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Guidelines on GeM (02/2021)-cum-Amendment (02/2021) to SOP for GeM Tenders

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Sub: Criteria for ascertaining Financial Capability of the bidders in Procurement through GeM Portal.

Reference is invited to the provisions available in GeM portal for ascertaining the financial capability of the bidders.

In GeM portal, turnover criteria can be ascertained for either bidder, OEM or both, by specifying the requirement of Annual average turn-over in GeM bidding engine. By specifying this requirement, required pre-defined clause from ATC library is also selected. However, in case buyer decides not to evaluate bidder on the basis of turn-over requirement, Annual average turn-over may not be specified and these pre-defined ATC clauses will not be selected.

Further, there is no provision in GeM bidding engine w.r.t. ascertaining Net-worth of a bidder. The pre-defined clause available in ATC library for Net-worth is pertaining to ascertaining the Net-worth of an OEM only. This pre-defined clause is not relevant for Hiring of services.

It has also been observed that no uniform approach is being followed by the work centers with regard to ascertaining financial capability in case of procurement through GeM portal.

Considering the above, in order to have uniform approach for ascertaining financial capability of the bidders in GeM tenders, financial criteria as attached as Annexure-1 is to be followed for Procurement through GeM portal. This will also form part of SoP for GeM Tenders. The financial criteria is to be incorporated as Buyer Specific ATC/any other suitable place in case of custom bid, while creating bid through GeM Portal. It will be incorporated for Procurement of Goods where value of the tender in GeM is above Rs. 25 Crores and for Hiring of Services where annualized value of the tender in GeM is above Rs. 10 Crore. Further, the provision available in GeM bidding engine and pre-defined ATC available in GeM portal with respect to turn-over of bidder/OEM and Net-worth are not to be followed.

Above guidelines should be meticulously followed by all concerned.

(P K Goel)
GGM (MM)- Head PMC
For ED-Chief MM Services

Distribution: (Through ONGC's intranet website 'ongcreports.net').

All concerned may download the circular from the site. Hard copies are not distributed separately.

Annexure-1

Criteria for ascertaining financial capability of the bidder for Procurement through GeM Portal

(These provisions shall be incorporated in SoP for GeM Tenders at Para 10.)

(To be incorporated for Procurement of Goods where value of the tender is above Rs. 25 Crores and Hiring of Services where annualized value of the tender is above Rs.10 Crore.)

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| All the below mentioned applicable Financial Criteria shall be met by the bidders, as applicable for procurement of goods/Services: | | |
| 1. Turnover of Bidders | For Goods | Equal to or more than Rs.<< >> <i>[Value to be specified as per 30% of estimated bid value]</i> |
| | For Service Contracts | Equal to or more than Rs.<< >> <i>[Value to be specified as per 50% of annualized estimated bid value]</i> |
| 2. Net-worth of Bidder | For Goods | Positive |
| | For Service Contracts | Equal to or more than Rs.<< >> <i>[Value to be specified as per 15% of annualized estimated bid value].</i> |
| <p>The turnover of bidders to be considered for evaluation, shall be the average turnover of the last two years as brought out at note (iv) below.</p> <p>Subject to provisions under second paragraph of Note (i)-a, Net-worth, shall be based on the latest Audited Consolidated Annual Financial Statements of the bidder with all its subsidiaries.</p> <p>In case the financial statements submitted by the bidder are in currencies other than INR, BC selling rate declared by State Bank of India prevailing on the date of publication of tender in GeM portal shall be considered for converting it into INR.</p> | | |
| Notes: | | |
| Bidder can either be a single entity which includes Incorporated Joint Venture or a consortium. <i>(Applicable For Services Contract)</i> | | |
| (i) Following documents to be submitted by the bidder: | | |
| (a) The bidder shall submit its Audited consolidated financial statement with all its subsidiaries which shall be the basis for meeting the requirement under Financial Criteria. In cases where the bidding/supporting company are not required to prepare consolidated financial statement as per the statute of the country of the bidding/supporting company as applicable, the bidder shall provide justification for the same along with certificate from a practising Chartered Accountant or equivalent to this effect. In such cases the bidder shall submit the consolidated financial account as per the accounting standards of the country of the bidding/supporting company as the case may be, duly certified by the practicing chartered accountant or equivalent. | | |
| (b) Confirmation to the effect whether the bidder is quoting on his own financial capability or on the financial capability of his supporting company (refer note v (a) below). | | |

(ii) Net worth shall mean: " Share capital + Reserves created out of profits and securities premium account (excluding revaluation reserves) – deferred expenditure – Miscellaneous Expenditure to the extent not written off and carried forward Loss – Reserves created out of write back of depreciation and amalgamation".

(iii) The Consolidated Financial Statements should be audited by the auditors appointed under the statute like Companies Act etc. wherever applicable. In cases where Statutory Audit is not required as per law, Consolidated Financial statement should be audited by practising Chartered Accountant or equivalent.

