

Notice of Invitation for Bids

1.1 GENERAL

1.1.1 Name of Work:

Delhi Metro Rail Corporation (DMRC) Ltd. invites Open e-Tenders on Local Competitive Basis (LCB) from eligible applicants, who fulfill qualification criteria as stipulated in section III of bid documents, for the work,

Contract PT- 7 : Manufacturing & Supply of 1200 MT 90 UTS, UIC 60, 13 m, Class "A" 880 Grade Rails, IRS-T-12-2009 for New ISBT Patna Depot of Patna Metro Rail Project of PMRCL

1.1.2 Key details:

Approximate cost of work	INR 7.65 Crores
Tender Security	Bidders shall upload scanned copy of Undertaking for Tender Security Declaration as per Bidding Form-7 at the time of online submission. If Undertaking for Tender Security Declaration is not submitted or is not prescribed format then such bids shall be considered ineligible and summarily rejected.
Completion period of the Work	12 months from the date of issue of Letter of Acceptance
Tender documents on sale	From 21.12.2020 to 28.01.2021 (up to 1600 hrs) on e-tendering portal https://eprocure.gov.in/eprocure/app . Tender document can only be obtained online after registration of tenderer on the website https://eprocure.gov.in/eprocure/ app . For further information in this regard tenderers are advised to contact on 011-49424307, 011-49424365 or 011-23417910, 011-23415838

<p>Cost of Tender documents (Non-Refundable)</p>	<p>INR 23,600/- (inclusive of 18% GST) Non-Refundable</p> <p>Payment of tender document cost/ tender fee is to be made only by RTGS, NEFT & IMPS. No other mode of payment will be accepted. The detail of bank account of DMRC is mentioned below. The tenderers will be required to upload scanned copies of transaction of payment of tender document cost/tender fee including e-receipt (clearly indicating UTR no. and tender reference number i.e. PT-7 must be entered in the remarks at the time of online transaction of payment, failing which payment may not be considered to be uploaded in online bid submission. No copies of transaction of payment are required to be sent to the office of ED/Track</p> <p>Note: The payment of the tender cost is acceptable from any account. However, tenderer shall submit such transaction details along with their tender submission on e-portal. If the same transaction reference number has been submitted for more than one bids. All such bids shall be considered ineligible and summarily rejected.</p> <p>(Copy of GST registration no. to be provided along with Tender document cost/ tender fee.)</p>
<p>Last Date of Seeking Clarifications</p>	<p>31.12.2020 upto 1700 hrs.</p> <p>Tenderer to note that seeking clarification on the tender shall be done by sending it either on registered official email id of DMRC i.e. trackdept@dmrc.org or on e-tendering portal only.</p> <p>Seeking clarification by fax or post will not be considered.</p> <p>Queries/clarifications from tenderer after due date and time shall not be acknowledged.</p>
<p>Pre-bid Meeting</p>	<p>07.01.2021 at 1100 hrs.</p> <p>The pre-bid meeting shall be conducted through video conferencing by software apps such as Cisco Webex, Microsoft Team, etc. All Prospective tenderers shall provide the details of the person(s) (maximum up to two) who will be participating in such virtual meeting at least one day before the meeting (latest by 1100 hrs on 06.01.2021) to the registered official email of DMRC i.e. trackdept@dmrc.org, so that links having details such as software, meeting ID, password etc. can be mailed to these persons at least 12 hours before the scheduled pre-bid meeting. Further, tenderer are requested to send Pre-bid clarifications on the registered official email of DMRC i.e. trackdept@dmrc.org latest by 1700 hrs on 31.12.2020</p> <p>Queries received after 1700 hrs on 31.12.2020 shall not be entertained.</p>
<p>Last date of issuing addendum, if any</p>	<p>15.01.2021</p>
<p>Date & time of Submission of Tender online</p>	<p>Tender submission start date: 20.01.2021 (from 0900 hrs.)</p> <p>Tender submission end date: 28.01.2021 (upto 1600 hrs.)</p>
<p>Date & time of opening of Tender online</p>	<p>29.01.2021 at 1600 hrs.</p>

Authority and place for seeking clarifications	ED/Track, Delhi Metro Rail Corporation Ltd., 8, Jantar Mantar Road, New Delhi –110001. Tel: 011-23418406 e-mail: trackdept@dmrc.org
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To facilitate payment of Tender Fee through RTGS, NEFT & IMPS, the details of bank account of DMRC is mentioned below:

Name of Bank	Bank's Address	Account Name & No.	Account Type	IFSC code
ICICI Bank	9A, Phelps Building, Connaught Place, New Delhi-110001	DMRC Ltd. Tender Cell A/C, 000705045337	Current	ICIC0000007

1.1.3 This is a **PMRCL Non JICA** funded work.

This is a **PMRCL** funded work. As per the MOU signed between DMRC and PMRCL, this work is being executed by DMRC on deposit work basis wherein there is provision of Closure of Contracts and Taking Over which is reproduced as below, "Accordingly, Tenderer shall ensure due closure of this Contract for execution of works with DMRC. Tenderer shall ensure that all risks, rewards and claims associated with this contract are settled before closure of this contract. Tenderer to note above while submitting bid with DMRC. However, if this closure is not possible within one year of Revenue Operation Date (ROD) due to arbitration etc, the further management of this contract will be handled by PMRCL".

