

Receipt No. 1716-28

Date 3/6/10

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Government of Haryana
Department of Industries & Commerce
G. O. No. 2/2/2010-4 I Bil dated 28 May 2010

From

Financial Commissioner and Principal Secretary
to Government of Haryana,
Industries & Commerce Department

To

1. All the Administrative Secretaries to Government of Haryana.
2. All the Heads of Departments.
3. All the MDs/CEOs of Board and Corporations.
4. All the Divisional Commissioners in the State of Haryana.
5. All the Deputy Commissioner in the State of Haryana.

Subject: Policy decisions/ guidelines on procurement of Stores through the Directorate of Supplies and Disposals - regarding.

A number of policy issues concerning the procurement of stores items have been under consideration of the Government for sometime in the past. Having considered the relevant issues, the Government has taken the following policy decisions with a view to further streamlining the process of procurement:

1. Procurement Plan:

It has been observed that the last quarter rush for the purchase of store items is not a prudent financial practice. The store items ought to be procured in a manner that the budgetary provisions for the same are utilized in an evenly spread manner throughout the year. As such, it is important that the Departments prepare their procurement plans for the year especially when the budgetary provisions are known to each and every department/ organization as soon as the Appropriation Bill is passed and the grants are communicated to all the line departments by the Finance Department. The Finance Department has already delegated the powers to issue financial/ administrative sanctions within the approved plan budget subject to such outflows being restricted to 20% of the annual plan budget during the first quarter, 25% of the plan budget during the second quarter, another 25% of the plan budget during the third quarter and 30% during the last quarter of the financial year. Keeping the above in view, it has been decided that:

- i) Each and every department/organization shall consolidate its budgetary provisions for procurement of stores/ purchases under non-plan and plan budget for the year and prepare a Procurement Plan by the 30th of April every year [30th June being the date for the current financial year i.e. 2010-11];

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- ii) Based on the above procurement plans, the Departments/ Organizations would send their self-contained indents of store items for the year to the DS&D latest by the 30th of June every year (31st July for the current year i.e. 2010-11). The departments would ensure that they do not create a rush of work towards the end of June and send their indents to the DS&D spread out evenly during the three months from April to June;
- iii) The DS&D would process the indents received from the departments up to the 30th of April/ May/ June, as the case may be, by the 30th of July/ August/ September respectively. The processing of indents by the DS&D would mean completing the process of tendering, analysis and decision-making for award of tenders/ placement of orders within the given time-lines.

2. Exception to the above schedule:

To the extent any indents are proposed within the budgetary provisions known to the line departments during the 1st week of April, no exceptions would be permissible to the above schedule. However, the exceptions to the above schedule would be either in the cases where recourse has to be taken to re-tendering or the availability of additional funds is known during the course of the year.

3. Rate Contracts - schedule thereof:

It has been observed that various supplier firms are found reluctant to submit their offers for Annual Rate Contracts (ARCs) during the last quarter of a financial year keeping in view the likely impact of the Union Budget on the pricing of the rate contract items. As such, it has been decided that the Rate Contracts (RCs) for various items should have validity from 1st May to 30th of April of the following year. Accordingly, it has further been decided to prescribe the following schedule for finalization of rate contracts of various items of the line departments:

- i) Indents for the rate contract items to be operative from 1st May to 30th April of the following financial year would be sent to the DS&D from 1st January to 15th of February. The departments would indicate a realistic estimate of quantity of the order (derived from the actual quantity of store procured through RCs during the previous years) so as to optimize on the economies of scale;
- ii) The Directorate of Supplies & Disposals would process all these indents and float the tenders for Rate Contracts by the 10th of March keeping in view

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that the financial impact on account of the Union Budget, if any, would also be known by that time;

- iii) The DS&D would process all the rate contract tenders by the 30th of April so as to enable the indenting departments to place their orders with effect from 1st of May onwards.

4. Standardization of Qualifying Requirements (QRs) / Eligibility Conditions:

The objective for prescribing QRs of the prospective bidders is to ensure quality and reliability of the supplies without inhibiting efficient price discovery through the process of competitive bidding. The Indenting Departments may, therefore, endeavor to specify the necessary Qualification Requirements (QRs) / Eligibility Criterion for the bidders as well as the documents to authenticate the same, such as:

- i) Number of years of experience;
- ii) Annual turnover;
- iii) Satisfactory supplies to consumers;
- iv) Net Worth and installed capacity of the suppliers.

The QRs should not be restrictive in cases where the credentials of the potential suppliers are authenticated through a prescribed certification/ registration process [viz. BIS Certification/ ISI Mark/ registered with the competent authority that established its quality and capacity].

