



Indian Electrical & Electronics Manufacturer's Association

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Director General

SEC/REP/S/152

9.9.2021

Dear Mr. Satyaprakash,

Sub: Notice inviting Tender by HVPNL in contradiction to Orders of Government of India

Reference: E-Tender No. EPC/2/RELIABLE COMM. dated 01.02.2021 Reliable Communication and Data Acquisition System for 132 kV and above Network in Haryana

Attachments:

1. Order of Ministry of Power, Government of India, dated 2nd July 2020
2. OM of Department of Expenditure, Government of India, dated 23rd July 2020
3. DO Letter of Secretary, Department of Expenditure, Ministry of Finance dated 23rd July 2020
4. NleT Document for Reliable Communication and Data Acquisition System for 132 kV and above Network in Haryana | E-Tender No. - EPC/2/RELIABLE COMM.

IEEMA is the apex representative body of Indian electrical industry. IEEMA covers a wide range of electrical, industrial electronics and allied products, encompassing the entire value chain of the sector from power generation, transmission, distribution and downstream to the point of consumption of electricity; thereby covering finished products, parts and components, systems and services.

We write with reference to following Orders of the Government of India (enclosed for ready reference), to enable imposition of restrictions on bidders from countries which share a land border with India on grounds of defence of India, or matters directly or indirectly related thereto including national security.

(1) Order of Ministry of Power, Government of India, dated 2nd July 2020, putting restrictions on imported items to be used in power system.

The said Order stipulates that all equipment, components, and parts imported for use in the power Supply System and Network shall be tested in the country to check for any kind of embedded malware/trojans/cyber threat and for adherence to Indian Standards. All such testings shall be done in certified laboratories that will be designated by the Ministry of Power (MoP). Any import of equipment/components/parts from "prior reference" countries as specified or by persons owned by, controlled by, or subject to the jurisdiction or the directions of these "prior reference" countries will require prior permission of the Government of India.

(2) Office Memorandum of Department of Expenditure, Ministry of Finance, Government of India, dated 23rd July 2020, with insertion of rule 144 (xi) in the General Financial Rule (GFRs) 2017, stipulating conditions on supplies from countries sharing land border with India.

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Clause 8 of the Office Memorandum clearly provides definition of the 'Bidder from a country which share a land border of India' for the purpose.

- a. An entity incorporated, established, or registered in such country; or
- b. A subsidiary of an entity incorporated, established or registered in such country or see an entity superscript roll through entity incorporated stab or registered in such country; or
- c. An entity whose *beneficial owner* is situated in such countries; or
- d. An Indian (or other agent) of such an entity; or
- e. A natural person who is citizen of such a country; or
- f. A Consortium or Joint Venture where any member of the Consortium or Joint Venture falls under any of the above.

The Office Memorandum of the Department of Expenditure, mandates prior registration of such bidders with the Competent Authority to be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects).

The DO letter from the Secretary, Department of Expenditure further conveyed the decision of the Government of India that State Government are required to implement the said Orders, in respect of procurement by the State Government, State Government Public undertakings, local bodies and all agencies controlled by them as well as PPP receiving financial support from State Government or State Government Public Sector enterprises/undertakings. For avoidance of any doubt, it was clarified that this may be treated as direction under Article 257 (1) of the Constitution.

Referring to aforesaid Order of the Ministry of Power, dated 2nd July 2020, Office Memorandum of the Department of Expenditure, dated 23rd July 2020 and the DO letter of the Secretary, Department of Expenditure, dated 23rd July 2020, we would like to draw your kind attention towards the Tender of Haryana Vidyut Prasaran Nigam Limited, with following tender details.

Reliable Communication and Data Acquisition System for 132 kV and above Network in Haryana [E-Tender No. - EPC/2/RELIABLE COMM.]

It is noteworthy that this project is supported by Central government as 50% project cost is funded in the form of grant.

We have been reported by our industry members that a bid has been submitted by Chinese firm, ZTT India Private Ltd which is a subsidiary company of Jiangsu Zhongtian Technology Co., Ltd. (ZTT China).

As per our understanding, ZTT India Private Ltd. falls under category of 'Bidder from Country which share a Land Border of India' and yet not got registered from the competent authority.

The Office Memorandum of the Department of Expenditure, dated 23rd July 2020, conveyed that the transitional cases in Clause 3 (a), where no contract has been concluded or no LoA has been issued so far shall be handled in the following manner:

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In tenders which are yet to be opened, or where evaluation of technical bid or the first exclusionary qualification stage (i.e. the first stage at which the qualifications of tenderers are evaluated and unqualified bidders are excluded) has not been completed. No Contracts shall be placed on bidders from such countries. Tenders received from bidders from such countries shall be dealt as if they are non-compliant with the tender conditions and the tender shall be processed accordingly.

We request your good offices to kindly comply with aforesaid Orders of the Government of India, so that the bidders from prior reference countries sharing land borders with India qualify for supplies only after obtaining approval from the designated competent authority, in accordance with the provisions of the 23rd July 2020 Order of the Department of Expenditure, Ministry of Finance, Government of India.

Looking forward to a favourable consideration of our above request.

Best Regards,

Yours sincerely,

Charu Mathur

To,

Mr. T L Satyaprakash
 Managing Director
 Haryana Vidyut Prasaran Nigam Limited
 Shakti Bhawan, Plot No C-4, Sector 6
Panchkula -134 113

Copy to:

1. Mr. Aramane Giridhar, Secretary, Department of Promotion of Industry and Internal Trade, Government of India, New Delhi
2. Mr. Alok Kumar, Secretary, Ministry of Power, Government of India, New Delhi
3. Mr. Pranab Kishore Das, Addl. Chief Secretary to Government of Haryana, Department of Power, Panchkula
4. Mr. Dinesh Chandra, Chairperson, Central Electricity Authority, New Delhi
5. Mr. A K Rajput, Chief Engineer (R&D), Central Electricity Authority, New Delhi