1.1.4 **QUALIFICATION CRITERIA:**

A Eligibility Criteria (Work Experience):

(a) For the Bidders having source of Rail manufacturing facility in the country of purchaser – Domestic Bidders

The bidder must have Rail manufacturing facility in the purchaser country. The bidder shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s):

- (i) *Manufacturing & Supply of a minimum quantity of 12000 MT of Rails during last 07 years, out of which minimum 1200 MT of Rails supply should be of similar rail profile.

**Only fully completed works shall be taken into consideration for meeting work experience criteria.*

Similar work – Supply of UIC 60, 90 UTS, Class "A" 880 Grade rails conforming the specifications of IRS-T-12-2009.

- (ii) Approval for 90 UTS/880 Grade Rails manufacturing facilities by RDSO (Ministry of Railways)
- (b) Bidder shall furnish year wise and consignee wise details of supply during last seven years

ending last day of the month of tender submission.

- (c) The bidder shall furnish the details of supplies made for the goods being procured in this contract. Details should include a performance certificate which should include purchase order details, name of purchaser, the railway projects/ MRTS Project, where used / being used, the design speed and axle load of the section, quantity of rails supplied and period of supply. The details of address, contract person, fax / e mail is also to be furnished. In absence of the above statement / details, offer will be summarily rejected. In case design speed/axle load is not included in the client certificate, the bidder shall submit undertaking specifying design speed and axle load.
- (d) The bidder shall also furnish the
- Details of Current work commitments;
 - Plant and manufacturing capacity
 - Organisation set up
 - Statement & details of equipment and other facilities available.
 - Evidence of access to lines of credit and availability of other financial resources;
 - Quality control system and detailed quality assurance plan.
- (e) The Bidder shall furnish documentary evidence to demonstrate that the Goods it offers meet the following usage requirement(s): The rails proposed to be supplied in this bid are as per IRS-T-12-2009 Specifications (with all amendments). The bidder shall furnish clause by clause confirmation of IRS-T-12-2009 Specifications for the rails proposed to be supplied in this contract.
- (f) The bidder should submit Technical Proposal as per **Annexure B** of Technical Specification, in the absence of the same, offer will be summarily rejected.

Notes:

- a) Work experience of only substantial partner (partner with share of 26% or more in the JV / Consortium) shall be considered for evaluating of JV/Consortium.
- b) The tenderer shall submit details of works executed by them in the Performa of **Bidding Form 18 and 19** for the works to be considered for qualification of work experience criteria. Documentary proof of completion certificates from client clearly indicating the nature/scope of work, actual completion cost and actual date of completion for such work should be submitted. **The offers submitted without this documentary proof shall not be evaluated.** In case the work is executed for private client, copy of work order, bill of quantities, bill wise details of payment received certified by C.A., T.D.S certificates for all payments received and copy of final/last bill paid by client shall also be submitted. All the documents or certifications which are provided by CA after 1st July, 2019, must contain UDIN thereon and the particulars of certifications must be same as mentioned on document/certification and submitted to ICAI on its website which can be verified online on <https://udin.icai.org/search-udin>.
- c) For completed works, value of work done shall be updated to last day of the month previous to the month of tender submission price level assuming 5% inflation for Indian Rupees every year and 2% for foreign currency portions per year. The exchange rate of foreign currency shall be applicable 28 days before the submission date of tender.
- d) In case of joint venture / Consortium, full value of the work, if done by the same joint venture shall be considered. However, if the qualifying work(s) were done by them in JV/Consortium

having different constituents, then the value of work as per their percentage participation in such JV/Consortium shall be considered.

