

Government of Haryana
Industries & Commerce Department
Directorate of Supplies & Disposals

Government Order
No.2/2/2010-4-IB-II dated 16th June 2014

Subject: Policy guidelines for procurement of Stores & Goods and Turnkey Contracts-negotiation regarding.

1. The Policy guidelines issued vide G. O. No. 2/2/2010-4-IB-II dated 28.5.2010 provides that the in procurement of store items, wherever the rates quoted by the bidders, including those quoted by L₁ are not reasonable, the negotiations would be held only with the L₁ and a counter- offer made to the L₁. In case the L₁ bidder does not accept the counter offer, the tender would be dropped and recourse taken to invite fresh tenders

While observing that in Rate Contracts, it may be difficult to assess the quantity at the indenting stage or the L₁ bidder may not have sufficient manufacturing capacity to meet the entire estimated requirement, Policy Guidelines dated 18.6.2013 were issued which provides that the price discovery for the Rate Contract shall generally be determined based on the rates quoted by the L₁ bidder and the negotiations, if any, held with the lowest bidder. However, the rate contract negotiations could be held up-to L₃ bidder, if the difference between the L₁ quoted rates and those quoted by the L₂ and L₃ is within 5% of the L₁ quoted rates. In cases where the L₁ bidder refuses to further reduce his offered price and the L₂ or L₃ bidders come forward to offer a price which is better than the price offered by L₁ bidder, the bidder whose price is accepted becomes the L₁ bidder. However, in such a situation the original L₁ bidder shall be given on more opportunity to match the discover price in case of acceptance, he would be treated as the L₁ bidder. It is further provided that on determination of the price discovery pursuant to the above process, a counter offer would be made to all such eligible bidders whose quoted price is within 10% of the L₁ quoted price for acceptance of the discovered/offered price. Such of

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the eligible bidders whose quoted price excess 10% of the L₁ quoted price shall not be eligible for consideration on the rate contract. The bidders agreeing to accept the counter offer of the discovered price following the above process, may be approved on the Rate Contract. As regards apportionment of the quantity of supplies, the finally determined L₁ bidder would be accorded due preference and the allocation of order may got up to 50% of the total ordered quantity subject to his offered quantity/capacity to supply.

2. The proposals received from various Indenting Agencies have been considered wherein they have proposed that the negotiations policy as applicable in Rate Contracts, may also be followed for procurement of specify quantity of stores & turnkey contracts. One of the rationale put forth was that as per the existing guidelines on the subject, negotiations of rates could be held only with the L₁ bidder/s and if the L₁ bidder/s refuse to accept reasonable rates, there was no option but to go for re-tendering. The process of re-tendering took its own time and could not be afforded in critical service delivery areas. Besides this, there remained possibility of getting further higher rates in the re-invited tender.
3. Keeping the above in view, following decisions have been taken:
 - (i) The price discovery for cases relating to **purchase of specific quantity of Stores, Goods and award of Turnkey Contracts** shall be generally determined based on the rates quoted by the L₁ bidder if the quoted rates are found to be reasonable by the Indenting Department, and negotiations, if any, held with lowest bidder. However, the negotiations could be held up to L₃ bidder, if the difference between L₁ quoted rate and those quoted by L₂ & L₃ is within 5% of the L₁ quoted rate. In cases where the L₁ bidder refuses to further reduce his offered price and the L₂ or L₃ bidders come forward to offer a price which is

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better than the price offered by L₁ bidder, the bidder whose price is accepted becomes the L₁ bidder. However, in such a situation, the original L₁ bidder may be given one more opportunity to improve upon the discovered price. In case, the original L₁ bidder further improves upon the price discovered during the negotiations, he would be treated as the L₁ bidder.

(ii) As regards apportionment of the quantity of supplies, the finally determined L₁ bidder would be accorded due preference and the allocation of order may be decided by the HPPC subject to information available in the DNIT e.g. his offered quantity/capacity to supply, Sales turnover, orders in hand, past performance etc. or any other rational parameters. The balance order may be apportioned between the L₂ & L₃ bidders, if they accept the final L₁ rates, on the basis of identical information e.g. their offered quantity, capacity to supply, sales turnover, orders in hand, past performance etc which may be decided by the HPPC on case to case basis.

4. As per policy guidelines dated 18.06.2013 qua the Rate Contracts, the finally determined L₁ bidder is to be accorded due preference and the allocation of order may got up to 50% of the total ordered quantity subject to his offered quantity/capacity to supply. Further, the discovered rates are counter offered to all the bidders whose quoted price is within 10% of the L₁ price. The past experience has shown that there could be cases where the L₁ bidder may have a limited capacity of less than 50% of the estimated procurement quantities. Hence, these guidelines are revised in the following manner:

FOR RATE CONTRACT CASES:

(i) In cases where there is only one bidder for a particular item and the price quoted by such L₁ bidder is accepted by the

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indenting department as being reasonable, the order for the entire quantity qua such item could be placed on such bidder;

- (ii) In cases where only two bidding firms are approved, the allocation of quantity of the order may go up to 70% in favour of the L₁ bidder subject to the information available in the DNIT viz his offered capacity/capacity to produce/manufacture, orders/ commitments in hand and previous track record;
- (iii) In case, more than two firms are approved, the L₁ bidder, whose finally discovered price becomes the basis for making counter-offers to other qualifying bidders, would continue to be accorded priority for allocation of share of quantities, which may got up to 50% of the total estimated quantity of the Rate Contract subject to his offered quantity, capacity to produce/ manufacture, orders/commitments in hand and previous track record;
- (iv) In cases where there are more than one bidders consenting to accept the L₁ discovered price in response to the counter-offer, the quantities shall be allocated by the HPPC among L₂ & above approved bidders, as the case may be, based on the principles of (i) L₂/ L₃ position (viz L₂ bidder shall be preferred over L₃ bidder & so on (ii) offered quantity, (iii) capacity to supply, (iv) Sales turnover, (v) orders in hand, and (vi) previous track record in execution of orders (as per the information available in the DNIT).
- (v) It may not be necessary to make a counter-offer of the discovered price to all the bidders quoting within 10% of the L₁ quoted rates. Instead, such counter-offer may be restricted up-to L₃ if they have the capacity to meet the entire order.

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However, if the L₂ or L₃ bidders do not accept the counter offered rates, the counter offer in that case could also be extended to other bidders whose quoted rates are within 10% price range. This is likely to increase the competitiveness.

5. These guidelines shall be applicable to all cases of Rate Contracts, Fixed quantity purchases of Stores & Goods and Turnkey Contracts to be considered by the HPPC after the date of issue of these guidelines.

Y.S. Malik,
Addl. Chief Secretary to Government of Haryana,
Industries & Commerce Department

Endst. No.2/2/2010-4-IB-II

Dated, the 16th June 2014

A copy is forwarded to the following for information :-

1. All the Administrative Secretaries to Government of Haryana.
2. All Heads of Departments.
3. All the MDs/CEOs of Boards and Corporations.
4. All the Divisional Commissioners in the State of Haryana.
5. All the Deputy Commissioners in the state of Haryana.
6. Registrar, Punjab & Haryana High Court.

Sd/-

Superintendent IB-II

Addl. Chief Secretary to Government of Haryana,
Industries & Commerce Department

Endst. No.2/2/2010-4-IB-II

Dated, the 16th June 2014

A copy is forwarded to the Director Supplies & Disposals, Haryana, Chandigarh w.r.t his U.O. No. 384 dated 10.02.2014 for information and necessary action.

Sd/-

Superintendent IB-II

Addl. Chief Secretary to Government of Haryana,
Industries & Commerce Department