

## Section II: General Instructions to Tenderer (GIT)

### Part I: General Instructions Applicable to all Types of Tenders

#### A PREAMBLE

##### 1. Introduction

- 1.1 Definitions and abbreviations, which have been used in these documents, shall have the meanings as indicated in GCC.
- 1.2 For sake of convenience, whole of this Standard Bidding Document (including all sections) is written in reference to Procurement of Goods Tenders. However, this SBD would be utilized for all types of Tenders e.g., EOI, PQB, Rate Contract, Tenders involving Samples, Sale/ Disposal of Scrap Material and Development/ Indigenization/ Make-in-India etc. Procurement of Services etc. Therefore, the construction of all clauses are to be interpreted in the context of particular type of tender beyond the letter of the clause, read with the additional clauses for the specific type of tenders in Part II GIT/ GCC.
- 1.3 These tender documents have been issued for the requirements mentioned in Section –VI - “List of Requirements”, which also indicates, inter-alia, the required delivery schedule and terms & place (i.e., destination) of delivery.
- 1.4 This section (Section II - “General Instruction Tenderers” - GIT) provides the relevant information as well as instructions to assist the prospective tenderers in preparation and submission of tenders. It also includes the mode and procedure to be adopted for receipt and opening as well as scrutiny and evaluation of tenders and subsequent placement of contract. With this limited objective, GIT is not intended to be complete by itself and the rest of this document - SIT, GCC and SCC in particular may also be thoroughly studied before filling up the Tender Document. There would be certain topics covered in GIT/SIT as well as in GCC/ SCC from different perspectives. In case of any conflict between these, provisions of GCC/ SCC would prevail.
- 1.5 The tenderers shall also read the Special Instructions to Tenderers (SIT) related to this purchase, as contained in Section III of these documents, and follow the same accordingly. Whenever there is a conflict between the GIT and the SIT, the provisions contained in the SIT shall prevail over those in the GIT.
- 1.6 **LOCAL CONDITIONS:** It is imperative that each bidder fully acquaints himself with all the local conditions and factors, which would have any effect on the performance/ completion of the contract in all respects inter alia including the legal, environmental, infrastructure, Logistics, communications, and cost aspects. Bidders would themselves be responsible for compliance with Rules, Regulations, Laws and Acts in force from time to time in India and/ or country of manufacture & supply. On such matters, the Purchaser shall not entertain any request from the bidders.
- 1.7 **Obtaining the Tender Documents:** Interested tenderers may obtain further information about this requirement from the office issuing the documents, mentioned in the NIT. They may also visit website mentioned therein for further details.



**1.7.1.** Tenderer may also download the tender documents from the web site mentioned in NIT and submit its tender by utilizing the downloaded document, the bidder must not make any changes to the contents of the documents, except for filling the required information. A certificate to this effect must be submitted by the bidder in the Tender Form (Section X).

**1.7.2.** The tender documents are not transferable.

## 2. Language of Tender

The tender submitted by the tenderer and all subsequent correspondence and documents relating to the tender exchanged between the tenderer and SPMCIL, shall be written in the Hindi or English language, unless otherwise specified in the Tender. However, the language of any printed literature furnished by the tenderer in connection with its tender may be written in any other language provided the same is accompanied by Hindi or English translation. For purposes of interpretation of the tender, the English version/ translation shall prevail.

## 3. Eligible Tenderers

- 3.1 Subject to provisions in following paras in this section, this invitation for tenders is open to all suppliers who fulfil the eligibility criteria specified in these documents. Please refer to *Section IX: Qualification/ Eligibility Criteria*. In case of Second Stage (after the Pre-Qualification stage) of two Stage Bidding or in case of Special Limited Tenders this invitation is open only to such bidders who have been shortlisted.
- 3.2 The bidder, their affiliates, or subsidiaries – including subcontractors or suppliers for any part of the contract – should not stand declared debarred by DoE, MoF, GoI; DEA, MoF, GoI; SPMCIL; procuring unit of SPMCIL. A declaration to this effect shall be submitted by the bidder in the Tender Form (Section X).
- 3.3 Unless otherwise stipulated in the NIT/ SIT, Joint Ventures/ Consortiums shall not be considered in this Tender.
- 3.4 Under Public Procurement (Preference to Make in India) Order 2017 (as amended/ revised from time to time) any Nodal Ministry for its items may issue directions to exclude bidders from a country from eligibility for its procurement as measure of reciprocity of such action by that country against Indian Suppliers. For this purpose, a supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in that country, or ii) a majority of its shareholding or effective control of the entity is exercised from that country; or (iii) more than 50% of the value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect to India.
- 3.5 Ministry of Finance, Department of Expenditure, Public Procurement Division, Orders (Public Procurement 1, 2 and 3) F.No.6/18/2019-PPD dated 23<sup>rd</sup>/ 24<sup>th</sup> July 2020 (or any further amendments thereof) regarding eligibility of bidders from specified countries shall be applicable to this tender. Salient features of this are:
  - I. Any bidder from a country which shares a land border with India (*excluding countries as listed on the website of Ministry of External Affairs, to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects*) will be eligible to bid in this tender only

if the bidder is registered with the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT). The bidders shall enclose following certificate in this regard:

*"We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; and solemnly certify that we are not from such a country or, if from such a country, we are registered with the Competent Authority (copy enclosed). We hereby certify that we fulfil all requirements in this regard and are eligible to be considered."*

- II. In tenders for Turnkey contracts including Works 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 similarly registered with the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT). In such cases the bidders shall enclose following certificate:

*"We 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.; and solemnly certify that we are not from such a country or, if from such a country, we are registered with the Competent Authority (copy enclosed) and we will not subcontract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. We hereby certify that we fulfil all requirements in this regard and are eligible to be considered."*

- III. "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.
- IV. "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

V. The beneficial owner for the purpose of (III) above will be as under:

- (a) 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.
- (b) Explanation-
  - 1. “Controlling ownership interest” means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company.
  - 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.

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

- 3.6 In case Integrity Pact is mandated in the SIT, only those bidders who sign the Integrity Pact, would be eligible to participate in the Tender.

#### **4. Eligible Goods and Services**

All goods and related services to be supplied under the contract shall have their origin in India or other countries, subject to any restriction imposed in this regard in para above and Section III (SIT). The term “origin” used in this clause means the place where the goods are mined, grown, produced, or manufactured or from where the related services are arranged and supplied.

#### **5. Tendering Expense**

The tenderer shall bear all costs and expenditure incurred and/ or to be incurred by it in connection with its tender including preparation, mailing and submission of its tender and for subsequent processing the same. SPMCIL will, in no case be responsible or liable for any such cost, expenditure etc regardless of the conduct or outcome of the tendering process.

## B TENDER DOCUMENTS

### 6. Content of Tender Documents

**6.1** The tender documents includes:

1. Section I - Notice Inviting Tender (NIT)
2. Section II - General Instructions to Tenderers (GIT)
3. Section III - Special Instructions to Tenderers (SIT)
4. Section IV -General Conditions of Contract (GCC)
5. Section V - Special Conditions of Contract (SCC)
6. Section VI - List of Requirements
7. Section VII - Technical Specifications
8. Section VIII - Quality Control Requirements
9. Section IX – Qualification/ Eligibility Criteria
10. Section X - Tender Form
11. Section XI - Price Schedule
12. Section XII – Vendor Details
13. Section XIII - Bank Guarantee Form for EMD
14. Section XIV - Manufacturer's Authorization Form
15. Section XV - Bank Guarantee Form for Performance Security
16. Section XVI - Contract Form
17. Section XVII: Letter of Authority for attending a Bid Opening
18. Section XVIII: Proforma of Bills for Payments
19. Section XIX: NEFT Mandate
20. Section XX: Integrity Pact

**6.2** The relevant details of the required goods and services, the terms, conditions and procedure for tendering, tender evaluation, placement of contract, the applicable contract terms and, also, the standard formats to be used for this purpose are incorporated in the above-mentioned documents. The interested tenderers before formulating the tender and submitting the same to SPMCIL, should read and examine all the terms, conditions, instructions etc. contained in the tender documents. Failure to provide and/ or comply with the required information, instructions etc. incorporated in these tender documents may result in rejection of its tender.

### 7. Amendments to Tender Documents

- 7.1** At any time prior to the deadline for submission of tenders, SPMCIL may, for any reason deemed fit by it, modify the tender documents by issuing suitable amendment(s) to it.
- 7.2** Such an amendment will be notified on the website and also in writing by registered/ speed post or by fax/ telex/ e-mail, followed by copy of the same by suitable recorded post to all prospective tenderers, which have received the tender documents and will be binding on them.



- 7.3** In order to provide reasonable time to the prospective tenderers to take necessary action in preparing their tenders as per the amendment, SPMCIL may, at its discretion extend the deadline for the submission of tenders and other allied time frames, which are linked with that deadline.

## 8. Pre-Bid conference

- 8.1** In case Pre-bid conference is specifically stipulated in the NIT or SIT, prospective bidders interested in participating in this tender may attend a pre-bid conference for clarification on technical specifications and commercial conditions of the Tenders, at the venue, date and time specified in NIT/ SIT. Participation in the Pre-bid conference is restricted to prospective bidders who have purchased the Bid Documents. Proof of Purchase of Bid Documents must be submitted at the time of registration for participation or along with written queries or with letter of Authority for attending the pre-bid Conference. Bid documents for sale would also be available at the site.
- 8.2** Participation is not mandatory, however, in case a bidder chooses not to participate (or fails to do so) in the pre-bid conference, it would be assumed that they have no issues regarding the Technical/ commercial specifications/ conditions.
- 8.3** The date and time by which the written queries for the Pre-bid must reach the authority is mentioned in the NIT.
- 8.4** The last date for registration for participation in the pre-bid conference is also mentioned in the NIT.
- 8.5** Delegates coming for the pre-bid conference must bring with them a photo identity and also an authorization letter as per format in Section XVII: "Letter of Authority for attending a Pre-Bid Conference/ Bid Opening" from their Company/ principals, else they would not be allowed to participate.
- 8.6** After the pre-bid conference a clarification letter would be issued, containing amendments if required, of various provisions of the Bid-Document, which shall form part of the Bid-document.