- e) If the above work(s) (i.e. "Similar work" comprise other works, then client's certificate clearly indicating the amount of work done in respect of the "similar work" shall be furnished by the tenderer in support of work experience along with their tender submissions.
- f) Only work experience certificate having stamp of Name and Designation of officer along with the Name of client shall be considered for evaluation. However, if any work experience certificate has been issued prior to 01.07.2019, same shall be considered for evaluation even if it is not stamped.
- g) After opening of financial bids, the work experience credentials (work experience certificate along with other documents if any) of L-1 bidder shall be sent for verification and certification to the concerned client(s). In case of any concealment or misrepresentation of facts, appropriate action(s) in accordance with Tender Conditions and "Suspension/Banning Policy, August 2019" of DMRC shall be taken. The copy of "Suspension/Banning Policy, August 2019" of DMRC can be downloaded from tender section of DMRC website i.e. www.delhimetrorail.com

B Eligible Applicants:

- I. The tenders for this contract will be considered only from those tenderers (proprietorship firms, partnerships firms, companies, corporations, consortia or joint ventures) who meet requisite eligibility criteria prescribed in the sub-clauses of Clause 1.1.4 of NIT. In the case of a JV or Consortium, all members of the Company/ Firm shall be jointly and severally liable for the performance of whole contract. The JV or Consortium shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the partners of the JV or Consortium during the tendering process and, in the event the JV or Consortium is awarded the Contract, during contract execution.
- II. (a) A non-Indian tenderer (not restricted as defined in clause 1.1.4(B) XIII below) is permitted to tender only in a joint venture or consortium arrangement with firms that are registered or incorporated in India having minimum participation interest of 74% or their wholly owned Indian subsidiary registered in India under Companies Act-2013 with minimum 74% participation. Indian Contractor/ Indian Subsidiary to be lead member of JV/ Consortium.
(b) A tenderer shall submit only one bid in the same tendering process, either individually as a tenderer or as a partner of a JV. A tenderer who submits or participates in, more than one bid will cause all of the proposals in which the tenderer has participated to be disqualified. No tenderer can be a subcontractor while submitting a bid individually or as a partner of a JV in the same bidding process. A tenderer, if acting in the capacity of subcontractor in any bid, may participate in more than one bid, but only in that capacity.
- III. Tenderers shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. Tenderers shall be considered to have a conflict of interest with one or more parties in this bidding process, if:
 - a) a tenderer has been engaged by the Employer to provide consulting services for the preparation related to procurement for on implementation of the project;
 - b) a tenderer is any associates/affiliates (inclusive of parent firms) mentioned in subparagraph (a) above; or
 - c) a tenderer lends, or temporarily seconds its personnel to firms or organisations which are

engaged in consulting services for the preparation related to procurement for on implementation of the project, if the personnel would be involved in any capacity on the same project.

- IV. The payment of the tender cost is acceptable from any account. However, tenderer shall submit such transaction details along with their tender submission on e-portal. If the same transaction reference number has been submitted for more than one bids, all such bids shall be considered ineligible and summarily rejected.
- V. The applicant shall submit user certificate for successful completion as on submission date of tender, failure to submit would result in disqualification.
- VI. The supplier will submit user certificate for the supply of Rails mentioned in clause 1.1.4 (A) along with their performance. The certificate should contain all the details, so that it can be established that supplier have experience of supplying the 90 UTS Rails required for DMRC work.
- VII. (a) DMRC/ any other Metro Organisation (100% owned by Govt.)/ Ministry of Housing & Urban Affairs/ Order of Ministry of Commerce, applicable for all Ministries must not have banned business with the tenderer (including any member in case of JV/Consortium) as on the date of tender submission. The tenderer should submit undertaking to this effect in – **Form No. 8** to Section IV (Bidding Forms).
- (b) Also no contract of the tenderer of the value more than 10% of NIT cost of work, executed either individually or in a JV/Consortium, should have been rescinded / terminated by DMRC/ any other Metro Organisation (100% owned by Govt.) after award during last 3 years (from the last day of the previous month of tender submission) due to non-performance of the tenderer or any of JV/Consortium members. The tenderer should submit undertaking to this effect in – **Form No. 8** to Section IV (Bidding Forms).
- (c) The overall performance of the tenderer (all members in case of JV/Consortium separately) shall be examined for all the on-going Rails Supply Works awarded by DMRC/ any other Metro Organisation (100% owned by Govt.) of value more than 40% of NIT cost of work and also for all the completed Rails Supply Works awarded by DMRC/ any other Metro Organisation (100% owned by Govt.) within last one year (from the last day of the previous month of tender submission), of value more than 40% of NIT cost of work, executed either individually or in a JV/ Consortium. The tenderer shall provide list of all such works in the prescribed Performa given in Form No. 8A to Section IV (Bidding Forms). The tenderer (all members in case of JV/Consortium separately) may either submit satisfactory performance Certificate issued by the Client / Employer for the works or give an undertaking regarding satisfactory performance of the work with respect to completion of work/execution of work (for ongoing works) failing which their tender submission shall not be evaluated and the tenderer shall be considered non-responsive and non-compliant to the tender conditions. In case of non submission of either satisfactory performance Certificate from Client / Employer or undertaking of satisfactory performance of any of the above work, the performance of such work shall be treated as unsatisfactory while evaluating the overall performance of tenderer in terms of Note (b) of Form No. 8A to Section IV (Bidding Forms). In case of performance certificate issued by the client, same should not be older than three month (from the last day of the previous month of tender submission) for the on-going Works. **In case the tenderer does not have any work failing in above criteria, his performance will not be judged unsatisfactory.**

