether such bidders may be considered, and if so shall follow the procedure laid down in the above paras.
- L. Periodic reports on the acceptance/ refusal of registration during the preceding period may be required to be sent to the Cabinet Secretariat. Details will be issued separately in due course by DPIIT.

[*Note:

- i. In respect of application of this Order to procurement by/ under State Governments, all functions assigned to DPIIT shall be carried out by the State Government concerned through a specific department or authority designated by it. The composition of the Registration Committee shall be as decided by the State Government and paragraph G above shall not apply. However, the requirement of **political and security clearance as per para D shall remain and no registration shall be granted without such clearance.**
- ii. Registration granted by State Governments shall be valid only for procurement by the State Government and its agencies/ public enterprises etc. and shall not be valid for procurement in other states or by the Government of India and their agencies/ public enterprises etc.]

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Annex II: Special Cases

- A. Till 31st December 2020, procurement of medical supplies directly related to containment of the Covid-19 pandemic shall be exempt from the provisions of this Order.
- B. *Bona fide* procurements made through GeM without knowing the country of the bidder till the date fixed by GeM for this purpose, shall not be invalidated by this Order.
- C. *Bona fide* small procurements, made without knowing the country of the bidder, shall not be invalidated by this Order.
- D. In projects which receive international funding with the approval of the Department of Economic Affairs (DEA), Ministry of Finance, the procurement guidelines applicable to the project shall normally be followed, notwithstanding anything contained in this Order and without reference to the Competent Authority. Exceptions to this shall be decided in consultation with DEA.
- E. This Order shall not apply to procurement by Indian missions and by offices of government agencies/ undertakings located outside India.

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Annex III

Model Clause /Certificate to be inserted in tenders etc.

(While adhering to the substance of the Order, procuring entities and GeM are free to appropriately modify the wording of the clause/ certificate based on their past experience, local needs etc.)

Model Clauses for Tenders

- I. 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.
- II. "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.
- III. "Bidder from a country which shares a land border with India" for the purpose of this 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
- IV. The *beneficial owner* for the purpose of (iii) above will be as under:
 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.

Explanation—

 - a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company;

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- 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;
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;
 3. In case of an 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;
 4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 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.
- V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
- VI. *[To be inserted in tenders for Works contracts, including Turnkey contracts]* 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.

Model Certificate for Tenders (for transitional cases as stated in para 3 of this Order)

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I hereby certify that this bidder is not from such a country and is eligible to be considered."

Model Certificate for Tenders

"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 this bidder is not from such a country or, if from such a country, has been registered with the

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Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]”

Model Certificate for Tenders for Works involving possibility of sub-contracting

“I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority and will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]”

Model Certificate for GeM:

“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 this vendor/ bidder is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that this vendor/ bidder fulfills all requirements in this regard and is eligible to be considered for procurement on GeM. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]”

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