## 9. Clarification of Tender Documents

The provisions in this Bid documents, must be interpreted in the context in which these appear. Any interpretation of these provisions far removed from such context or any other contrived or in between the lines interpretation is not acceptable. A Tenderer requiring any clarification or elucidation on any issue of the tender documents may take up the same with SPMCIL in writing or by fax / e-mail/ telex. SPMCIL will respond in writing to such request provided the same is received by SPMCIL not later than twenty-one days (unless otherwise specified in the SIT) prior to the prescribed date of submission of tender. Copies of the query and clarification shall be sent to all prospective bidders who have received the bidding documents.

## C PREPARATION OF TENDERS

### 10. Documents Comprising the Tender

- 10.1** Unless otherwise indicated in NIT/ SIT "**Technical bid**" shall include inter-alia (including any changes in the following as per NIT/ SIT):

- (i) Tender Form/ Covering letter as per format in Section X
- (ii) Section VI - List of Requirements, showing the schedules and quantities quoted by them for which Price Schedule are enclosed in the Financial Bid. No pricing detail shall be disclosed or hinted upon in any manner in the Technical bid.
- (iii) Documentary evidence, as necessary in terms of GIT clauses 3 and 16, establishing that the tenderer is eligible to submit the tender and, also, qualified to perform the contract if its tender is accepted. Section IX – Qualification/ Eligibility Criteria shall also be filled up/ compliance commented upon.
- (iv) Documents and relevant details to establish in accordance with GIT clause 4 and 17 that the goods and the allied services to be supplied by the tenderer conform to the requirement of the tender documents along with list of deviations if any (ref clause 17.2 of GIT). Section VII - Technical Specifications and Section VIII - Quality Control Requirements shall also be filled up/ compliance thereof commented upon. The tenderers may also enclose in their technical bids, technical literature, and other documents as and if considered necessary by them.
- (v) Earnest money amount in the currencies (as specified in the Section VI: List of Requirements) furnished in accordance with GIT clause 18.1 alternatively, documentary evidence as per GIT clause 18.2 for claiming exemption from payment of earnest money.
- (vi) Vendor Details as per Section XII.
- (vii) Manufacturer's Authorization Form (ref Section XIV, if applicable)
- (viii) A list of deviations (ref Clause 19.4) from the clauses of this SBD, if any. And
- (ix) If so stipulated in NIT/ SIT, duly signed Integrity Pact as per Section XX.

Note: No price details should be given or hinted in the Technical Bid.

- 10.2** Unless otherwise indicated in NIT/ SIT “**Financial Bid**” shall include inter-alia (including any changes in the following as per NIT/ SIT):

- i). the Price Schedule (Section XI) and all financially relevant details. Prices shall be quoted duly taking into consideration, the Payment and delivery terms.

Note: No additional Technical details, which have not been brought out in the Technical Bid may be brought out in the Financial Bid.

- 10.3** A tender, that does not fulfil any of the above stipulations and/ or gives evasive information/ reply against any such stipulations, shall be liable to be ignored and rejected.

- 10.4** Tender sent by fax/email/ telex/ cable shall be ignored.

However, PAC tender received through e-mail shall not be ignored.

## 11. Tender currencies

- 11.1** Unless otherwise specified, the tenderer shall quote only in Indian rupees.

- 11.2** Where the NIT/ SIT specifies acceptance of quotations in different currencies, then, for



domestic goods, prices shall be quoted in Indian rupees only and for imported goods, prices shall be quoted either in Indian rupees or in the currency stipulated in the SIT, mentioning, inter-alia, the exchange rate adopted for converting foreign currency into Indian Rupees. As regards price(s) for allied services, if any required with the goods, the same shall be quoted in Indian Rupees if such services are to be performed / undertaken in India. Commission for Indian Agent, if any and if payable shall be indicated in the space provided for in the price schedule and quoted in Indian Rupees only.

- 11.3** Tenders, where prices are quoted in any other way shall be treated as unresponsive and rejected.

## 12. Tender Prices

- 12.1** The Tenderer shall indicate on the Price Schedule provided under Section XI all the specified components of prices shown therein including the unit prices and total tender prices of the goods and services it proposes to supply against the requirement. Delivery Schedule and Terms of delivery are also to be quoted in Section XI. All the columns shown in the price schedule should be filled up as required. If any column does not apply to a tenderer, same should be clarified accordingly by the tenderer.
- 12.2** Unless otherwise stipulated in the NIT/ SIT, if there is more than one schedule in the List of Requirements, the tenderer has the option to submit its quotation for any one or more schedules and, also, to offer special discount for combined schedules. However, while quoting for a schedule, the tenderer shall quote for the complete requirement of goods and services as specified in that particular schedule.
- 12.3** The quoted prices for goods offered from within India and that for goods offered from abroad are to be indicated separately in the applicable Price Schedules attached under Section XI.
- 12.4** While filling up the columns of the price schedule, the following aspects should be noted for compliance:
- 12.5** For goods offered from within India, the prices in the corresponding price schedule shall be entered separately in the following manner:
- The price of the goods, quoted ex-factory, ex-showroom, ex-warehouse or off-the-shelf, as applicable, including all taxes and duties like GST/ CGST/ SGST/ UTGST/ IGST, custom duty, etc. already paid or payable on the components and raw material used in the manufacture or assembly of the goods quoted ex-factory etc or on the previously imported goods of foreign origin quoted ex-showroom etc.
  - Any GST/ CGST/ SGST/ UTGST/ IGST, which will be payable on the goods in India if the contract is awarded.
  - Charges towards inland transportation, insurance, and other local costs incidental to delivery of the goods to their final destination as specified in the List of Requirements and
  - The price of incidental services, as and if mentioned in List of Requirements.

**12.6 GST/ CGST/ SGST/ UTGST/ IGST:**

- (a) All the bidders/ tenders should ensure that they are GST compliant and their quoted tax structure /rates are as per GST Law.
- (b) As per the GST Act the bid and contract must show the GST Tax Rates (and GST Cess if applicable) and GST Amount explicitly and separate from the bid/ contract price (exclusive of GST). Bid-price inclusive of taxes/ GST would be a violation of the GST Act. In case any taxes, duties are not clearly specified, or column is left blank in price bid then it will be presumed that no such tax/levy is applicable or payable by SPMCIL. However, the price should be inclusive of any other taxes or levies if any, already paid or payable.
- (c) If a tenderer asks for GST/ CGST/ SGST/ UTGST/ IGST (and GST Cess if applicable) to be paid extra, the rate and nature of such taxes applicable should be shown separately. Such taxes will be paid as per the rate at which it is liable to be assessed or has actually been assessed provided the transaction of sale is legally liable to such taxes and is payable as per the terms of the contract. The payment of GST and GST Cess to contractor/supplier would be made only on the latter submitting a Bill/invoice in accordance with the provision of relevant GST Act and the rules made there under and after online filing of valid return on GST portal.
- (d) Bidders should quote 'GST' if payable extra on total basic rate of each item, please quote GST in '%' inclusive of cess. GST will be applicable on 'basic rate + Packing & forwarding charges + Freight + Insurance'.
- (e) GST Registration Number (15-digit GSTIN). In case bidder has multiple business verticals in a state and having separate registration for each business vertical, GSTIN of each vertical concerned with the supply and service involved, as per the scope of NIT to be informed to SPMCIL. If supply / service provided is from multiple states, then bidder should mention GST Registration Number for each state separately.
- (f) If bidder is not liable to take GST registration, i.e., having turnover below threshold, bidders need to submit undertaking / indemnification against tax liability. The bidder/ dealer shall not charge any GST and/or GST Compensation Cess on the bill/invoice. In such case, applicable GST will be deposited by CCL directly to concerned authorities. Further the bidder should notify and submit to SPMCIL within 15 days from the date of becoming liable to registration under GST.
- (g) Those bidders who have opted for Composition scheme under GST, they have to submit a declaration to indicating their GST registration no.
- (h) HSN (Harmonized System of Nomenclature) code for the goods being supplied by the vendor for each item covered under this NIT has to be declared in the Technical bid. Services Accounting Code (SAC) for classification of services under GST for each item covered under this NIT has to be declared in the Technical bid
- (i) All necessary adjustment vouchers such as Credit Notes / Debit Notes for any short/excess supplies or revision in prices or for any other reason under the Contract shall be submitted to SPMCIL Ltd., as per GST provisions.
- (j) In the event of default on his part in payment of tax and submission / uploading of monthly returns, SPMCIL is well within its powers to withhold payments, especially



the tax portion, until Vendor/Supplier/Contractor corrects the default and / or complies with the requirements of GST and produces satisfactory evidence to that effect or upon GST appearing on the Company GST portal.

- (k) Vendor/Supplier/Contractor should issue Receipt vouchers immediately on receipt of advance payment and subsequently issue supplies along tax invoice after adjusting advance payments as per Contractual terms and GST Provisions.
- (l) In case the GST rating of vendor on the GST portal / Govt. official website is negative / blacklisted, then the bids may be rejected by SPMCIL. Further, in case rating of bidder is negative / blacklisted after award of work for supply of goods / services, then SPMCIL shall not be obligated or liable to pay or reimburse GST to such vendor and shall also be entitled to deduct / recover such GST along with all penalties / interest, if any, incurred by SPMCIL.
- (m) Any late delivery i.e., delivery after the due date attracts payment of damages by the vendor / contractor as agreed mutually. It is agreed by the Contractor that such damages become recoverable by SPMCIL with applicable GST thereon.
- (n) Any reference in the NIT to CENVAT / VAT / Service Tax/ Excise Duty and the clauses relating thereto may please be ignored.

#### **12.7 Duties/ Taxes on Raw Materials**

SPMCIL is not liable for any claim from the supplier on account of fresh imposition and/or increase (including statutory increase) of GST/ CGST/ SGST/ UTGST/ IGST, custom duty etc. on raw materials and/or components used directly in the manufacture of the contracted goods taking place during the pendency of the contract, unless such liability is specifically agreed to in terms of the contract.