- VIII (a) Tenderer (including any member in case of JV/consortium) for the works awarded by DMRC/ any other Metro Organisation (100% owned by Govt.) must have been neither penalised with liquidated damages of 10% (or more) of the contract value due to delay nor imposed with penalty of 10% (or more) of the contract value due to any other reason in any Rails Supply Contract of value more than 10% of NIT cost of work, during last three years. The tenderer should submit undertaking to this effect in **Form No. 9** to Section IV (Bidding Forms).
- (b) If the tenderer or any of the Constituent 'substantial member(s)' of JV/Consortium does not meet the criteria stated in the **Form No. 8 or 8A or 9**, the tenderer including the constituent 'substantial member(s)' of JV/Consortium shall be considered ineligible for participation in tender process and they shall be considered ineligible applicants in terms of Clause 1.1.4B of NIT.
- (c) If there is any misrepresentation of facts with regards to undertaking submitted vide **Form No. 8**, or performance in any of the works reported in the **Form No. 8A**, or undertaking submitted vide **Form No. 9**, the same will be considered as "fraudulent practice" under clause 35.1 of GCC and the tender submission of such tenderers will be rejected besides taking further action as per Clause 34.1 (iii) & 35 of GCC.
- IX Tenderer (any member in case of JV/consortium) must not have suffered bankruptcy/insolvency during the last 5 years. The tenderer should submit undertaking to this effect in **Form No. 10** to Section IV (Bidding Forms).

X LEAD PARTNER/ NON SUBSTANTIAL PARTNERS/ CHANGE IN JV/ CONSORTIUM

- a. In case of JV/Consortium of (i) Indian Contractor or Indian subsidiary owned by non-Indian firm*, registered in India under Companies Act-2013 and (ii) non- Indian tenderer*, Lead partner shall be Indian Contractor/ Indian Subsidiary having minimum of 74% participation in the JV/Consortium. In case of JV/Consortium of Indian Contractor(s)/ Indian subsidiary(ies) owned by non-Indian firm(s)*, registered in India under Companies Act-2013, Lead partner shall be a substantial partner in the JV/Consortium i.e. having a minimum of 26% participation in the JV/Consortium. Each substantial partner in case of JV/Consortium shall have experience of executing at least one "similar work" of minimum 40% of NIT value in last 07 years.

***non-Indian firm(s)/ tenderer should not be restricted as defined in clause 1.1.4XIII below.**

- b. **Each non-substantial partner should have a minimum of 20% participation in the JV/Consortium.** Partners having less than 26% participation will be termed as non-substantial partner and will not be considered for evaluation which means that their financial soundness and work experience shall not be considered for evaluation of JV/Consortium. In the tender for Track Work, a Joint Venture/ Consortium to qualify, each of its **non-substantial** Partner must have experience of executing at least one Track Work of minimum 20% of NIT value in last 07 years. The tenderer shall submit details of above works in the Performa of **Bidding Form 18 & 19** as per Notes b), c), d) & g) of Clause 1.1.4A of NIT.
- c. In case of JV/Consortium, change in constitution or percentage participation shall not be permitted at any stage after their submission of bids. In case of changes during tendering stage, the bid shall be treated as non-responsive.
- d. The tenderer, in case of JV/Consortium, shall clearly and unambiguously define the role and

responsibilities for each substantial/non-substantial partner in the JV agreement/ MOU submitted vide foot note (d) of **Bidding Form 20**, providing clearly that any abrogation/subsequent re-assignment of any responsibility by any substantive/non-substantive partner of JV/Consortium in favour of other JV/Consortium partner or any change in constitution of partners of JV/Consortium (without written approval of Employer) from the one given in JV agreement /MOU at tender stage, will be treated, as 'breach of contract condition' and/or 'concealment of facts' (as the case may be), vide GCC (for supply contract) clause 35 and acted accordingly.

- e. The Employer in such cases, may in its sole discretion take action under clause 35 of GCC (for supply contract) against any member(s) for failure in tenderer's obligation and declare that member(s) of JV/Consortium ineligible for award of any tender in DMRC or take action to terminate the contract in part or whole under clause 34 of GCC (for supply contract) as the situation may demand and recover the cost/damages as provided in contract.

