

## 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 31<sup>st</sup> 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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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. 2)**

**Subject: Exclusion from restrictions under Rule 144 (xi) of the General Financial Rules (GFRs), 2017 –regarding.**

In Order (Public Procurement No. 1) dated 23rd July 2020, orders have been issued requiring registration of bidders from a country sharing a land border with India in order to be eligible to bid in public procurement.

2. Notwithstanding anything contained therein, it is hereby clarified that the said Order will not apply to bidders from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects.

3. Updated lists of countries to which lines of credit have been extended or in which development projects are undertaken are given in the website of the Ministry of External Affairs.



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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) Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi

# **Section IV of SBD**



**I) Qualifying Requirement/ Eligibility criteria**

Utility may float tender individually or combined for Group-A & B together and may also divide Group A & B into multiple packages to derive optimal volume of work and enhance competition. Utility preferably may tender Group U towns separately.

**Group-A /U towns**

Only those bidders which meet the below mentioned minimum Qualifying Requirements shall be considered for further evaluation of Technical Proposal. The bidder or members of the consortium & their holding company shall not be based in prior referenced countries as notified by MHA, GoI at the time of bidding at the time of award.

The Bidder can be a Sole Bidder or a Consortium (of not more than two members) who shall meet the following: -

<b>I. Financial (Both lead &amp; Consortium partner shall meet the requirement individually)</b>
<p><b>i.</b> Average Annual financial turnover during the last 3 years, ending 31<sup>st</sup> March of the previous financial year, should be at least 30% of the estimated cost (<i>to be specified by utility</i>). (<b>Proof:</b> Annual Audited Financial Statements for last three financial years shall be submitted. In case Audited Financial Statements for the previous year is not prepared then certificate from statutory auditor shall be submitted certifying the annual financial turnover.)</p>
<p><b>ii.</b> The bidder should have a net worth not less than paid-up equity, in each of the last three audited financial years. (<b>Proof:</b> Annual Audited Financial Statements for last three financial years shall be submitted. In case Audited Financial Statements for the previous year is not prepared then certificate from statutory auditor shall be submitted certifying the networth)</p>
<b>II. Technical</b>
<p><b>iii.</b> <b>The following qualifying requirements (A and B) shall be met by the sole bidder. However, member meeting qualifying requirements of part A as below, shall be the lead member for the purpose of the contract:</b></p> <p><b>A</b> –The bidder shall provide evidence of previous experience in the design, engineering, supply/integration, installation, testing and commissioning of at least one SCADA &amp; DMS/EMS (Supervisory Control and Data Acquisition System &amp; Distribution Management System Projects for Power Distribution /Transmission / (11KV or above) in the last seven (7) years meeting the following:-</p> <p style="margin-left: 40px;"><b>i.</b> The above project(s) should consist of at least cumulative of all projects, 15 RTUs or Data Concentrator (DC) or Bay controller Unit (BCU or IED or in combination of these items and 30 FRTU. In case of multiple projects, each project shall have minimum 5 RTUs or Data Concentrator (DC) or Bay controller Unit (BCU or IED or in combination of these items above project should be in operation for at least one year during last 7 years from the bid due date.</p> <p><b>B-</b> bidder shall provide evidence of previous experience in the design, engineering, supply,</p>

installation, testing and commissioning of atleast one Projects for POWER DISTRIBUTION /TRANSMISSION (11KV or above) in the last seven (7) years meeting the following:

- Integration or Commissioning of data from cumulative in all projects atleast 30 RMU or Sectionlizer or Auto re-closer or in combination of these items with each project minimum quantity of 10. The above project should be in operation for atleast one year during last 7 years from the bid due date

(**Proof:** i) LoA from the owners/client and ii) certificates of Acceptance/ successful completion for work done, in support of the qualifying requirements, clearly establishing – a) the start and end date, b) operation of at least 1 year of the project, c) brief scope of work and d) cost of project, on client letterhead.

The supporting proof document must be labeled as original/true copy/translation, as the casemay be, and the same shall necessarily be signed and authenticated by the Authorised Signatory of bidder. The owner/client contact details shall be provided against each project experience proof being submitted.

The proof documents available in any language other than English shall be translated to English and authenticated by Authorised Signatory of bidder for submission. In such cases, the original language copies shall also be submitted along with the translated proof documents)

### **Group-B&C towns**

Only those bidders which meets the below mentioned minimum Qualifying Requirements shall be considered for further evaluation of Technical Proposal.

The bidder or members of the consortium & their holding company shall not be based in prior referenced countries as notified by MHA, GoI at the time of bidding.

The Bidder can be a Sole Bidder or a Consortium (of not more than two members) who shall meet the following:-

#### **I. Financial (Both lead & Consortium partner both shall meet the requirement individually)**

*i.* Average Annual financial turnover during the last 3 years, ending 31st March of the previous financial year, should be at least 30% of the estimated cost (*to be specified by utility*).