#### **12.8 For goods offered from abroad, the prices in the corresponding price schedule shall be entered separately in the following manner:**

- a) The price of goods quoted FAS / FOB port of shipment, CIF port of entry in India or CIF specified place of destination in India as indicated in the List of Requirements.
- b) Wherever applicable, the amount of custom duty and import duty on the goods to be imported.
- c) The charges for inland transportation, insurance, and other local costs incidental to delivery of the goods from the port of entry in India to their final destination, as specified in the List of Requirements. and
- d) The charges for incidental services, as and if mentioned in the List of Requirements.

#### **12.9 Imported Stores not liable to Above-mentioned Taxes and Duties:**

Above mentioned GST/ CGST/ SGST/ UTGST/ IGST are not leviable on imported Goods and hence would not be reimbursed.

#### **12.10 Customs Duty:**

In respect of imported stores offered from abroad, the tenderer shall specify the rate as well as the total amount of customs duty payable. The tenderer shall also indicate the

corresponding Indian Customs Tariff Number applicable for the goods in question.

- 12.10.1.** For transportation of imported goods offered from abroad, relevant instructions as incorporated under GCC Clause 11 shall be followed.
- 12.10.2.** For insurance of goods to be supplied, relevant instructions as provided under GCC Clause 12 shall be followed.
- 12.10.3.** Unless otherwise specifically indicated in this tender document, the terms FOB, FAS, CIF etc. for imported goods offered from abroad, shall be governed by the rules & regulations prescribed in the current edition of INCOTERMS, published by the International Chamber of Commerce, Paris
- 12.10.4.** The need for indication of all such price components by the tenderers, as required in this clause (viz., GIT clause 12) is for the purpose of comparison of the tenders by SPMCIL and will no way restrict SPMCIL's right to award the contract on the selected tenderer on any of the terms offered.

### **13. Conflict of Interest among Bidders/ Agents**

- 13.1.** A bidder shall not have conflict of interest with other bidders. The bidder found to have a conflict of interest shall be disqualified. A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:
  - (i) they have controlling partner (s) in common; or
  - (ii) they receive or have received any direct or indirect subsidy/ financial stake from any of them; or
  - (iii) they have the same legal representative/agent for purposes of this bid; or
  - (iv) they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder; or
  - (v) Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all bids in which the parties involved. However, this does not limit the inclusion of the components/ sub-assembly/ Assemblies from one bidding manufacturer in more than one bid: or
  - (vi) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid.

- 13.2.** Therefore, one agent cannot represent two suppliers or quote on their behalf in a particular tender enquiry. Such quote has to be rejected. One manufacturer can also authorize only one agent/dealer. There can be only one bid from
  - (i) The principal manufacturer directly or through one Indian agent on his behalf or
  - (ii) The foreign principal or any of its branch/ division or
  - (iii) One Indian/ Foreign Agent on behalf of only one Principal.
- 13.3.** For same reasons, in case of a holding company having more than one independently manufacturing units or more than one unit having common business ownership /



management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare in their bids such sister/ common business/ management units in same/ similar line of business.

**13.4. Use of Agents by Foreign OEM/ Principals:** Wherever the foreign OEM/ principal desires to avail the services of an Indian Agent, the dealings with Indian Agents are to be regulated as follows:

- (a) Such Agents shall provide self-attested documentary evidence about their identity (PAN, Aadhar Card, GSTIN registration, proof of address etc), business details (ownership pattern and documents, type of firm, year of establishment, sister concerns etc) to establish that they are a bonafide business as per Indian Laws.
- (b) Agency agreement between the foreign OEM/ principal and the Indian Agent (including their associates), should be submitted to SPMCIL which should cover - the precise relationship, services to be rendered, mutual interests in business - generally and/or specifically for the tender. Any payment, which the agent or associate receives in India or abroad from the OEM, whether as commission or as a general retainer fee should be brought on record in the Agreement and be made explicit.
- (c) Failure to furnish correct and detailed information as called for in sub-para above will render the concerned tender liable to rejection or in the event of a contract materializing, the same liable to termination. Besides this there would be a penalty of banning business dealings with SPMCIL or damage or recovery of EMD/ LD/ PBG.
- (d) Tenderers of Indian Nationality bidding in association or on behalf of foreign principals, shall furnish the following details in their offers:

**13.5. The Bidder(s)/ Contractor(s) of Indian Nationality shall furnish**

- (a) The name and address of the foreign principals, if any, indicating their nationality as well as their status, i.e., whether manufacturer or agents of manufacturer holding the Letter of Authority of the Principal specifically authorizing the agent to make an offer in India in response to tender either directly or through the agents/ representatives.
- (b) The amount of commission/ remuneration included in the price (s) quoted by the Tenderer for himself.
- (c) Confirmation of the foreign principals of the Tenderer that the commission/ remuneration, if any, reserved for the Tenderer in the quoted price(s), may be paid by SPMCIL in India in equivalent Indian Rupees on satisfactory completion of the Project or supplies of Stores and Spares in case of operation items.

## 14. Firm Price / Variable Price

**14.1** Unless otherwise specified in the SIT, prices quoted by the tenderer shall remain firm and fixed during the currency of the contract and not subject to variation on any account.

**14.2** In case the tender documents require offers on variable price basis, the price quoted by the tenderers will be subject to adjustment during original Delivery Period to take care of the changes in the cost of labour and material components in accordance with the price

variation formula to be specified in the SIT. If a tenderer submits firm price quotation against the requirement of variable price quotation, that tender will be prima-facie acceptable and considered further, taking price variation asked for by the tenderer as zero.

- 14.3 However, as regards taxes and duties, if any, chargeable on the goods and payable, the conditions stipulated in GIT clause 12 will apply for both firm price tender and variable price tender.
- 14.4 **Exchange Rate Variation:** Subject to provisions of Clause 11 above, where prices are quoted in foreign currencies and the deliveries exceed 12 months, involving substantial imports content (> 35%) - Foreign Exchange Rate Variation (ERV) would be borne by the Purchaser within the original Delivery Period. The offer of the Tenderer should indicate import content and the currency used for calculating import content.
- 14.5 Base Exchange rate of each major currency used for calculating FE content of the contract should be indicated. The base date of ERV would be contract date and variation on the base date can be given up to the midpoint manufacture, unless firm has already indicated the time schedule within which material will be imported by the firm.
- 14.6 In case delivery period is refixed/ extended, ERV will not be admissible, if this is due to default of the supplier.
- 14.7 **Documents for claiming ERV:**
  - i. A bill of ERV claim enclosing working sheet
  - ii. Banker's Certificate/debit advice detailing F.E. paid and exchange rate
  - iii. Copies of import order placed on supplier
  - iv. Invoice of supplier for the relevant import order

## 15. Alternative Tenders/ Offers

Unless otherwise specified in the Schedule of Requirements, alternative tenders/ offers shall not be considered.

## 16. Documents Establishing Tenderer's Eligibility and Qualifications

- 16.1 Pursuant to GIT clause 3 and 10, the tenderer shall furnish, as part of its tender, relevant details and documents establishing its eligibility to quote and its qualifications to perform the contract if its tender is accepted.
- 16.2 The documentary evidence needed to establish the tenderer's qualifications shall fulfil the following requirements:
  - a) In case the tenderer offers to supply goods, which are manufactured by some other firm, the tenderer has been duly authorized by the goods manufacturer to quote for and supply the goods to SPMCIL. The tenderer shall submit the manufacturer's authorization letter to this effect as per the standard form provided under Section XIV in this document.
  - b) The tenderer has the required financial, technical and production capability necessary to perform the contract and, further, it meets the qualification criteria incorporated in the Section IX in these documents.



- c) in case the tenderer is not doing business in India, how will he carry out the required contractual functions and duties of the supplier including after sale service, maintenance & repair etc. of the goods in question, stocking of spare parts and fast-moving components and other obligations, if any, specified in the conditions of contract and/ or technical specifications.

## 17. Documents establishing Good's Conformity to Tender document

- 17.1** Country of Origin, Manufacture and Supply: Bidder must declare the country of origin, manufacture, value addition and supply of the goods offered by them. He must confirm that these do not violate provisions of Clause 3 of GIT.
- 17.2** The tenderer shall provide in its tender the required as well as the relevant documents like technical data, literature, drawings etc. to establish that the goods and services offered in the tender fully conform to the goods and services specified by SPMCIL in the tender documents. For this purpose, the tenderer shall also provide a clause-by-clause commentary on the technical specifications and other technical details incorporated by SPMCIL in the tender documents to establish technical responsiveness of the goods and services offered in its tender.
- 17.3** In case there is any variation and/ or deviation between the goods & services prescribed by SPMCIL and that offered by the tenderer, the tenderer shall list out the same in a chart form without ambiguity along with justification and provide the same along with its tender.
- 17.4** If a tenderer furnishes wrong and/ or misguiding data, statement(s) etc. about technical acceptability of the goods and services offered by it, its tender will be liable to be ignored and rejected in addition to other remedies available to SPMCIL in this regard.

## 18. Earnest Money Deposit (EMD)

- 18.1** Pursuant to GIT clause 10.1(e) the tenderer shall furnish along with its tender, earnest money for amount as shown in the List of Requirements. The earnest money is required to protect SPMCIL against the risk of the tenderer's unwarranted conduct as amplified under sub-clause 23.2 below.
- 18.2** The tenderers who are currently registered and, also, will continue to remain registered during the tender validity period with Udyam Registration as Micro & Small Enterprises (MSEs), National Small Industries Corporation (NSIC) or with SPMCIL are exempted from payment of earnest money. In case the tenderer falls in these categories, it should furnish certified copy of its valid registration details (with Udyam Registration, NSIC or SPMCIL as the case may be).
- 18.3** The earnest money shall be denominated in Indian Rupees.
- 18.4** The earnest money shall be furnished in one of the following forms:
- Account Payee Demand Draft or
  - Fixed Deposit Receipt or
  - Banker's cheque or
  - Bank Guarantee
  - Insurance security bonds

- f) e-PBG
- g) Online payment

The demand draft, fixed deposit receipt or banker's cheque shall be drawn on any scheduled commercial bank in India, in favour of Account specified in the Clause 1 of NIT. In case of bank guarantee, the same is to be provided from/confirmed by any scheduled commercial bank in India as per the format specified under Section XIII in these documents.