XI Participation by Subsidiary Company/ Parent Company with credential of other Company

- a) Applicant in the capacity of a Subsidiary Company as a single entity is not permitted to use the credential of its Parent Company and / or its Sister Subsidiary Company / Companies unless the Applicant participates in tender as JV/Consortium with its Parent Company and / or its Sister Subsidiary Company/Companies as a member(s) in JV with minimum 26% participation each (as substantial member) for such member(s). However, in such a case each substantial member of JV/Consortium has to substantiate the experience of executing at least one similar work as per the requirement of clause 1.1.4BX(a) of NIT in their individual capacity along with all other requisite conditions stipulated in the tender conditions.
- b) Applicant in the capacity of a Parent Company as a single entity is not permitted to use the credential of its Subsidiary Company/Companies unless the Applicant participates in tender as JV/Consortium with its Subsidiary Company/Companies as a member(s) in JV with minimum 26% participation each (as substantial member) for such member(s). However, in such a case each substantial member of JV/Consortium has to substantiate the experience of executing at least one similar work as per the requirement of clause 1.1.4BX(a) of NIT in their individual capacity along with all other requisite conditions stipulated in the tender conditions.

XII Purchase Preference to Local Suppliers/Preference to Make In India:

a) Definitions:

'Local content' means the amount of value added in India which shall 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, has local content equal to or more than 90%, as defined under the Order No. K-14011/08/2017/MRTS-Coord dated 14.10.2020 issued by Ministry of Housing and Urban Affairs. Minimum local content for 'Class-I local supplier' shall be 90% for the subject tender.

'Class-II local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content more than 20%, as defined under the Order No. K-

14011/08/2017/MRTS-Coord dated 14.10.2020 issued by Ministry of Housing and Urban Affairs.

'Non - Local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than or equal to 20% for the subject tender, as defined under the Order No. P-45021/2/2017-PP(BE-II) dated 04.06.2020 issued by Department for Promotion of Industry and Internal Trade (DPIIT).

'L1' means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.

'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 purchase preference. Margin of purchase preference shall be 20% for the subject tender.

b) Procedure for Purchase Preference in procurement of goods or works which are divisible in nature: NOT APPLICABLE FOR THE SUBJECT TENDER

- 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.
- iii. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price or accepts 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.
- iv. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 tenderer.

c) Procedure for Purchase Preference in procurement of goods or works which are not divisible in nature and in procurement of services where the bid is evaluated on price alone: APPLICABLE FOR THE SUBJECT TENDER

- 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 tenderer among the 'Class-I local supplier', will be invited to match the L1 price subject to Class-I local supplier's quoted price falling within the margin of purchase preference, and the contract shall be 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.

- iv. In case none of the 'Class-I local supplier' within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 tenderer.

d) Minimum Local Content and Verification of local content:

- i. The 'Class-I local supplier'/ 'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of minimum local content and provide self-certification that the item offered meets the minimum local content requirement for 'Class-I local supplier'/ 'Class-II local supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.
- ii. In cases of procurement for a value in excess of Rs. 10 crores, 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 the 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 after completion of works to the Engineer after completion of works to the Engineer.
- iii. If any false declaration regarding local content is found, the company shall be debarred for a period of three years from participating in tenders of all metro rail companies.
- iv. Supplier/tenderer shall give the details of the local content in a format attached as Bidding Form-14 and Bidding Form -15 of Section IV duly filled to be uploaded along with the technical bid. In case, tenderer do not upload Bidding Form-14 and Bidding Form -15 of Section IV duly filled along with their technical bid, supplier/ bidder shall be considered as 'Non-local supplier' and will not be eligible to participate for estimated value of purchases up to Rs. 200 crores except Global tender enquiries in terms of Clause 3(b) of Order No. P-45021/2/2017-PP(BE-II) dated 04.06.2020 issued by Department for Promotion of Industry and Internal Trade (DPIIT).

e) Complaints relating to implementation of Purchase Preference

Fees for such complaints shall be Rs 2 Lakh or 1% of the value of the local item being procured (subject to maximum of Rs 5 Lakh), whichever is higher. In case the complaint is found to be incorrect, the complaint fee shall be forfeited. In case, the complaint is upheld and found to be substantially correct, deposited fee of the complainant would be refunded without any interest.

XIII Restriction of Tenderers from Countries sharing Land Borders with India:

Any tenderer from a country which shares a land border with India will be eligible to bid either as a single entity or as a member of a JV / Consortium with others, in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the tenderer is registered with the Competent Authority. The Competent Authority for registration will be the Registration Committee constituted by the Department for Promotion of Industry and Internal trade (DPIIT). Political & Security clearance from the Ministries of External and Home Affairs respectively will be mandatory. However, above condition shall not apply to tenderers 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. *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.*

"The successful tenderer 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."

Definitions pertaining to "Restriction of Tenderers from Countries sharing Land Borders with India" Clause:

"Tenderer" (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 tenderers stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.

"Tenderer from a country which shares a land border with India" 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

"**Beneficial owner**" 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;
- (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.

"Agent" is a person employed to do any act for another, or to represent another in dealings with third persons.