5. Technical Specifications of the Goods / Stores to be procured:

It has been observed that the Technical Specifications of the goods/ stores being procured are not being delineated with due diligence at the appropriate levels. The technical specifications need to have comprehensive and clear parameters that can be subjected through objective/analytical tests leaving no room for ambiguities. Further, the specifications should be framed with a view to encouraging competition rather than restricting/ discouraging the same. The quality standards including ISI Mark etc., wherever applicable, should be specifically mentioned. The indenting departments must ensure that the specifications are 'generalized' and, as far as possible, not 'manufacturer/ brand/ make' specific. If any specification is manufacturer/ brand/ make specific, the indenting department will have to give well-reasoned justification for the same. Accordingly, it has been decided that the Technical Specifications of all store-items must be revisited at the level of HODs/MDs/CEOs of indenting Departments and approved at the level of the concerned Administrative Secretary.

Further, any change in technical specifications after publication of tender notice is normally not acceptable, unless cogent and well-justified reasons are given. Such changes should neither favour nor discriminate against some prospective bidder(s).

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6. Clear delineation of testing parameters:

The Indenting Departments should clearly delineate the provisions for testing of supplied goods/stores, i.e., the scientific parameters on which tests would be carried out, the sample/quantum of tests, the testing labs and as to who will bear the expenses on conducting the tests. While placing the supply order to the successful bidder, the Department is expected to clearly indicate the due date for delivery of the supplies. If any tests or inspections are prescribed before the commencement of supplies, the supply order should also contain the due date for offer of inspection by the successful bidder after taking into account the period required to complete the prescribed tests/inspections.

In case the material offered for inspection fails to meet the specifications stipulated in NIT/Order/Contract and the samples are rejected by the Inspecting Committee, the Indenting Department will have the right to levy a penalty at 0.1% of the order value. In case the material offered for inspection fails during the 2nd inspection also, the Indenting Department will have the right to increase the penalty to 0.25% of the order value. In case, the material offered fails during the 3rd and final inspection also, the firm will be liable for penal action including forfeiture of EMD, risk purchase, debarring/blacklisting in future, and no further opportunity for inspection would be provided to the supplier firm. In case of steel based items or cement manufactured items, the desirability of embossing or engraving of the words 'Haryana Government' may be assessed so as to minimize any possible malpractices.

7. Warranty / AMC / CMC:

Product Warranty/ Annual Maintenance Contract/ Comprehensive Maintenance Contract/ availability of spares are desirable features in any Government indent. The NIT should indicate the period of Warranty (Repair or replacement)/ AMC / CMC preferred by the Indenting Department. The duration for which Warranty/ AMC/ CMC are being sought should be clearly spelt out in the indent. Wherever required, the bidders should be asked to confirm availability of spares of machine/ equipment from the manufacturer in the indent itself. Indenting departments shall evolve a mechanism to maintain records of such preventive/ call based services.

8. Availability of resource persons/ facilities to install and use the equipments - a pre-requisite:

It has been observed that in certain cases equipments/ machinery items are procured, but the same remain un-utilised for long periods. In some Departments, the purchased equipments were not put to use only because the user capacity/ resources were not available or there was a considerable time-lag between purchase and installation of the

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equipment. Hence, each indent for procurement of equipment/ machinery shall be accompanied by a certificate from the indenting organizations to the effect that:

- i) the organization has the resources/ capacity in position to use/operate the equipment; and
- ii) the installation, including any site preparation, would be complete ahead of the delivery of the machinery/equipment.

9. Proprietary items / Cartel Formations:

In the case of proprietary nature of store items, the suppliers could take undue advantage of such situations. Some instances of cartelization by the manufacturer-suppliers have also been observed in the past. It has, therefore, been decided that in case of proprietary items, the indenting departments should explore the possibilities of use of alternate products and Expert Committees should be constituted in this behalf immediately. Similarly, the Indenting Departments may consider inviting global tenders to generate good competition in respect of such proprietary items.

A condition may be incorporated in the tender document that the EMD is liable to be forfeited in case of evidence of cartel formation by the bidder(s). Further, in cases where cartel formation amongst the manufacturer-suppliers is apparent, the concerned indenting departments are advised to file complaints with the Competition Commission of India and/ or other appropriate forums.

10. Substitute / new products:

A tendency of cartel formation has also been observed in case of supply of certain store-items, especially in cases where such items have been used historically in the absence of any identified possible substitutes. The Indenting Departments are expected to explore the alternate products in such cases. However, it has also been decided, as a matter of abundant caution, that wherever an indenting Department proposes to introduce a new/ substitute product replacing the conventionally used items/ practices for the first time, such new item/practice should be tried on a pilot basis on a small scale to begin with. A complete switch-over to the new product should be made only after trying/ testing & establishing the usability & acceptability of such new product/service under field/ ground conditions.