- 18.5** Unless otherwise specified in SIT, the earnest money shall be valid for a period of forty-five days beyond the validity period of the tender.
- 18.6** Unsuccessful tenderers' earnest monies will be returned to them without any interest, after expiry of the tender validity period, but not later than thirty days after conclusion of the resultant contract. Successful tenderer's earnest money will be returned without any interest, after receipt of performance security from that tenderer.
- 18.7** Earnest money of a tenderer will be forfeited, if the tenderer withdraws or amends its tender or impairs or derogates from the tender in any respect within the period of validity of its tender. The successful tenderer's earnest money will be forfeited if it fails to furnish the required performance security within the specified period.

## 19. Tender Validity

- 19.1** If not mentioned otherwise in the SIT, the tenders shall remain valid for acceptance for a period of 90 days (Ninety days) in case of single bid tender system and 120 days in case of two-bid system after the date of tender opening prescribed in the tender document. Any tender valid for a shorter period shall be treated as unresponsive and rejected.
- 19.2** In exceptional cases, the tenderers may be requested by SPMCIL to extend the validity of their tenders upto a specified period. Such request(s) and responses thereto shall be conveyed by surface mail or by fax/email/ telex/ cable followed by surface mail. The tenderers, who agree to extend the tender validity, are to extend the same without any change or modification of their original tender and they are also to extend the validity period of the EMD accordingly.
- 19.3** In case the day upto which the tenders are to remain valid falls on/ subsequently declared a holiday or closed day for SPMCIL, the tender validity shall automatically be extended upto the next working day.
- 19.4** **Compliance with the Clauses of this Tender Document:** Tenderer must comply with all the clauses of this Tender Document. In case there are any deviations, these should be listed in a chart form without any ambiguity along with justification.

## 20. Signing and Sealing of Tender

- 20.1** An authenticated copy of the document which authorizes the signatory to commit on behalf of the firm shall accompany the offer. The individual signing the tender, or any other documents connected therewith should clearly indicate his full name and designation and also specify whether he is signing,
  - (a) As Sole Proprietor of the concern or as attorney of the Sole Proprietor.



- (b) As Partner (s) of the firm.
  - (c) as Director, Manager or Secretary in case the of Limited Company duly authorized by a resolution passed by the Board of Directors or in pursuance of the Authority conferred by Memorandum of Association.
- 20.2** The authorized signatory of the tenderer must sign the tender at appropriate places and initial the remaining pages of the tender.
- 20.3** The tenderers shall submit their tenders as per the instructions contained in GIT Clause 10.
- 20.4** Tenderer shall submit only one copy of tender. Any duplicate copy sent along with original one shall not be accepted.
- 20.5** The original of the tender shall either be typed or written in indelible ink and the same shall be signed by the tenderer or by a person(s) who has been duly authorized to bind the tenderer to the contract. The letter of authorization shall be by a written power of attorney, which shall also be furnished along with the tender.
- 20.6** The original copy of the tender shall be duly signed at the appropriate places as indicated in the tender documents and all other pages of the tender including printed literature, if any shall be initialled by the same person(s) signing the tender. The tender shall not contain any erasure or overwriting, except as necessary to correct any error made by the tenderer and, if there is any such correction; the same shall be initialled by the person(s) signing the tender.
- 20.7** The tenderer is to seal the original copy of the tender and write the address of SPMCIL and the tender reference number on the envelope. The sentence "NOT TO BE OPENED" before ..... (The tenderer is to put the date & time of tender opening) are to be written on these envelopes. The inner envelopes are then to be put in a bigger outer envelope, which will also be duly sealed, marked etc. as above. If the outer envelope is not sealed and marked properly as above, SPMCIL will not assume any responsibility for its misplacement, premature opening, late opening etc.
- 20.8** **Two-Bid (envelop/ packet) System:** If so indicated in the NIT/ SIT, tender document will seek quotation in two parts (Two Bid System) for purchasing capital equipment, high value plant, machinery etc. of complex and technical nature. First part would be containing the relevant technical details of the equipment / machinery etc., and the second part would be containing, price quotation along with other allied issues. First part will be known as 'Technical Bid', and the second part 'Financial bid'. Tenderer shall seal separately 'Technical Bid' and 'Financial bid', and covers will be suitably super scribed. Both these sealed covers shall be put in a bigger cover and sealed, and evaluation would be done as described in clause 24.4 below. Further details would be given in SIT, if considered necessary. Pricing details should not be mentioned or hinted at in any manner in the "Technical Bid". In Financial bid, there should not be any extra information connected with Technical suitability of the offer – which has not been already disclosed in the Technical Bid.
- 20.9** If permitted in the SIT, the tenderer may submit its tender through e-tendering procedure.

## D SUBMISSION OF TENDERS

### 21. Submission of Tenders

- 21.1** Tenderers shall ensure that their tenders, duly sealed and signed, complete in all respects as per instructions contained in the Tender Documents, are dropped in the tender box located at the place as indicated in para 1 of NIT on or before the closing date and time indicated therein, failing which the tenders will be treated as late and rejected. Tenders may also be sent through post at the address as above. However, Purchaser will not be responsible for any postal lapses or delays in receipt of the documents. In case of bulky tender, which cannot be put into tender box, the same shall be submitted by the tenderer by hand to the designated officers of SPMCIL, as indicated in clause 1 of NIT. The officer receiving the tender will give the tenderer an official receipt duly signed with date and time.
- 21.2** The tenderers must ensure that they deposit their tenders not later than the closing time and date specified for submission of tenders. In the event of the specified date for submission of tender falls on / is subsequently declared a holiday or closed day for SPMCIL, the tenders will be received upto the appointed time on the next working day.

### 22. Late Tender

A tender, which is received after the specified date and time for receipt of tenders will be treated as "late" tender and will be ignored.

### 23. Alteration and Withdrawal of Tender

- 23.1** The tenderer, after submitting its tender, is permitted to alter / modify its tender so long as such alterations / modifications are received duly signed, sealed, and marked like the original tender, within the deadline for submission of tenders. Alterations / modifications to tenders received after the prescribed deadline will not be considered.
- 23.2** No tender should be withdrawn after the deadline for submission of tender and before expiry of the tender validity period. If a tenderer withdraws the tender during this period, it will result in forfeiture of the earnest money furnished by the tenderer in its tender besides other sanctions by SPMCIL.

## E TENDER OPENING

### 24. Opening of Tenders

- 24.1** SPMCIL will open the tenders at the specified date and time and at the specified place as indicated in clause 1 of NIT. In case the specified date of tender opening falls on / is subsequently declared a holiday or closed day for SPMCIL, the tenders will be opened at the appointed time and place on the next working day.
- 24.2** Authorized representatives of the tenderers, who have submitted tenders on time may attend the tender opening, provided they bring with them letters of authority as per the format in SBD XVII from the corresponding tenderers. The tender opening official(s) will prepare a list of the representatives attending the tender opening. The list will contain the representatives' names & signatures and corresponding tenderers' names and addresses.
- 24.3** During the tender opening, the tender opening official(s) will read the salient features of the tenders like description of the goods offered, price, special discount if any, delivery period, whether earnest money furnished or not and any other special features of the tenders, as deemed fit by the tender opening official(s).



- 24.4** In the case of two bid system mentioned in clause 20.8 above, the technical bids are to be opened in the first instance, at the prescribed time and date. These bids shall be scrutinized and evaluated by the competent committee/ authority with reference to parameters prescribed in the tender document. Thereafter, in the second stage, the financial bids of only the technically acceptable offers (as decided in the first stage) shall be opened for further scrutiny and evaluation. Other financial bids would be returned unopened to the respective bidders under Registered AD/ Reliable Courier or any other mode with proof of delivery.

## F SCRUTINY AND EVALUATION OF TENDERS

### 25. Basic Principle

Tenders will be evaluated on the basis of the terms & conditions already incorporated in the tender document, based on which tenders have been received and the terms, conditions etc. mentioned by the tenderers in their tenders. No new condition will be brought in while scrutinizing and evaluating the tenders.

### 26. Preliminary Scrutiny of Tenders

- 26.1** The tenders will first be scrutinized to determine whether they are complete and meet the essential and important requirements, conditions etc. as prescribed in the tender document. The tenders, that do not meet the basic requirements, are liable to be treated as unresponsive and ignored.
- 26.2** The following are some of the important aspects, for which a tender may be declared unresponsive and ignored.
- The tender is not in the prescribed format or is unsigned or not signed as per the stipulations in the bid document.
  - Required EMD has not been provided.
  - The bidder is not eligible to participate in the bid as per laid down eligibility criteria (example: the tender enquiry condition says that the bidder has to be a registered MSE unit, but the tenderer is a, say, a large-scale unit);
  - The Tenderer has quoted for goods manufactured by a different firm without the required authority letter from the proposed manufacturer.
  - The tender validity is shorter than the required period.
  - The bid departs from the essential requirements specified in the bidding document (Example: Some such important essential conditions are – performance security, terms of payment, liquidated damage clause, warranty clause, dispute resolution mechanism, applicable law and any other important condition having significant bearing on the cost/ utility/ performance of the required goods, etc);
  - Against a schedule in the List of Requirement (incorporated in the tender enquiry), the Tenderer has not quoted for the entire requirement as specified in that schedule. (Example: In a schedule, it has been stipulated that the Tenderer will supply the equipment, install, and commission it and also train SPMCIL's operators for operating the equipment. The Tenderer has however, quoted only for supply of the equipment).