C. FINANCIAL STANDING

The tenderers will be qualified only if they have minimum financial capabilities as below:

- (i) **T1-Liquidity: Not Applicable**
- (ii) **T2- Profitability: Not Applicable**
- (iii) **T3-Net Worth: Not Applicable**
- (iv) **T4- Annual Turnover:** The average annual turnover of the tenderer during last three audited financial years should be \geq **INR 6.12 Crores.**

The averages annual turnover of JV will be based on percentage participation of each member.

Example: Let member 1 has percentage participation = M and Member 2 has percentage = N, Let the averages annual turnover of member 1 is A and that of member 2 is B, then average annual turnover of JV will be = $(AM+BN)/100$

Notes:

- Financial data for last five audited financial years has to be uploaded by the tenderer in **Annexure-A** of section-III along with audited balance sheets. The financial data in the prescribed format shall be certified by Chartered Accountant with his stamp and signature. In case audited balance sheet of the last financial year is not made available by the tenderer, he has to submit an affidavit certifying that 'the balance sheet has actually not been audited so far'. In such a case the financial data of previous '4' audited financial years will be taken into consideration for evaluation. If audited balance sheet of any other year than the last year is not uploaded, the tender may be considered as non-responsive. All the documents or certifications which are provided by CA after 1st July, 2019, must contain UDIN thereon and the particulars of certifications must be same as mentioned on document/certification and submitted to ICAI on its website which can be verified online on <https://udin.icai.org/search-udin>.

However, the tenderer including all substantial members of JV / Consortium should have been incorporated more than three years earlier from the last day of the previous month of tender submission. In this case, for such tenderer, the average annual turnover shall be arrived considering 'nil' turnover for the financial year(s) for which tenderer was not able to submit audited balance sheet on account of non-incorporation of tenderer. Such data shall be divided by 5 to work out the average annual turnover. In case balance sheet of the last year has not been audited so far, then data shall be divided by 4 to work out the average annual turnover.

- Where a work is undertaken by a group, only that portion of the contract which is undertaken by

the concerned applicant/member should be indicated and the remaining done by the other members of the group be excluded. This is to be substantiated with documentary evidence.

1.1.5 Bid Capacity Criteria:

Bid Capacity: The tenderers will be qualified only if their available bid capacity is more than the approximate cost of work as per NIT. Available bid capacity will be calculated based on the following formula:

Bid capacity will be calculated based on the following formula:

$$\text{Available Bid Capacity} = 2 * A * N - B$$

Where,

A = Maximum of the value of Rail supplies executed in any one year during the last five financial years (updated to **last day of the previous month of tender submission** price level assuming 5% inflation for Indian Rupees every year and 2% for foreign currency portions per year).

N = No. of years prescribed for completion of the work

B = Value of existing commitments (as on last day of the previous month of tender submission) for rail supplies during period of **12 months** w.e.f. from first day of the month of tender submission.

Notes:

- a. Financial data for latest last five financial years has to be submitted by the tenderer in **Annexure-B of section III** along with audited financial statements. The financial data in the prescribed format shall be certified by the Chartered Accountant with his stamp and signature in original with membership number and firm registration number. All the documents or certifications which are provided by CA after 1st July, 2019, must contain UDIN thereon and the particulars of certifications must be same as mentioned on document/certification and submitted to ICAI on its website which can be verified online on <https://udin.icai.org/search-udin>.
- b. Value of existing commitments for RAIL Supply Works/sale of goods during period of 12 months w.e.f. from the first day of the month of tender submission has to be submitted by the tenderer in **Annexure-C of section III**. These data shall be certified by the Chartered Accountant with his stamp and signature in original with membership number and firm registration number. All the documents or certifications which are provided by CA after 1st July, 2019, must contain UDIN thereon and the particulars of certifications must be same as mentioned on document/certification and submitted to ICAI on its website which can be verified online on <https://udin.icai.org/search-udin>.
- c. In the case of a group, the above formula will be applied to each member to the extent of his proposed participation in the execution of the work. If the proposed % participation is not mentioned then equal participation will be assumed.

Example for calculation of bid capacity in case of JV / Group

Suppose there are 'P' and 'Q' members of the JV / group with their participation in the JV/ group as 70% and 30% respectively and available bid capacity of these members as per above formula individually works out 'X' and 'Y' respectively, then Bid Capacity of JV / group shall be as under:

Bid Capacity of the JV / group = 0.7X + 0.3Y

1.1.6 The tender submission of tenderers, who do not qualify the qualification criteria & bid capacity criteria stipulated in the above clauses, shall not be considered for further evaluation and therefore rejected. The mere fact that the tenderer is qualified as mentioned in clauses above shall not imply that his bid shall automatically be accepted. The same should contain all technical data as required for consideration of tender prescribed in the ITB.