11. Rates should be basic rates + transportation/ delivery costs (net of taxes and duties):

The bidders may be required to quote the basic rates, the delivery/ transportation costs/ applicable taxes and duties, and the place of billing for the supply of stores clearly and separately.

12. Procurement of material from approved sources, including Central/ Haryana State PSUs/ PSEs:

Purchase preference may be accorded to the approved sources, including Central or Haryana State Public Sector Undertakings/Enterprises, provided that such approved source takes part in the bidding process and the quoted prices of the approved source is within 10% of the lowest acceptable price, other things being equal. However, such purchase preference would be available to the approved source only at the lowest acceptable price. In case the Indenting Department wishes to place purchase order or rate contract with any "approved" source at rates higher than the lowest acceptable price from a source other than "approved" source, well-reasoned justifications for the same would have to be given.

Note: The latest list of "approved sources" is contained in order no. 6/3/2007-418-II dated 14.2.2008 of the Industries Department and is subject to further amendment from time to time.

13. Treatment of unreasonably low quotes - Enhancement of EMD and Performance Security Deposit:

It has been observed that the supplier firms may at times quote unreasonably low rates which are even below the analysis rates worked out by the Indenting departments. Such an eventuality is known to be resulting in non-execution of the supply contracts in respect of such items and the consequential follow up action of debarring/ blacklisting such supplier firms. Such a practice could also be traced to the stipulation of low rates of EMD of Rs. 2,000/- only, irrespective of the estimated value of the tender. Similarly, the security deposit @ 5% for order values up to Rs. 15 lakh and @ 2% for values exceeding Rs. 15 lakh could be responsible for encouraging such practices.

Keeping the above in view, and following the norms adopted by the DGS&D, Govt, it has been decided that henceforth:

- i) The EMD would be @ 2% of the estimated value of the tender, subject to a ceiling of Rs. 2 lakh. The exact amount of EMD will be indicated in the tender notice;
- ii) No EMD will be required for tenders of the value below Rs. 1.00 lakh;
- iii) Central or Haryana Public Sector Enterprises and "approved sources" as declared by the Industries Department, Haryana, would be exempt from the deposit of EMD;
- iv) The performance Security Deposit of the successful tenderer shall be uniformly @ 10% of the order value or estimated value of rate contract as per DGS&D norms.

14. Negotiations - the revised process:

- i) At present, the negotiations are being held at the level of HPPC/ SHPPC with the three lowest bidders [L₁ to L₃]. While one may draw some satisfaction of procuring goods and stores at "reasonable" rates following the process of negotiations, the bidders have not been found to be quoting their best rates and invariably keep a margin for reduction of their rates during the process of negotiations. As such, the suppliers firms have not been found to be quoting their best rates in the first instance itself.
- ii) Keeping the above in view, it has been decided to dispense with the practice of holding negotiations with the three lowest supplier firms henceforth in respect of tenders invited after the issue of these guidelines and the procurement of store items would be decided on the basis of rates quoted by the supplier firms. Wherever the indenting department and the DS&D are of the considered view that 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. Further, in case the L₁ does not have the capability/ capacity to execute the complete order, the supply order in excess of the quantity quoted by L₁ could be placed with L₂ on the rates quoted by L₁. Similarly, if the L₂ is also found to be reluctant to supply the stores at such counter offers or the combined capacity of L₁ and L₂ does not meet the supply of complete order, the balance supply order could be placed on L₃ at the rates offered by L₁.

15. Purchase Preference:

Purchase preference upto 50% of the tendered quantities may be allowed to the Industrial Units located in Haryana on the lowest valid rates, provided:

- The manufacturer-firm claims purchase preference in the tender;
- The firm submits the registration certificate for the quoted items and valid purchase preference certificate issued by Industries Department along with the tender;
- The firm submits an undertaking that their sales office for the purpose of billing is based in Haryana and all the billings are/will be raised from Haryana only;
- The gross rates of the firm claiming Purchase Preference are not higher than 10% of the lowest valid gross rates received in tender and the Haryana based firm agrees to the lowest gross rates;

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Where more than one tenderer claim Purchase Preference and fulfill all the above conditions, 50% quantity covered under purchase preference may be divided between them on proportionate basis keeping in view the quantity/delivery period quoted by them.

16. Repeat Orders:

The existing system of placing repeat orders equal to the initially indented quantities with the same firm(s) on the basis of same rates is not a fair practice. As such, it has been decided that, excepting in the case of rate contracts, the repeat orders should not be placed for more than 25% of the quantities involved in the original order. In case the requirements of additional stores are larger than 25% of the original order, it should be indented afresh and go through a competitive tendering process.