## **27. Minor Infirmitiy/ Irregularity/ Non-Conformity**

If during the preliminary examination, SPMCIL find any minor infirmity and/ or irregularity and/ or non-conformity in a tender, SPMCIL may waive the same provided it does not constitute any material deviation and financial impact and, also, does not prejudice or affect the ranking order of the tenderers. Wherever necessary, SPMCIL will convey its observation on such 'minor' issues to the tenderer by registered/ speed post etc. asking the tenderer to respond by a specified date. If the tenderer does not reply by the specified date or gives evasive reply without clarifying the point at issue in clear terms, that tender will be liable to be ignored.

## **28. Discrepancy in Prices**

- 28.1** If, in the price structure quoted by a tenderer, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly, unless SPMCIL feels that the tenderer has made a mistake in placing the decimal point in the unit price, in which case the total price as quoted shall prevail over the unit price and the unit price corrected accordingly.
- 28.2** If there is an error in a total price, which has been worked out through addition and/ or subtraction of subtotals, the subtotals shall prevail and the total corrected; and
- 28.3** If there is a discrepancy between the amount expressed in words and figures, the amount in words shall prevail, subject to sub clause 28.1 and 28.2 above.
- 28.4** If, as per the judgment of SPMCIL, there is any such arithmetical discrepancy in a tender, the same will be suitably conveyed to the tenderer by registered / speed post. If the tenderer does not agree to the observation of SPMCIL, the tender is liable to be ignored.

## **29. Discrepancy between original and copies of Tender**

In any case only original tender shall be considered, any duplicate/extraneous copy submitted shall be liable to be rejected.

## **30. Clarification of Bids**

During evaluation and comparison of bids, purchaser may, at its discretion ask the bidder for clarification of its bid. The clarification should be received within 7 days from the bidder from date of receipt of such request. The request for clarification shall be in writing and no change in prices or substance of the bid shall be sought, offered, or permitted. No post bid clarification at the initiative of the bidder shall be entertained.

## **31. Qualification/ Eligibility Criteria**

Tenders of the tenderers, who do not meet the required qualification/ eligibility criteria prescribed in Section IX will be treated as unresponsive and will not be considered further.

## **32. Conversion of tender currencies to Indian Rupees**

In case the tender document permits the tenderers to quote their prices in different currencies, all such quoted prices of the responsive tenderers will be converted to a single currency viz., Indian Rupees for the purpose of equitable comparison and evaluation, as per the B.C. selling exchange rates established by the State Bank of India for similar transactions, as on the date of (technical bid) tender opening.



### **33. Schedule-wise Evaluation**

Unless otherwise stipulated in the NIT/ SIT in case the List of Requirements contains more than one schedule, the responsive tenders will be evaluated and compared separately for each schedule. The tender for a schedule will not be considered if the complete requirements prescribed in that schedule are not included in the tender. However, as already mentioned in GIT sub clause 12.2, tenderers have the option to quote for any one or more schedules and offer discounts for combined schedules. Such discounts, wherever applicable, will be considered to determine the tender or combination of tenders offering the lowest evaluated cost for SPMCIL in deciding the successful tenderer for each schedule, subject to that tenderer(s) being responsive.

### **34. Comparison on CIF Destination Basis**

Unless mentioned otherwise in Section-III – Special Instructions to Tenderers and Section-VI – List of Requirements, the comparison of the responsive tenders shall be on CIF destination basis, duly delivered, commissioned, etc. as the case may be.

### **35. Additional Factors and Parameters for Evaluation and Ranking of Responsive Tenders**

**35.1** Further to GIT Clause 33 above, SPMCIL's evaluation of a tender will include and consider the following:

- a) in the case of goods manufactured in India or goods of foreign origin already located in India, GST/ CGST/ SGST/ UTGST/ IGST & other similar duties, which will be contractually payable (to the tenderer), on the goods if a contract is awarded on the tenderer; and
- b) In the case of goods of foreign origin offered from abroad, customs duty and other similar import duties/ taxes, which will be contractually payable (to the tenderer) on the goods if the contract is awarded on the tenderer.

**35.2** SPMCIL's evaluation of tender will also consider the additional factors, if any, incorporated in SIT in the manner and to the extent indicated therein.

**35.3 Benefits/ Preferential Treatment to Micro & Small Enterprises (MSEs) and Star-up Enterprises:** As per policies of the Government from time to time, the purchaser reserves its option to give price preference to Micro and Small-Scale Industries in comparison to the large-scale Industries:

- (a) (i) Tender sets shall be provided free of cost to MSEs registered with agencies, as given at Para (b) below, for the item tendered.
- (ii) MSEs registered with the agencies, as given at Para (b) below, for the item tendered will be exempted from payment of Earnest Money.
- (iii) If a MSE bidder quotes a price within the band of the lowest (L1) +15 per cent in a situation where the L1 price is quoted by someone other than an MSE, the MSE bidders are eligible for being awarded 25 per cent of the total tendered value if they agree to match the L1 price. In case of more than one such eligible MSE, the 25 per cent quantity is to be distributed proportionately among these bidders. Within this, a purchase preference of 4 per cent is reserved for MSEs owned by Scheduled Caste (SC)/ Scheduled Tribe (ST) entrepreneurs and 3 per cent is reserved for procurement

from MSEs owned by women (if they participate in the tender process and match the L1 price). Provided that, in event of failure of such SC/ ST or Women MSE to participate in tender process or meet tender requirements and L1 price, 4 per cent sub-target shall be met from other MSE.

- (b) (I) MSEs, who are interested in availing themselves of these benefits, will enclose with their offer the proof of their being MSE registered with any of the agencies mentioned in the notification of Ministry of MSME indicated below: -
  - (i) District Industries Centres
  - (ii) Khadi and Village Industries Commission
  - (iii) Khadi and Village Industries Board
  - (iv) Coir Board
  - (v) National Small Industries Corporation
  - (vi) Directorate of Handicraft and Handloom
  - (vii) UDYAM Reregistration from Ministry of MSME
  - (viii) Any other body specified by Ministry of MSME
- (II) MSEs would be treated as owned by SC/ ST or women entrepreneurs:
  - (a) In case of proprietary MSE, proprietor(s) shall be SC / ST or women
  - (b) In case of partnership MSE, the SC/ ST or women partners shall be holding at least 51% shares in the unit
  - (c) In case of Private Limited Companies, at least 51% share shall be held by SC/ ST or women promoters.
- (III) The MSEs must also indicate the terminal validity date of their registration.

Failing (b) (I), (II) & (III) above, such offers will not be liable for consideration of benefits detailed in MSE notification of Government of India dated 23.03.2012 and its further amendments.

### 35.4 Support to Start-up Enterprises

- 35.5 The condition of prior turnover and prior experience may be relaxed for Start-ups (as defined by Department of Industrial Policy and Promotion) subject to meeting of quality & technical specifications and making suitable provisions in the bidding document. The quality and technical parameters are not to be diluted. As defined by Department of Policy & Promotion (DIPP) an entity shall be considered as a 'start-up'-
  - (a) Up to five years from the date of its incorporation/ registration,
  - (b) If its turnover for any of the financial years has not exceeded Rs 25 (Rupees twenty-five) crore
  - (c) It is working towards innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property.

- (d) Provided further that in order to obtain benefits a start-up so identified under the above definition shall be required to obtain and submit along with the tender, a certificate of an eligible business from the inter-Ministerial Board of Certification.

### **35.6 Preference to Make in India Products**

1. Department for Promotion of Industry and Internal Trade, (DPIIT - Public Procurement Section) has issued order No. P-45021/2/2017-PP (BE-II) dated 04th June 2020, revising its "Public Procurement (Preference to Make in India) Order 2017" (PPI-MII) to encourage 'Make in India' and promote manufacturing and production of goods and services in India. Local content can be increased through partnerships, cooperation with local companies, establishing production units in India or Joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them.

2. **Categories of Local Suppliers:**

Bidders/ Supplier are divided into three categories based on Local Content (local value addition as a %age of total value):

'Class-I local supplier' with local content equal to or more than 50%

'Class-II local supplier' with local content more than 20% but less than 50%

'Non - Local supplier' with local content less than or equal to 20%

3. **Nodal Ministry/ Department:**

- a) Nodal Ministry/ Department for various products have been prescribed on DPIIT website. The products where there is sufficient local capacity and local competition and prescribe or vary minimum local content (only above which benefits of PPI-MII order are applicable for a procurement). It may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement/ transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phased increase in local content. Guidelines by respective Nodal Ministry/ Department for different products can be seen from website of DPIIT.

- b) Nodal Ministry for its items may issue directions to exclude bidders from a country from eligibility for its procurement as measure of reciprocity of such action by that country against Indian Suppliers. For this purpose, a supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in that country, or ii) a majority of its shareholding or effective control of the entity is exercised from that country; or (iii) more than 50% of the value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect to India.

**4. Eligibility to participate and Purchase preference to Class-I local suppliers in Tenders of all goods, services or works:**

- (a) Only 'Class-I local supplier' shall be eligible to bid irrespective of purchase value - where there is sufficient local capacity and local competition Hence in such cases there is no question of price preference.
- (b) Only 'Class-I local supplier' and 'Class-II local supplier' shall be eligible (and 'Non-local suppliers are NOT eligible) to bid in other procurement of less than Rs. 200 Crore (where Global Tender would not be normally allowed). All three categories of suppliers are eligible to bid in global tender enquiries. In such procurements Class-I local suppliers (provided they fulfil the minimum local content specified in the tender for the item) would be given preference over other categories of suppliers (who are not entitled to any purchase preference) as per following procedure:
  - (1) For goods and works where the requirements are divisible by nature:
    - i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract for full quantity will be awarded to L1.
    - ii. If L1 bid is not a 'Class-I local supplier', 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the L1 price for the remaining 50% quantity subject to the Class-I local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the L1 price. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price or 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. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.
  - (2) For goods and works where the requirements are not divisible in nature, and in procurement of services where the bid is evaluated on price alone:
    - i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract will be awarded to L1.
    - ii. If L1 is not 'Class-I local supplier', the lowest bidder among the 'Class-I local supplier', will be invited to match the L1 price subject to Class-I local 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. 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 bidder.
- (c) The margin of purchase preference shall be 20%, unless otherwise stipulated by the Nodal Ministry/ Department. Minimum local content is 50%, unless otherwise specified by the Nodal Ministry/ Department. The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders and shall not be varied during procurement.