In case of mismatch in financial data in the submitted documents i.e. in Chartered Accountant certified documents and data in audited balance sheet, the data from the audited balance sheets shall prevail.

1.1.7 The Tender documents consist of 1 volume in respect of Contractual, Technical, and Financial matters and related information as follows:

Volume 1 - Bidding Procedures

- Notice Inviting Tender (NIT)
- Section I. Instructions to Bidders (ITB)
- Section II. Bid Data Sheet (BDS)
- Section III. Evaluation and Qualification criteria
- Section IV. Bidding Forms
- Section V. Deleted

Volume 2 - Supply Requirements

- Section VI. Schedule of Requirements

Volume 3 - Conditions of Contract and Contract Forms

- Section VII. General Conditions of Contracts (GCC)
- Section VIII. Special Conditions of Contract (SCC)
- Section IX. Contract Forms

1.1.8 The Tenderers may obtain further information/ clarification, if any, in respect of these tender documents from the office of ED/Track, Delhi Metro Rail Corporation, 8 Jantar Mantar Road, New Delhi –110001.

1.1.9 All Tenderers are hereby cautioned that tenders containing any material deviation or reservations as described in Clause 30 "Instructions to Tenderers" and/or minor deviation without quoting the cost of withdrawal shall be considered as non-responsive and is liable to be rejected.

- 1.1.10 The intending tenderers must be registered on e-tendering portal <https://eprocure.gov.in/eprocure/app>. Those who are not registered on the e-tendering portal shall be required to get registered beforehand. After registration, the tenderer will get user id and password. On login, tenderer can participate in tendering process and can witness various activities of the process.
- 1.1.11 The authorized signatory of intending tenderer, as per Power of Attorney (POA), must have valid **class-II** or **class-III** digital signature. The tender document can only be downloaded from e-tendering portal using class-II or class-III digital signature. However, the tenderer shall upload their tender on <https://eprocure.gov.in/eprocure/app> using class-II or class-III digital signature of the authorized signatory only.
- 1.1.12 Tender submissions shall be done online on <https://eprocure.gov.in/eprocure/app> after uploading the mandatory scanned documents towards cost of tender documents such as scanned copies of transaction of payment i.e. RTGS, NEFT & IMPS and scanned copy of Undertaking for Tender Security Declaration towards Tender Security (and other documents) as stated in the Tender document. Instructions for on-line bid submission are furnished hereinafter.
- 1.1.13 Submission of Tenders shall be closed on e-tendering website of DMRC at the date & time of submission prescribed in NIT after which no tender can be uploaded.
- It shall be the responsibility of the tenderer/ tenderer to ensure that his tender is uploaded online on e-tendering website <https://eprocure.gov.in/eprocure/app> before the deadline of submission. DMRC will not be responsible for non-receipt of tender documents due to any delay and/or loss etc.
- 1.1.14 Tenders shall be valid for a period of **180 days** (both days inclusive i.e. the date of submission of tenders and the last date of period of validity of the tender) from the latest Date of Submission of Tender.
- 1.1.15 DMRC reserves the right to accept or reject any or all proposals without assigning any reasons. No tenderer shall have any cause of action or claim against the DMRC for rejection of his proposal.
- 1.1.16 Tenderers are advised to keep in touch with e-tendering portal <https://eprocure.gov.in/eprocure/app> for updates.
- 1.1.17 The Letter of Acceptance to the successful tenderer shall be uploaded on procurement portal which can be downloaded by the successful tenderer.
- 1.1.18 For any complaint tenderer may contact ED/Track, Delhi Metro Rail Corporation,

8 Jantar Mantar Road,
New Delhi – 110001.
Tel: 011-23418406,
Email: trackdept@dmrc.org.

ED/Track
Delhi Metro Rail Corporation Ltd.

Instructions for Online Bid Submission:

The tenderers are required to submit soft copies of their bids electronically on the CPP Portal, using valid Digital Signature Certificates. The instructions given below are meant to assist the tenderers in registering on the CPP Portal, prepare their bids in accordance with the requirements and submitting their bids online on the CPP Portal.

More information useful for submitting online bids on the CPP Portal may be obtained at: <https://eprocure.gov.in/eprocure/app>.

REGISTRATION

- 1) Tenderers are required to enroll on the e-Procurement module of the Central Public Procurement Portal (URL: <https://eprocure.gov.in/eprocure/app>) by clicking on the link “**Online tenderer Enrollment**” on the CPP Portal which is free of charge.
- 2) As part of the enrolment process, the tenderers will be required to choose a unique username and assign a password for their accounts.
- 3) Tenderers are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the CPP Portal.
- 4) Upon enrolment, the tenderers will be required to register their valid Digital Signature Certificate (Class II or Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g. Sify/ nCode/ eMudhra, etc.), with their profile.
- 5) Only one valid DSC should be registered by a tenderer. Please note that the tenderers are responsible to ensure that they do not lend their DSC's to others which may lead to misuse.
- 6) Tenderer then logs in to the site through the secured log-in by entering their user ID/ password and the password of the DSC/ e-Token.