17. Interest for delayed payments beyond the credit period:

The payments ought to be made to the supplier(s) within the stipulated period indicated in the supply order after successful delivery of stores to the indenting Department, unless withheld for cogent reasons. However, it has been observed in some cases that payments are unduly delayed for unjustified reasons. The delayed system of payments in Government procurements is also one of the reasons for the bidders quoting higher rates. Such a practice, if not checked, leads to shying away of the credible/ reputed suppliers from quoting in Government tenders thus depriving the Government of quality supplies at economical rates. Accordingly, it has been decided that delays in payments to the suppliers beyond the stipulated credit period indicated in the supply order, unless supported by cogent reasons and approved by a higher authority, would attract penal interest on the defaulting amount @ Rs. 25/- rupees per one lakh per day of delay beyond the stipulated credit period. Payment of such interests would be brought to the notice of the Administrative Secretary of the Department and call for fixation of responsibility. It is further clarified that non-provision of adequate budget would be no ground for the delay in payments to the suppliers.

18. Constitution of Secretary Level Committees:

It has also been observed in certain cases that the Administrative Secretaries are not being kept in the loop while sending indents for procurement of stores/items by the HoDs. Keeping in view the systemic shortcomings in this behalf, it has been decided that Departmental Committees headed by the concerned Administrative Secretaries would review and finalize the action items stated under above paras.

19. Information sharing on penal action:

It has also been decided that the information regarding any penalties imposed on any supplier firm, such as de-barring/ black-listing by the line departments/ organizations,

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should be shared with the office of Director, Supplies & Disposals, who would maintain a centralized data-base in this behalf in respect of various supplier firms.

20. Abolition of the Special High Powered Purchase Committee for Stores:

Presently, the process for procurement of a substantial number of store items, being of specialized/technical nature, is being steered by the respective organizations and such cases are placed before the SHPPC, wherein the representatives of the indenting organizations present their agenda items/ proposals. Some of the organizations/departments falling in these categories consist of the Transport Department, Power Utilities, HARTRON, HAREDA etc. Keeping in view the varying practices being followed by these Organisations/ Departments for procurements of store items under the aegis of the SHPPC and the need for bringing uniformity in such processes, it has been decided to abolish the SHPPC. All such purchase proposals would henceforth be processed and steered by the DS&D, who would lay down and follow a uniform protocol for procurement of stores in terms of time-frame for invitation of tenders, QRs of bidders, basis of rates invited, evaluation etc. It has further been decided that the indenting organization/ department would depute their Material Management/ Procurement staff at the disposal of the DS&D for this purpose for processing of their cases.

21. Strengthening the Directorate of Supplies & Disposals:

It has been decided that the Directorate of Supplies and Disposals would be suitably strengthened in terms of staff resources/ manpower/ modernized to measure up to the tasks in an appropriate manner. In order to achieve the stated objective, the DS&D will do the following:

- i) Undertake an exercise in restructuring the Directorate with commensurate capacity building and complete the same within a period of three months;
- ii) Create appropriate structures for R&D and data up-dation relevant to the functioning of the Directorate, and
- iii) Implement the process of e-tendering within a period of three months;

22. Treatment of inconsistency between the Procurement Rules and Policy decisions:

The Procurement and Disposal Rules and the Manual of Office Procedure for Supplies and Disposal of Stores have become outdated and call for a complete review. As such, the above policy decisions may be inconsistent with certain set of rules and procedures in certain respects. The policy decisions taken herein will over-ride the

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provisions contained in the rules to the extent same are inconsistent with these decisions. It has been further decided that the above said policy decisions be implemented with immediate effect and an exercise for corresponding revision of rules be commenced simultaneously and completed within a period of one year. To that effect, the DS&D may engage a suitable 'Material Procurement and Management' consulting agency to undertake this task.

23. The above policy decisions/ guidelines shall be meticulously complied with/ followed by all concerned.


Joint Secretary,
for Financial Commissioner & Principal Secretary to
Government, Haryana, Industries & Commerce Department.

Endst. No. 2/2/2010-4 I BII Dated, the 28 May 2010

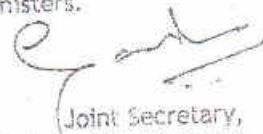
A copy is forwarded to the following for information and necessary action:

1. Director, Supplies & Disposals, Haryana, Chandigarh.
2. The Accountant General (Audit), Haryana, Chandigarh.


Joint Secretary,
for Financial Commissioner & Principal Secretary to
Government, Haryana, Industries & Commerce Department.

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A copy each is forwarded to the Senior Secretaries / Secretaries / Private Secretaries to the Chief Minister / Ministers for kind information of the Chief Minister / Ministers.


Joint Secretary,
for Financial Commissioner & Principal Secretary to
Government, Haryana, Industries & Commerce Department.