(**Proof:** Annual Audited Financial Statements for last three financial years shall be submitted. In case Audited Financial Statements for the previous year is not prepared then certificate from statutory auditor shall be submitted certifying the annual financial turnover)

*ii.* The bidder should have a net worth not less than paid-up equity, in each of the last three audited financial years.

(**Proof:** Annual Audited Financial Statements for last three financial years shall be submitted. In case Audited Financial Statements for the previous year is not prepared then certificate from statutory auditor shall be submitted certifying the net worth.)



## II. Technical

**The following qualifying requirements (A and B) shall be met by the sole bidder. However, member meeting qualifying requirements of part A as below, shall be the lead member for the purpose of the contract:**

- A. The bidder shall provide evidence of previous experience in the design, engineering, supply/ integration , installation, testing and commissioning of atleast one SCADA (Supervisory Control and Data Acquisition Projects for Power Distribution /Transmission/Generation/ railways/ Oil /Gas / water / process control industries in the last seven (7) years.

The above project(s) should consist of cumulative in all projects at least 15 RTUs or/Data Concentrator (DC) or Bay controller Unit (BCU) or IED or in combination of these items with each project minimum 5 qty The SCADA using IEC-870-5-104/101/DNP3.0/MODBUS/IEC61850 protocol. The above project should be in operation for atleast one year during last 7 years from the bid due date

- B. The bidder shall provide evidence of previous experience in the design, engineering, supply/Integration, installation, testing and commissioning of atleast one SCADA or RTDAS Project for POWER DISTRIBUTION /TRANSMISSION/GENERATION/ railways/Oil /Gas / water / process control industries in the last seven (7) years .

The above project(s) should consist of cumulative in all projects atleast 15 RTUs or Data Concentrator or DC) or Bay controller Unit (BCU) or FPI or in combination of these items with each project minimum 5 qty. The SCADA or RT-DAS using IEC-870-5-104/101/DNP3.0/MODBUS protocol . The above project should be in operation for atleast one year during last 7 years from the bid due date.

**(Proof: i) LoA from the owners/client and ii)certificates of Acceptance/ successful completion for work done, in support of the qualifying requirements, clearly establishing – a) the start and end date, b) operation of at least 1 year of the project, c) brief scope of work and d) cost of project, on client letterhead.**

The supporting proof document must be labeled as original/true copy/translation, as the case may be, and the same shall necessarily be signed and authenticated by the Authorised Signatory of bidder. The owner/client contact details shall be provided against each project experience proof being submitted.

The proof documents available in any language other than English shall be translated to English and authenticated by Authorised Signatory of bidder for submission. In such cases, the original language copies shall also be submitted along with the translated proof documents)

## II) **Evaluation Methodology**

- Single-Stage, Two-Envelope Bidding Procedure
- Only those bidders which meet the minimum Qualifying Requirements shall be considered for further evaluation of Technical Proposal Marks.
- The evaluation team will thoroughly review the proposals submitted by various bidders / consortiums. The broad evaluation will be based as following:-
  - QR compliance & Technical proposal
  - Price Proposal: 100% Weight. (Based on L1 among technically qualified bidders)
- Each of the bidders will be requested to demonstrate the product and services.
- The technical evaluation will commence post the demonstrations for understanding and shall be reason to reject bids. Rejection shall be only be made upon non-compliance of QR only.
- Alternate bids are not allowed.
- Utility, in observance of best practices, shall:
  - Maintain the bid evaluation process strictly confidential
  - Reject any attempts or pressures to distort the outcome of the evaluation, including fraud and corruption.
  - Strictly apply only and all of the evaluation and qualification criteria specified in the Bid document.

### **E-1: Single-Stage, Two-Envelope Bidding Procedure**

- In the Single-Stage, Two-Envelope bidding procedure, Bidders should submit two sealed envelopes simultaneously, one containing the QR compliance & Technical proposal and the other the Price Proposal, enclosed together in an outer single envelope. Initially, only the QR compliance & Technical proposals are opened at the date and time advised in the Bidding Document. The Price Proposals remain sealed and are held in custody by the Purchaser. The QR compliance & Technical proposals are evaluated by the Purchaser. No amendments or changes to the QR compliance & Technical proposals are permitted. The objective of the exercise is to allow the Purchaser to evaluate the Technical Proposals without reference to price.
- Bids of Bidders which do not conform to the mandatory requirements may be termed as non-responsive and will not be evaluated further. Following the approval of the technical evaluation, and at an address, date and time advised by the Purchaser, the Price Proposals are opened in public. The Price Proposals are evaluated and, following approval of the price evaluation, the Contract is awarded to the Bidder whose Bid has been determined to be have scored maximum in the composite formula as defined below:

Total Score = 100% x Price Proposal Score.