#### **5. Verification of local content and violations:**

- a. The 'Class-I local supplier'/ 'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the item offered meets the 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.
- b. 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.
- c. Complaints about Local content declarations may be made through the channels of SPMCIL. SPMCIL and Nodal Ministries may prescribe fees for such complaints.
- d. For False declarations a bidder or its successors can be debarred for up to two years by following debarment procedures along with such other actions as may be permissible under law.

**35.7 Price Variation:** If the tenders have been invited on variable price basis, the tenders will be evaluated, compared, and ranked on the basis of the position as prevailing on the day of (technical bid) tender opening and not on the basis of any future date.

#### **36. Tenderer's capability to perform the contract**

**36.1** SPMCIL, through the above process of tender scrutiny and tender evaluation will determine to its satisfaction whether the tenderer, whose tender has been determined as the lowest evaluated responsive tender is eligible, qualified, and capable in all respects to perform the contract satisfactorily. If, there is more than one schedule in the List of Requirements, then, unless otherwise stipulated in the NIT/ SIT, such determination will be made separately for each schedule.

- 36.2** The above-mentioned determination will, inter-alia, consider the tenderer's financial, technical and production capabilities for satisfying all the requirements of SPMCIL as incorporated in the tender document. Such determination will be based upon scrutiny and examination of all relevant data and details submitted by the tenderer in its tender as well as such other allied information as deemed appropriate by SPMCIL.

### **37. Cartel Formation/ Pool Rates**

Cartel formation or quotation of Pool/ Co-ordinated rates, leading to "Appreciable Adverse Effect on Competition" (AAEC) as identified in Competition Act, 2002, as amended by Competition (Amendment) Act, 2007, would be considered as a serious misdemeanour and would be dealt accordingly as per Clause 44 below.

### **38. Negotiations**

Normally there would be no price negotiations. But SPMCIL reserves its right to negotiate with the lowest acceptable bidder (L1), who is technically cleared/approved for supply of bulk quantity and on whom the contract would have been placed but for the decision to negotiate.

The circumstances where negotiations may be considered could be:

- a) Where the procurement is done on nomination basis;
- b) Procurement is from single or limited sources;
- c) Procurements where there is suspicion of cartel formation which should be recorded; and
- d) Where the requirements are urgent and the delay in re-tendering for the entire requirement due to the unreasonableness of the quoted rates would jeopardise essential operations, maintenance and safety, negotiations with L1 bidder(s) may be done for bare minimum quantum of requirements. The balance bulk requirement should, however, be procured through a re-tender, following the normal tendering process.

### **39. Contacting SPMCIL**

- 39.1.** From the time of submission of tender to the time of awarding the contract, if a tenderer needs to contact SPMCIL for any reason relating to this tender enquiry and / or its tender, it should do so only in writing.
- 39.2.** It will be treated as a serious misdemeanour in case a tenderer attempts to influence SPMCIL's decision on scrutiny, comparison, evaluation, and award of the contracts. In such a case the tender of the tenderer shall be liable for rejection in addition to appropriate administrative actions being taken against that tenderer, as deemed fit by SPMCIL, in terms of clause 44 of GIT.

## **G AWARD OF CONTRACT**

### **40. SPMCIL's Right to Accept any Tender and to Reject any or All Tenders**

SPMCIL reserves the right to accept in part or in full any tender or reject any tender without assigning any reason or to cancel the tendering process and reject all tenders at any time prior to award of contract, without incurring any liability, whatsoever to the affected tenderer or tenderers.



## 41. Award Criteria

Subject to GIT clause 36 above, the contract will be awarded to the lowest evaluated responsive tenderer decided by SPMCIL in terms of GIT Clause 34.

## 42. Variation of Quantities at the Time of Award

No variation of quantities at the time of awarding the contract.

## 43. Parallel Contracts

SPMCIL reserves its right to conclude Parallel contracts, with more than one bidder (for the same tender) in following circumstances:

- (i) After due processing, if it is discovered that the quantity to be ordered is far more than what L-1 alone is capable of supplying and there was no prior stipulation in the NIT/ SIT to split the quantities, then the purchaser reserves its rights to distribute the quantity being finally ordered, among the other bidders by counter offering the L1 rate to L2 or higher tenderers.
- (ii) When it is decided in advance to have more than one source of supply due to the critical/ strategic/ specific nature of the supplies/ goods parallel contract stipulation would be declared in the NIT/ SIT, clearly stating the manner of deciding relative share of lowest bidder (L1) contractor and the rest of the tenderers should be clearly defined, along with the minimum number of suppliers sought for the contract. Unless otherwise stipulated in the NIT/ SIT, in case of splitting in two and three, the ratio of 70:30; 50:30:20, respectively, may be used. These ratios are approximate and SPMCIL reserves its right to marginally vary quantities to suit capacity of the firm/ unit loads of packing or transportation. In such cases the firms should not quote for less than 25% of the tendered quantity; otherwise, their offer would be considered as unresponsive.

## 44. Serious Misdemeanours and Integrity Pact

**44.1. Serious Misdemeanour:** Following would be considered serious misdemeanours:

- i. Other than in situations of force majeure, after opening of financial bids, the supplier withdraws from the procurement process or after being declared as successful bidder: (i) withdraws from the process; (ii) fails to enter into a procurement contract; or (iii) fails to provide performance security or any other document or security required in terms of the bidding documents.
- ii. If the proprietor of the firm, its employee, partner, or representative is convicted of any offence by a court under the Prevention of Corruption Act, 1988 or under the Indian Penal Code or any other law for the time being in force for offences involving moral turpitude in business dealings.
- iii. If a firm directly or through an agent violates the code of ethics mentioned in Clause 32 of the GCC violates Integrity Pact mentioned in clause 43.3 below, in procurement or execution of the contract.
- iv. Violate the safety or statutory norms that result in industrial accidents leading to loss or injury to life or property or to any other legal liability to The Procuring Entity.
- v. Employs a government servant, who has been dismissed or removed on account of corruption or employs a non-official convicted for an offence involving corruption

- or abetment of such an offence, in a position where he could corrupt government servants or employs a government officer within two years of his retirement, who has had business dealings with him in an official capacity before retirement; or
- vi. On account of doubtful loyalty to the country or national security consideration as determined by appropriate agencies of GoI (normally such banning/ blacklisting would be initiated by the central government/ ministry).
  - vii. Doubtful loyalty to the country or national security consideration as determined by appropriate agencies of GoI
- 44.2.** Besides, suitable administrative actions, like rejecting the offers, SPMCIL would take other remedies available to it including Debarring Tenderers committing such misdemeanour, including declaring them ineligible to be awarded SPMCIL contracts for indefinite or for a stated period.

#### **44.3. Integrity Pact:**

**44.3.1. Signing of the Integrity Pact:** If so stipulated in the NIT/ SIT, purchaser shall be entering into an Integrity Pact with the bidders as per format enclosed vide Section XX: Integrity Pact, of this tender document. The tender issuing authority shall ensure updation of this format as per the latest guidelines. Each page of this Integrity pact proforma would be duly signed by Purchaser's competent signatory. All pages of the Integrity Pact are to be returned by the bidder (along with the technical bid) duly signed by the same signatory who signed the bid, i.e., who is duly authorized to sign the bid and to make binding commitments on behalf of his company. Any bid not accompanied by Integrity Pact duly signed by the bidder shall be considered to be a non-responsive bid and shall be rejected straightway. Names and contact details of the Independent Monitor(s) for this Tender are listed in Para 1 of Notice Inviting Tender (NIT).

**44.3.2. Extended Validity and provisions of its forfeiture:** In modification of clause 18.5 and 18.6 earlier, in view of Integrity Pact, the Earnest Money Deposit shall be valid for six months beyond the date of validity of the offer, after which the EMD of the unsuccessful bidders would be returned. In addition, the EMD shall also be liable to be forfeited If the Bidder or anyone employed by it or acting on its behalf (whether with or without the knowledge of the Bidder) breaches any of the provisions of the Integrity Pact.

**44.3.3. Additional Serious Misdemeanour:** As supplement to clause 44.1 above, breaches of any of the provisions of the Integrity Pact by the Bidder or anyone employed by it or acting on its behalf (whether with or without the knowledge of the Bidder) shall be one of the misdemeanours attracting consequences and penalties as mentioned in clause 44.2 above.

#### **45. Notification of Award of Contract**

- 45.1** Before expiry of the tender validity period, SPMCIL will notify the successful tenderer(s) in writing, by registered / speed post or by fax/email / telex/ cable (to be confirmed by registered / speed post) that its tender for goods & services, which have been selected by SPMCIL, has been accepted, also briefly indicating there in the essential details like description, specification and quantity of the goods & services and corresponding prices accepted.



The successful tenderer must furnish to SPMCIL the required performance security within twenty-one days from the date of this notification. Relevant details about the performance security have been provided under GCC Clause 6 under Section IV.

**45.2** The notification of award shall constitute the conclusion of the contract.

#### **46. Issue of Contract**

**46.1** Within seven working days of receipt of performance security, SPMCIL will send the contract form (as per Section XVI) duly completed and signed, in duplicate, to the successful tenderer by registered / speed post.

**46.2** Within seven days from the date of issue of the contract, the successful tenderer will return the original copy of the contract, duly signed, and dated, to SPMCIL by registered / speed post.

#### **47. Non-receipt of Performance Security and Contract by SPMCIL**

Failure of the successful tenderer in providing performance security within 21 days of receipt of notification of award and / or returning contract copy duly signed in terms of GIT clauses 45 and 46 above shall make the tenderer liable for forfeiture of its EMD and, also, for further sanctions by SPMCIL against it.

