

**No. 3057/DC/2022**  
**Government of Puducherry**  
**Finance Department**

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Puducherry, dt. 10/08/2022

**OFFICE MEMORANDUM**

**Sub: Promoting Competition in the Procurement of Goods and Services**

**Ref:** 1. Circular No. 748/FD/F3/2022-23, dated 06/07/2022, of the Finance Department, Government of Puducherry.  
2. I.D. Note/ Office Memorandum No. 44633/FD/F3/2021-22, dated 10.02.2022, of the Finance Department, Govt. of Puducherry (**page 5 of the FD Compendium**).

It has been observed that several bids received in response to the tenders floated by the Departments for procurements are being rejected on the grounds of non-fulfillment of pre-qualification/ eligibility criteria (both technical eligibility and financial eligibility) and other tender conditions. Consequently, the tenders are being finalized with only a few qualified bids, thereby curbing effective competition, and resulting in financial implications for the Government through the possibility of accepting relatively higher L1 rates. The Government ends up being disadvantaged, and it also discourages the otherwise qualified bidders from participating in future procurement processes.

2. In view of the above, and with a view to ensuring complete transparency in procurement, the following guidelines are hereby issued with the approval of the Competent Authority for strict adherence by Departments/Offices in processing tenders for procurements:

**(a) Pre-qualification Criteria/Eligibility Criteria:**

- (i) The Bid Documents shall be based on the Standard Bidding Documents (**SBDs**) relevant to the value range and category of procurement. To ensure uniformity, the standard provisions of the SBD/Standard RFP Document are to be used unaltered. The SBD should be placed on the website of the Department/ Agency/ Society to give predictability to potential bidders. Any modification to suit the unique requirements of a specific procurement shall feature as Special Conditions of Contract (**SCC**), and approval of the competent authority be taken, with requisite justification, to include them at the stage of seeking administrative approval.

For goods and services, the model tender documents issued by the Department of Expenditure (**DoE**), Ministry of Finance, Government of India, for Procurement of goods (<https://doe.gov.in/divisions/model-tender-document-procurement-goods>) and Procurement of Non-



Consultancy Services (<https://www.doe.gov.in/divisions/model-tender-document-procurement-non-consultancy-services>) shall be used as the SBDs. For works, the SBD of CPWD shall be followed.

(ii) The procurement of Goods/ Services/ Works shall be in accordance with the GFR, generic guidelines of the DoE's Manuals of Procurement<sup>1</sup> (available on the websites of the DoE, as well as that of the Finance Department, Puducherry, as already communicated vide the Circular first cited) and the orders/circulars issued by the Finance Department. These Manuals have now been updated incorporating all the CVC guidelines relating to procurements, and the updated versions were released by the Government of India on 01.07.2022.

(iii) It shall be ensured that the bid document, including the pre-qualification/ eligibility criteria, performance criteria, and evaluation criteria, is exhaustive, self-contained, and worded clearly such that the subjectivity in interpretation is obviated. The specifications, evaluation, and exclusion criteria, should be lucidly highlighted leaving no room for complaints. This will bring in much-needed transparency. The pre-qualification criteria shall be neither very stringent to curb competition nor very lax to facilitate even bidders who lack the requisite competency to undertake a work/ supply. The DOE's model tender documents provide adequate guidance in this regard.

(iv) All essential information, which a bidder needs for submitting a responsive bid, should be clearly spelled out in the bid document in simple language. This will enable the prospective bidders to formulate and send their competitive bids with confidence<sup>2</sup>. A carefully prepared tender document avoids delays and complaints. Hence, it is worth spending time and effort on this even in times of emergency. A nodal person may be indicated in the tender documents who can be contacted by potential bidders for routine clarifications. Substantive clarifications, if any, should be duly notified for one and all.

(v) The acceptance/rejection of any bid should not be arbitrary but on justified grounds as per the laid down criteria. The clause, ordinarily inserted in all tender documents that the tendering authority may reject any tender application without assigning any reason, does not mean that the tender accepting authority is free to take a decision in an arbitrary manner. The tendering authority is bound to record, on the file note sheet, clear, logical reasons for any action of rejection/recall of tenders, reasons for rejecting some bids (the same would be communicated to the affected bidders in writing, and posted on the Department's website), and reasons for acceptance of a bid, based on some relaxations.

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<sup>1</sup> The Departments may, if necessitated, *supplement* these manuals to suit their local/ specialized needs, by issuing their detailed manuals or instructions including customized formats, Standard Bidding Documents and Schedule of Procurement Powers as guidance for their own procuring officers.