SEARCHING FOR TENDER DOCUMENTS

- 1) There are various search options built in the CPP Portal, to facilitate tenderers to search active tenders by several parameters. These parameters could include Tender ID, Organization Name, Location, Date, Value, etc. There is also an option of advanced search for tenders, wherein the tenderers may combine a number of search parameters such as Organization Name, Form of Contract, Location, Date, Other keywords etc. to search for a tender published on the CPP Portal.
- 2) Once the tenderers have selected the tenders they are interested in, they may download the required documents / tender schedules. These tenders can be moved to the respective 'My Tenders' folder. This would enable the CPP Portal to intimate the tenderers through SMS / e-mail in case there is any corrigendum issued to the tender document.
- 3) The tenderer should make a note of the unique Tender ID assigned to each tender, in case they want to obtain any clarification / help from the Helpdesk.

PREPARATION OF BIDS

- 1) Tenderer should take into account any corrigendum published on the tender document before submitting their bids.
- 2) Please go through the tender advertisement and the tender document carefully to understand the documents required to be submitted as part of the bid. Please note the number of covers in which the bid documents have to be submitted, the number of documents - including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the bid.
- 3) Tenderer, in advance, should get ready the bid documents to be uploaded as indicated in the tender document / schedule and generally, they can be in PDF/ XLS/ RAR/ DWF/ JPG formats. Bid documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document. Tenderer has to ensure that size of each file should not exceed 40MB before uploading.
- 4) To avoid the time and effort required in uploading the same set of standard documents which are required to be uploaded as a part of every bid, a provision of uploading such standard documents (e.g. PAN card copy, annual reports, auditor certificates etc.) has been provided to the tenderers. Tenderers can use "My Space" or "Other Important Documents" area available to them to upload such documents. These documents may be directly submitted from the "My Space" area while submitting a bid, and need not be uploaded again and again. This will lead to a reduction in the time required for bid submission process.

SUBMISSION OF BIDS

- 1) Tenderer should log into the site well in advance for bid submission so that they can upload the bid in time i.e. on or before the bid submission time. Tenderer will be responsible for any delay due to other issues.
- 2) The tenderer has to digitally sign and upload the required bid documents one by one as indicated in the tender document.
- 3) Tenderer has to select the payment option as "offline" to pay the tender fee / EMD as applicable and enter details of the instrument.
- 4) Tenderer should upload the scanned copy of Undertaking for Tender Security Declaration as per the instructions specified in the tender document. Otherwise the uploaded bid will be rejected.
- 5) Tenderers are requested to note that they should necessarily submit their financial bids in the format provided and no other format is acceptable. If the price bid has been given as a standard BOQ format with the tender document, then the same is to be downloaded and to be filled by all the tenderers. Tenderers are required to download the BOQ file, open it and complete the white coloured (unprotected) cells with their respective financial quotes and other details (such as name of the tenderer). No other cells should be changed. Once the details have been completed, the tenderer should save it and submit it online, without changing the filename. If the BOQ file is found to be modified by the tenderer, the bid will be rejected.

- 6) The server time (which is displayed on the tenderers' dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the tenderers, opening of bids etc. The tenderers should follow this time during bid submission.
- 7) All the documents being uploaded by the tenderers would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. The confidentiality of the bids is maintained using the secured Socket Layer 128 bit encryption technology. Data storage encryption of sensitive fields is done. Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid openers public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized bid openers.
- 8) The uploaded tender documents become readable only after the tender opening by the authorized bid openers.
- 9) Upon the successful and timely submission of bids (i.e. after Clicking "Freeze Bid Submission" in the portal), the portal will give a successful bid submission message & a bid summary will be displayed with the bid no. and the date & time of submission of the bid with all other relevant details.
- 10) The bid summary has to be printed and kept as an acknowledgement of the submission of the bid. This acknowledgement may be used as an entry pass for any bid opening meetings.

ASSISTANCE TO TENDERERS

- 1) Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Tender Inviting Authority for a tender or the relevant contact person indicated in the tender.

Any queries relating to the process of online bid submission or queries relating to CPP Portal in general may be directed to the 24x7 CPP Portal Helpdesk.

For any Technical queries related to Operation of the Central Public Procurement Portal Contact at:

Tel: The 24 x 7 Help Desk Number 0120-4200 462, 0120-4001 002/5, 0120-6277 787.

Other Tel: 0120-4200462, 0120-4001002.

E-Mail: [cphp-nic\[at\]nic\[dot\]in](mailto:cppp-nic[at]nic[dot]in)

International tenderers are requested to prefix +91 as country code