#### **48. Return of EMD**

The earnest money of the successful tenderer and the unsuccessful tenderers will be returned to them without any interest, whatsoever, in terms of GIT Clause 18.6.

#### **49. Publication of Tender Result**

The name and address of the successful tenderer(s) receiving the contract(s) will be mentioned in the website of SPMCIL.

#### **Part II: Additional General Instructions Applicable to Specific Types of Tenders:**

In addition to GIT in Part I above, following GIT will be applicable following types of Tenders:

#### **50. Rate Contract Tenders**

- i. Earnest Money Deposit (EMD) is not applicable.
- ii. The quantities required mentioned in the tender in Section-1 and Section-VI is without any commitment on a rate-contract basis. The quantities are indicative and exact call-off of quantity would be intimated periodically to the contractor by way of periodical supply orders in line with the conditions of the rate contract.
- iii. SPMCIL reserves the right to conclude more than one rate contract for the same item.
- iv. Unless otherwise specified in SIT, the currency of a Rate Contract would normally be for one year.
- v. During the currency of the Rate Contract, SPMCIL have the option to withdraw the rate contract or renegotiate the price by serving suitable notice. The prescribed notice period is generally thirty days.

- vi. During the currency of the Rate Contract, in case of emergency or for values less than Rs 1.5 (one and a half) Lakhs, SPMCIL may purchase the same item through ad hoc contract with a new supplier.
- vii. The terms of delivery in rate contracts are FOR dispatching station.
- viii. Supply orders, incorporating definite quantity of goods to be supplied along with all other required conditions following the rate contract terms, will be issued by the SPMCIL or its nominated Direct Demanding Officers (DDO) for obtaining supplies through the rate contract.
- ix. SPMCIL is entitled to place supply orders up to the last day of the validity of the rate contract and, though supplies against such supply orders will be affected beyond the validity period of the rate contract, all such supply will be guided by the terms & conditions of the rate contract.
- x. The rate contract will be guided by “Fall Clause” as described below.

#### **50.1 Fall Clause**

If the rate contract holder reduces its price or sells or even offers to sell the rate contracted goods, following conditions of sale similar to those of the rate contract, at a price lower than the rate contract price, to any person or organization during the currency of the rate contract, the rate contract price will be automatically reduced with effect from that date (the day of opening of Price Bid) for all the subsequent supplies under the rate contract and the rate contract amended accordingly. Any violation of the fall clause would be considered a serious misdemeanour under clause 44 of the GIT and action, as appropriate, would be taken as per provision of that clause.

#### **50.2 Performance Security**

Value of Performance Security would be stipulated in the SIT. Performance Security shall, however, not be demanded again in the individual supply orders issued subsequently against rate contracts.

#### **50.3 Renewal of Rate Contracts**

In case, it is not possible to conclude new rate contracts before the expiry of existing ones, due to some special reasons, the existing rate contracts would be extended with same terms, conditions etc for a suitable period, with the consent of the rate contract holders. Rate contracts of the firms, who do not agree to such extension, will be left out. Period of such extension would generally not be more than three months.

### **51. Prequalification Bidding (PQB)**

- 51.1 Prequalification Bidding is for short listing of qualified Bidders who fulfil the Prequalification criteria (PQC) as laid down in SIT or in Section IX of SBD – “Qualification Criteria” for procurement of Goods or Services as listed in Section VI of SBD – “List of Requirements”.
- 51.2 Unless otherwise stipulated in NIT/ SIT, the Pre-qualification Bid of the bidder should contain inter-alia:
  - i). Tender Form: Section X



- ii). Qualification/ Eligibility Criteria: Section IX, along with supporting documents
- iii). If so specified in NIT/ SIT EMD amount in specified format
- iv). Vendor Details: Section XII
- v). Manufacturer's Authorisation Form: Section XIV, if applicable

- 51.3** Unless otherwise stipulated in NIT/ SIT, EMD would be required as per clause 18 of GIT. No separate EMD would be called from short-listed bidders for the subsequent procurement bidding. In case a shortlisted bidder does not participate in subsequent procurement bidding, the EMD shall be forfeited.
- 51.4** Shortlisted Bidders would be informed of their qualification and short listing in accordance with the stipulations laid down in the SIT. Unless otherwise stipulated in the SIT the PQB short listing would be valid only for the next procurement stage of bidding.
- 51.5** If stipulated in the SIT, only these shortlisted qualified bidders would be invited to participate in the next stage of Procurement of the requirements.
- 51.6** Otherwise SIT may also indicate that instead of floating a separate stage of PQB bidding, it may be combined it with the Procurement bidding, as a three bid (envelope) tender. Initially the first envelope containing PQB would be opened, and evaluation would be done, to shortlist the bidders who pass the PQB criteria. Thereafter the rest of tender would be handled as a two-bid system for only such shortlisted bidders.

## 52. Tenders involving Samples

- 52.1** Normally no sample would be called along with the offer for evaluation.
- 52.2** **Purchaser's Samples:** If indicated in the SIT, A Purchaser's sample may be displayed to indicate required characteristics over and above the Specifications for perusal of the bidders. Name and Designation of the Custodian, Place, Dates and Time of inspection of Purchaser's sample will be indicated in the SIT. The supplies in the contract will have to meet the indicated required characteristics for which the Purchaser's sample was displayed, besides meeting the specification listed in Section VII – "Technical Specifications" of the SBD. He would be issued a sealed Purchaser's sample for the purpose at the time of award of the contract.
- 52.3** **Pre-Production Samples:** If stipulated in SIT, successful contractor would be required to submit a Pre-Production sample(s) to the Inspecting Officer/ or the nominated authority mentioned in the contract within the time specified therein. If the Contractor is unable to do so, he must apply immediately to the Office issuing the acceptance of tender for extension of time stating the reasons for the delay. If the Purchaser is satisfied that a reasonable ground for an extension of time exists, he may allow such additional time as he considers to be justified (and his decision shall be final) with or without alteration in the delivery period stipulated in the contract and on such conditions as he deems fit. In the event of the failure of the Contractor to deliver the pre-production sample by the date specified in the acceptance of tender or any other date to which the time may be extended as aforesaid by the Purchaser or of the rejection of the sample, the Purchaser shall be entitled to cancel the contract and, if so desired, purchase or authorize the purchase of the stores at the risk and cost of the Contractor (unless specified otherwise in the SIT). In such an event, in

case of Security Items where urgency develops due to such delays, SPMCIL reserves its right to procure not more than one year's requirement against this "Risk & Cost" tender from existing pre-qualified and security cleared firms. Bulk production and supply will only be allowed if this sample(s) pass the Tests laid down in the Section VIII – "Quality Control Requirements" in the SBD.

- 52.4 Testing of Samples:** Tests, procedures and testing laboratories for testing samples would be detailed in the Section VIII – "Quality Control Requirements" in the SBD.
- 52.5 Validation/ Prolonged Trials:** If specified in SIT or in the Section VIII – "Quality Control Requirements" in the SBD, pre-production samples may have to undergo validation or extended trial before their performance can be declared satisfactory.
- 52.6** Parameters Settings and duration of Validation Tests would be indicated in the Section VIII – "Quality Control Requirements" in the SBD. It would also stipulate the period or event marking end of validation trials. It would also be indicated therein whether the Permission to start bulk production will have to wait full validation or it can go on in parallel.

### 53. Expression of Interest (EOI) Tenders:

- 53.1** EOI tenders are floated for short listing firms who are willing and qualified for: -
  - i. Registration of Vendors for Supply of particular Stores or certain categories of Stores.
  - ii. Development of new items or Indigenization of Imported stores
- 53.2** The qualification /eligibility criteria required and the format of submission of such Data would be indicated in the Section IX – "Qualification Criteria" in the SBD.
- 53.3** Objectives and scope of requirement would be indicated in the Section VI – "List of Requirements" in the SBD. Indicative quantity required yearly, and its future requirements would also be indicated.
- 53.4** Unless otherwise stipulated in the NIT/ SIT, the EOI bid to be submitted by the bidders would contain, inter-alia:
  - i). Tender Form: Section X
  - ii). Qualification/ Eligibility Criteria: Section IX, along with supporting documents
  - iii). Vendor Details: Section XII
  - iv). Manufacturer's Authorisation Form: Section XIV, if applicable
- 53.5** In case of EOI for Development of new Items or for Indigenization, prospective firms would be given opportunity to inspect the Machine/ Item at the place of installation at the place, dates and Time mentioned in SIT.
- 53.6** In case EOI is for registration of vendors, Registration Fees and validity period of registration would be detailed in the SIT.
- 53.7 Short List of Suppliers:** The suppliers shall be evaluated for short listing, inter-alia, based on their past experience of supplying goods in similar context, financial strength, technical capabilities etc. Each supplier will be assigned scores based on weightages assigned to each of the criteria mentioned in the Section IX – "Qualification Criteria" in the SBD.



- 53.8** If stipulated in the SIT, the Firm's capacity and Capability may be assessed by a nominated Committee or by a third party nominated by SPMCIL.
- 53.9** All suppliers who secure the minimum required marks (normally 60% unless otherwise specified in the Section IX) would be short listed. Section IX may alternatively specify minimum qualifying requirement for each of the criteria i.e., minimum years of experience, minimum number of assignments executed, minimum turnover etc. Under such circumstances, all suppliers who meet the minimum requirement, as specified, will be short listed.
- 53.10** In case of EOI for registration of vendors, registration letters would be issued to the shortlisted tenderers.
- 53.11** Unless otherwise stipulated in the NIT/ SIT, in case of EOI for development/ indigenization, these shortlisted tenderers would only be allowed to participate in the subsequent development/ indigenization tenders.