Bidder will provide a statement containing the value of each financial parameter required in the tender based on bidder's audited consolidated financial statement as defined above.

(iv) For the purpose of ascertaining parameter of Turnover of the bidder, average turnover from operation of the bidder for the previous two financial years shall be considered. Average turnover from operation of the bidder for the previous two financial years shall be calculated by dividing the turnover from operation of previous two years by two, irrespective of the fact that quoted turnover for one particular year is for a period of less than 12 months or complete 12 months. The bidder will provide a copy each of audited consolidated annual Financial Statement of bidder with all its subsidiaries for previous two financial years for ascertaining their turnover. The date (i.e the financial year closing date) of the immediate previous year's audited consolidated annual Financial Statement should not be older than eighteen (18) months from the bid closing date.

(v)-(a) A bidder (other than consortium) which is not able to meet the financial criteria by itself, can also submit its bid on the basis of financial capability of a Supporting Company provided each of the following conditions are fulfilled:-

1. The bidder is supported by a supporting company which holds more than fifty percent of the paid up equity share capital of the bidder either directly or through intermediate subsidiaries.

2. The supporting company by itself and not through any other arrangement satisfies the financial criteria of the BEC.

3. Supporting Company shall furnish additional PBG equivalent to 50% of the amount of PBG submitted by bidder as per the format provided at Annexure-A.

In cases where foreign based supporting company does not have Permanent Establishment in India, the bidding company can furnish Performance Bank Guarantee for an amount which is sum of PBG amount to be submitted by the bidder and additional PBG amount required to be submitted by the supporting company subject to the condition that supporting company has 100% paid up equity share capital of the bidder either directly or through intermediate subsidiaries.

In such case bidding company shall furnish an undertaking that their foreign based supporting company is not having any Permanent Establishment in India in terms of Income Tax Act of India.

4. In such cases, all applicable financial parameters viz. Turnover & Net-worth of the supporting company only will be considered for evaluation and the financial capability of the bidding entity will not be considered for evaluation.

(v)-b. Documents to be submitted by the bidder, along with its techno-commercial bid, in case it is taking financial support from a supporting company:

1. Audited Consolidated Annual financial statement as detailed above in respect of the supporting company. Bidder will provide a statement containing the value of each financial parameter required in the tender based on supporting company's audited consolidated financial statement as defined in BEC.

2. A Corporate Guarantee from the supporting company in the prescribed format at Annexure-B (to be suitably modified as per tender).

3. A certificate from the Statutory Auditor or Company Secretary or one of the Directors of the bidding company to establish the relationship and equity percentage holding between bidder and the supporting company.

4. Authorisation letter from one of the Directors of Supporting Company authorising the signatories to execute the corporate guarantee, duly certified by the Company Secretary of the Supporting Company.

5. Undertaking shall be given by Supporting Company to submit additional PBG equivalent to 50% of the amount of PBG submitted by bidder as per the format provided at Annexure-A.

Note:

In case Supporting company fails to submit Bank Guarantee as above, EMD/SD submitted by the bidder shall be forfeited.

6. Undertaking from the supporting company to the effect that in addition to invoking the PBG submitted by the contractor, the PBG provided by supporting company shall be invoked by ONGC due to non-performance of the contractor.

The above certificates/ undertakings should be of a date after publication of tender on GeM portal.

vi. Wherever the consortium bids are allowed and the bid is from a Consortium, the bidder is required to provide Memorandum of Understanding (MOU) executed by the consortium partners in the un-priced bid. The MOU should indicate the scope of work to be performed by the respective consortium members expressed as percentage of bid value. Each consortium partner should themselves individually meet the financial criteria parameters namely turnover, net-worth in proportion to the percentage of work to be performed by them subject to minimum of 50% (of annualised estimated bid value) for the leader of the consortium and 20% (of annualised estimated bid value) for other members of the consortium. Support from parent/supporting company is not allowed to meet the financial criteria.

vii. In the tender, if there is specific provision allowing bidders to quote part quantity for each item/category/group (evaluation in that case being done item wise/category wise/ group wise), then bidder should meet financial criteria required for the item/category/group and being offered by the bidder. In case the bidder quotes for more than one item/category/group, then the bidder has to comply with the financial parameters after adding up all the item/category/group quoted by them in the tender.

viii. Above financial criteria shall also be applicable for cases where delivery/contract period for supply of goods/services is less than one year, treating the estimated bid value as the annualized estimated bid value.

Work centers should also note the following:

1. Estimated bid value shall be same as mentioned in GeM portal while creating bid.

2. *In case of item-wise or Group-wise evaluation, required values are to be specified based on the item-wise/Group wise estimated bid value (for Goods) and annualized estimated bid value (for services).*
3. *In case of Services, for specialized services as per PMC Circular 57/2020 dated 26.11.2020, provisions as mentioned therein the circular are also to be incorporated.*
4. *Work Center to incorporate Annexure as referred in the above provisions alongwith the Financial Criteria, as followed in other tenders.*