<sup>2</sup> It may be kept in view that the bidders spend a lot of time and energy, besides financial cost, in preparing the bids and, thereafter in following up with the tendering authority for submitting various clarifications and presentations.



## **(b) Cases of Single Tender:**

- (i) In case of receipt of a single bid only, under GEM-based tender or under an open e-bidding route, or when only one technically qualified bidder is left at the end of such process, the financial bid may still be opened for evaluation and award of contract. However, in keeping with GFR Rule 173(xx), prior to opening the financial bid, the Administrative Secretary shall ascertain that
  - a. the technical and financial qualification criteria were not unduly restrictive, which prevented at least 3 bidders from being eligible to submit bids;
  - b. the procurement was satisfactorily advertised and sufficient time was given for submission of bids; and
  - c. the prices are reasonable in comparison to market rates.

In case the financial quote received in case of a single bid happens to be more than the market rate/ estimated cost<sup>3</sup>, and need is felt for price negotiation with the single bidder, the same may be undertaken by a committee of officers, including at least one officer with an understanding of issues involved but from a different Department.

- (ii) If it is assessed that the technical and financial qualification criteria were overly restrictive, or there was any unreasonable/unrealistic condition in the tender which prevented more than one bidder from becoming eligible, then bids shall be re-invited by relaxing those conditions.

## **(c) Seeking clarification post-receipt of bids:**

On the opening of technical bids after receipt of tenders, it may happen that the documents submitted by bidders are either incomplete or inadvertently left out. Strictly speaking, this is the result of oversight/careless attitude of the bidders, and bids could be rejected as 'non-responsive'. However, this stand may not be in the best interest of the Government, since it would result in only a limited number of bidders qualifying, and could even necessitate re-tendering in case no bidder qualifies. Re-tendering is, however, associated with time-induced cost overruns, besides loss of opportunity cost from the delayed realization of project/work benefits. Hence, as a balance, the following norms should be strictly followed while calling for tender:

- (i) While the documents required to be submitted would be listed out in all the relevant paras in the tender document, a separate para explicitly listing at one place all the documents required to be submitted shall be added to the tender document. In fact, where technically feasible, the online bids be received such that the bid cannot be submitted without enclosing all documents listed (system will generate alerts and not allow the bids to be submitted without all the requisite documents).

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<sup>3</sup> The price reasonability comparison with market rates shall be undertaken even when more than one bid is received.



(ii) In case some document is still left out or a wrong one is uploaded, a notice (including through email of the bidder) shall be issued asking the bidder to furnish the required documents. The concerned Department/Office may, if required, also obtain clarifications on the documents submitted with the technical bid to enable the bidders to complete the documentation, i.e., supply missing documents, withdrawal of conditions, if any, in deviation with the tender conditions, and specify the facts clearly. However, not more than 7 working days would be given to bidders for this purpose. In case of emergency/ urgency, for reasons to be recorded in writing, this opportunity period could be further shortened. The action shall be undertaken such that no undue advantage is extended to one or few bidders.

(iii) During seeking clarifications, a bidder shall not be allowed to contradict an already submitted document/fact. The clarification will be sought only on conditions laid down in the tender documents, and in no case would any tender eligibility criteria be relaxed to make bidders eligible. Hence, no facts/ documents that relate to a period after the last date and time of the original submission of bids shall be considered.

(iv) The financial bid shall be opened only after the technical evaluation is completed and technically qualified bidders have been declared. No clarification shall ever be sought on the financial bid or any part of the technical bid after the financial bid is opened:

The tender evaluation committee's Minutes should clearly record the process of clarification.

#### **(d) Need to have a Local/Branch Office:**

It is noticed that a very large number of bidders are getting rejected at the time of processing of bids, due to the condition laid down in the bid document that the seller/service provider must have a local/branch office in the State/UT of Consignee. This restrictive condition greatly hinders competition and adds costs to the Government. Therefore, Departments/Offices shall henceforth strictly follow the instructions below in this regard:

(i) For procurement of goods including stores, machinery, and equipment, the condition of a local office shall not be imposed in the bid document that the seller/supplier must have a local/branch office in Puducherry/Karaikal/Mahe/Yanam. For goods of value above ₹5 lakh, the mandatory provision in the GeM portal of obtaining the Electronic Performance Bank Guarantee (**EPBG**), ensures that the interests of the buyer are adequately protected during the purchase and the warranty period. Even for goods of value lesser than ₹5 lakh, the buyer department may, where felt necessary, insist on EPBG by adding a suitable clause in the bid-specific Additional Terms and Conditions (**ATC**).