#### **54. Tenders for Disposal of Scrap:**

- 54.1** **Introduction:** The tender is for Sale of Scrap material lying at various locations. Details of scrap for sale including Description, Present Condition, Lot Size, and its Location would be given in the Section VI – “List of Requirements/ Disposal”.
- 54.2** Sections VII, VIII, IX, XII, XIV, XV, XVIII, XIX and XX of SBD are not applicable to Tenders for disposal of Scrap.
- 54.3** Unless otherwise stipulated in the NIT/ SIT, the Disposal of Scrap bid to be submitted by the bidders would contain, inter-alia:
- Tender Form: Section X
  - List of Requirements/ Disposal - Section VI
  - Qualification/ Eligibility Criteria: Section IX, along with supporting documents
  - If so specified in NIT/ SIT EMD amount in specified format
  - Price Schedule: Section XI

#### **54.4 “As Is; Where Is; Whatever Is” Basis of This Sale:**

**54.2.1** This sale of Scrap is strictly on “As Is; Where Is; Whatever Is” basis. Tenderer must satisfy himself on all matters with regard to quality, quantity; nature of stores etc., before tendering as no complaint or representation of any kind shall be entertained after the sale contract is concluded.

**54.2.2** The description of lot in the particulars of sale has been given for the purpose of identification thereof only and the use of such description shall not constitute the sale thereof to be sale by description and no sale shall be invalid by reason of any defect or deviation or variation in any lot or on account of any lot not being exactly described and the purchaser shall not be entitled to claim any damage or compensation whatsoever on account of such fault, error in description, weight or the like.

- 54.2.3** All quantities of scrap whether by weight or measurement mentioned in the Tender notice are only approximate and should the quantity, on actual weight or measurement basis as the case may be and whenever delivered on such basis, works out less than the advertised and /or projected quantity, the SPMCIL shall not under any circumstances be liable to make good any such deficiency
- 54.2.4** SPMCIL reserves right to increase or decrease the quantity of any item or items or terminate the contract at any stage by giving one week's notice. No claim whatsoever shall lie against the SPMCIL on account of such termination of the contract or variation in the quantity.
- 54.2.5** SPMCIL shall have the right to remove certain items which it feels were not intended for sale but were inadvertently made a part of the scrap material or of the lot offered for sale lying at the premises or were joined or attached to the material offered for sale.
- 54.2.6** Tenderers desirous of purchasing and participating in the tender must visit the site before submitting the offer, after taking due permission from the concerned Stockholders. The Tenderers submitting the offers shall be deemed to have visited the site and acquainted themselves thoroughly with materials intended for sale in all respect.
- 54.2.7** Any person giving offer shall be deemed to have made himself fully conversant with the Terms and Conditions of the Tender Sale, as well as the location and condition of the materials being sold and shall be deemed to have agreed to all the stated terms and conditions herein under.

#### 54.3 Submission of Offer:

- 54.3.1** Unless specified otherwise in the SIT, tenders shall hold good for acceptance for a minimum period of 90 days (ninety days) from the date of opening of the tenders. The offers of the tenderers shall be irrevocable.
- 54.3.2 Right to Reject all Bids:** The seller reserves the right to accept/reject and cancel any bid, amend the quantity under any lot or withdraw any lot at any stage after acceptance of bid/issue of acceptance letter/sale order/delivery order/deposit of the full sale value by the bidder, without assigning any reason thereof and the value of such material, if paid for, shall be refundable. The seller shall not be responsible for damage/loss to bidders on account of such withdrawal at any stage from the sale.
- 54.3.3** Unless otherwise stated in the SIT, the amount of EMD in such tenders would be 5% of the value of the tender. The Earnest Money shall be forfeited if the tenderer unilaterally withdraws, amends, impairs or derogates from his offer in any respect within the period of validity of his offer.
- 54.3.4** If the offer of the tenderer is not accepted by the SPMCIL, the Earnest Money deposit made by the tenderer shall be refunded to him. No interest shall be payable on such refunds. The EMD deposited by the successful tenderer shall remain with the SPMCIL till payment of the security deposit (SD) money, as stipulated in relevant Clause, has been made. It may be adjusted as part of the total SD money at the discretion of the SPMCIL.



**54.3.5 Excise Duty, Taxes and TCS:** Commercial tax/terminal tax, Octroi, municipal tax or any other taxes/duties etc. whatever in force shall be payable extra by the purchaser as per rules applicable to SPMCIL. Current and valid PAN and sales/commercial tax registration number wherever applicable must be provided in the Bid of the Tenderer. Any statutory variations in the rate of taxes/duties are to be borne by the purchaser. VAT/ excise duty rates indicated in the e-auction catalogue are only indicative and the actual VAT rates as applicable on the date shall be payable by the successful bidders directly to the seller at the time of taking delivery of materials. Form 'C' will be accepted. Tax Collected at Source (TCS) at the prevailing rate may be deducted from all payments made to the buyer. In order to avoid the imposition of penalty, the amount deposited by the successful bidder towards taxes, duties and TCS will be immediately deposited with the concerned tax authorities without waiting for the actual delivery. Registered dealers who are exempted from payment of Sales Tax must submit copies of their Registration certificate of concerned authority and shall be required to submit necessary form duly completed in all respect to SPMCIL or its representatives before obtaining delivery order, duly signed by the partner of the firm or the person authorized to do so.

**54.3.6** All arrangement for lifting and transportation of scrap material, including manpower, crane, transport vehicle and trolley etc, if required shall be made by the purchaser concerned only and the SPMCIL shall not provide or help in providing any such arrangements and the rate quoted by the purchaser must include such and all incidental charges.

**54.3.7 Sale of Items/Lots Comprising Hazardous Waste:** Sale of hazardous waste items will be governed by the following procedures in addition to guidelines/notifications issued by the Central Pollution Control Board (CPCB)/Ministry of Environment and Forests (MoEF) from time to time:

- a) Sale of old batteries/lead acid batteries will be governed by the Batteries (Management & Handling) Rules, 2001 and its subsequent amendments.
- b) Sale of other categories of hazardous waste items will be governed by the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008 and its subsequent amendments and/or their relevant statutory act/rules.
- c) Sale of e-waste shall be governed by e-Waste (Management and Handling) Rules, 2011.
- d) Bidders must submit a notarized copy of the valid registration certificates issued by the State (or Union Territory) Pollution Control Board (PCB) and produce it at the time of taking delivery of the materials, failing which their bid will be liable for rejection. In case of lead acid batteries, used/waste oils, and nonferrous metal wastes, in addition to submitting necessary valid registration from the SPCB, the bidder must also submit a notarized copy of the valid registration certificate from CPCB (or MoEF); and

In case of a sale involving inter-state movement of goods, the buyer shall also submit an NOC from the concerned SPCB, with whom the buyer is

registered, to the seller before taking delivery, failing which the buyer will be responsible for the consequences and the seller shall take further decision as may be deemed fit.

**54.3.8** Evaluation of tenders for Disposal of scrap will be done on similar basis as Tenders for Procurement of Goods, except that in supersession of clause 41 above, the selection of the bidders shall be on the basis of the highest responsive Bidder (H1). In case full quantity is not offered to be taken by the Highest Bidder, parallel contracts would be placed.

#### 54.4 Notification of Acceptance and Award of Contract:

**54.4.1** The successful tenderer, herein after referred to as purchasers, shall have to submit security deposit (SD) @ 3% - 5% of the total sale value of the contract within 5 working days of issue of the sale contract (excluding the date of issue of sale contract). The SD shall be deposited in the form of bank draft/pay order, drawn on any nationalized or recognized bank in favour of SPMCIL as mentioned in clause 1 of NIT in connection with EMD.

**54.4.2** The purchaser has to pay balance payment within 20 days from the date of notification of acceptance, which is to be issued by SPMCIL or his authorized representative, in form of Bank draft drawn on any nationalized or recognized bank in favour of same authority as mentioned above. In case of any, default to deposit balance payment, SPMCIL reserves right to terminate the contract and forfeit the security deposit.

#### 54.5 Disposal Tenders for Security and Sensitive Machinery and Items:

**54.5.1 Non-Misuse Declaration:** The bidder is required to give an undertaking that he or his employees or legal heirs will ensure that such items purchased from SPMCIL, will be utilized only for scrap recovery, and will not be misused for any other purpose. He will also ensure that this undertaking is honoured, and it got underwritten from further down the line scrap processors/ re-purchasers, if any. In case his firm changes hands, it will be his responsibility to ensure that the new owners honour and underwrite this undertaking.

**54.5.2** If stipulated in SIT delivery would be given only in dismantled/cut-up condition.

#### 55. Development and Indigenization Tenders:

**55.1** Already developed firms or firms who have already received development orders for the item (with whatever results) would not be considered in such tenders.

**55.2** If specified in SIT the contract documents may be issued free of cost, and submission of earnest money deposit and security deposit may be relaxed.

**55.3** If specified in SIT, The Tenderers may quote separately for

- Price/rate for bulk supply of item in development/indigenization supplies and
- Separately, cost of development including cost of pre-production samples. Firms would be paid only for the number of samples specified in the Tender. If he has to manufacture more samples due to failure of earlier one, he would not be paid for it.



- 55.4** L1 would be determined on the basis of rate of item quoted including reference to total cost of the development cost (including the cost of prototype) plus the notional total cost of quantities that will be required over next three years, wherever applicable.
- 55.5** Development contracts may, as far as feasible, be concluded with two or more contractors in parallel.
- 55.6** The ratio of splitting of the supply order between various development agencies/firms in cases of parallel development, including criteria thereof, would be specified in the SIT.
- 55.7** However, in case the requirement is meagre and complex technology is involved, or quantity of the equipment/ spares is limited/small/ uneconomic if distributed between two vendors, the entire order could be placed upon the L1 vendor only.
- 55.8** If specified in SIT, Advance and Intermediate Payment to Suppliers may be allowed.

#### **55.9 Quantity for Development Commitment**

In Next three years, after the newly developed firm is able to successfully complete Development orders with +/-5% tolerance, 20% of annual quantity requirement may be reserved for Newly Developed firms.

#### **55.10 Period of Development Commitment**

A newly developed firm would be granted this facility till only three years after completing the initial Development order. However, this facility is not a bar to the firm from competing with already established firms for quantities larger than 20% provided their prices and performance so warrant. Thereafter they would have to compete on equal terms with other already developed firms.