- (ii) For procurement of Annual Maintenance Contract (**AMC**) service, the buyer Department/Office shall not impose the condition that the service provider must have an office/branch located in Puducherry/Karaikal/Mahe/Yanam. However, the buyer procuring the AMC service may lay down a suitable condition, as part of the Service Level Agreement (**SLA**) in ATC that any servicing or repairs must be attended to by the AMC service provider within a specified number of hours from the time of the complaint, failing which certain pre-prescribed penalties would be levied, and in case of repeated failures, even the contract could be terminated.
- (iii) In the case of AMC of critical equipment/ machine, such as medical equipment, a lift in a multi-story building, a local office could be insisted. However, the bidder should be allowed to open such an office, within 15 days of being declared a winner in a tender.
- (iv) There is no need for a local office where the services are outsourced and the personnel from the winning bidder are physically present on the office premises. However, in case a replacement is warranted the tender document may obligate the service provider to undertake the same within a 15 days period.

**(e) Ensuring Statutory Compliances:**

The bid may seek the registration details of the bidder with the Commercial Taxes Department (say GSTIN for GST payment), electricity/ water connection number, EPF/ ESI registration number, etc., and specifically, list out all the statutory norms to be complied so that they are duly factored in the price bids. However, the onus of compliance with laws relating to the regulatory norms shall be exclusively handled by the concerned enforcing Department and the procuring entity shall not be required to analyze the same. E.g., the tender condition would only specify that the contractor/ service provider shall comply with all labour laws, including those on minimum wage payment, EPF payments, etc. and the Department shall not sit in judgment/ enforcement over them. The procuring Department shall however forward a copy of the work order, along with the registration details of the winning bidder, to the concerned Department, such as Labour, Commercial Taxes, etc. for due compliance/ enforcement at their end.

**(f) Multiple Bids with same L1 Rate:**

To deal with the procurement of Goods/Services with Price as the Bid Parameter, and when multiple bids are received with the same L1 quote, the tender document may clearly state that the decision from among L1 bidders shall be undertaken by giving 30% weightage each to each bidder's length of experience and satisfactory performance, and 20% weightage each to staff strength and turnover (anywhere in India) of bidders, as judged by the Tender Evaluation Committee.



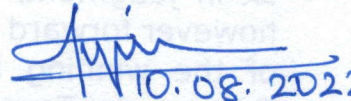
**(g) Knowledge of Local Language:**

A few cases have come to notice where the bids have been rejected on grounds of residency of a person outside the UT of Puducherry and Tamil Nadu, under the presumption that such a person would not know the Tamil/Telugu/Malayalam language. Such a rejection is unjustifiable since to know Tamil/Telugu/Malayalam one need not necessarily be residing in Puducherry or Tamil Nadu. However, the requirement of knowing Tamil/Telugu/Malayalam language could be brought in, for reasons to be recorded in writing, in cases where the job/ task cannot be undertaken in absence of knowing the local language. The same should be specifically highlighted while seeking administrative approval.

**(h) Publicity for Call of Tenders:**

For adequate publicity and to attract more bids, the tender notifications (NIT) shall be mandatorily *published* in the Central Public Procurement Portal (CPPP) of the Government of India (<https://eprocure.gov.in>), the e-tender portal of the Government of Puducherry (<https://pudutenders.gov.in>), and Department's own website. The publication requires only log-in credentials of procuring entity and no fee is payable for the same. However, both the CPPP publication and Department's own website publication may clearly state in bold that the submission of e-bid shall be available on <https://pudutenders.gov.in> only. The Departments may further maintain a database of contractors (this will keep expanding), with a sound track record of performance, for various categories of works so that they can additionally be informed of every new NIT through their email ID. All these measures, in addition to publishing the NIT in newspapers as per the existing practice, would ensure publicity without adding to cost in any manner.

3. These instructions shall be scrupulously followed by all Departments/Offices, including Autonomous Bodies/Societies/Corporations/PSUs/Institutions under the control of the Government of Puducherry.

  
10.08.2022  
(Arjun Ramakrishnan)  
Under Secretary (Finance)

All Secretaries/ HoDs/Heads of Offices/Heads of Autonomous Bodies  
All Secretariat Departments  
All SAOs/JAOs for scrupulous implementation

**Copy for information to:**

The P.S. to the Chief Secretary