

AGCC-05: Design and Construction of elevated viaduct and 3 Nos. elevated stations (viz. ISBT, Guru Ka Taal & Sikandara Metro Station) including Civil, Associated Ancillary Structure, Architectural Finishes, Water Supply, Sanitary Installation, Drainage, External Development, Fire Fighting, Fire Detection, E&M works and PEB structures on Balance Section chainage (-) 42.96 m to 3682.941 m of Corridor-1 of Agra Metro at Agra, Uttar Pradesh, India.

NOTICE INVITING TENDER (NIT)

1 GENERAL

1.1 Name of Work:

Uttar Pradesh Metro Rail Corporation (UPMRC) Ltd., invites online open e-tenders from eligible applicants, who fulfill qualification criteria as stipulated in Clause 1.4 of NIT, for the work, “ **AGCC-05: Design and Construction of elevated viaduct and 3 Nos. elevated stations (viz. ISBT, Guru Ka Taal & Sikandara Metro Station) including Civil, Associated Ancillary Structure, Architectural Finishes, Water Supply, Sanitary Installation, Drainage, External Development, Fire Fighting, Fire Detection, E&M works and PEB structures on Balance Section chainage (-) 42.96 m to 3682.941 m of Corridor-1 of Agra Metro at Agra, Uttar Pradesh, India.**”

The brief scope of the work and site information is provided in ITT Clause A1 (Volume-1), Employer’s Requirements (Volume–3) & Technical Specifications (Volume-4).

1.2 Key details :

| | |
|---------------------------------------|--|
| Approximate cost of work (NIT Value) | Rs. 296.78 Crores (Including GST) |
| Tender Reference | AGCC-05 |
| Tender Security /EMD | <p>Rs 5.94 Crore</p> <p>The instrument type for payment of tender security/ EMD shall be Demand Draft, Bank Guarantee, RTGS, NEFT & IMPS. No other mode of payment will be accepted.</p> <p>(i) Payment of tender Security as per clause C 18.1.2 (i) of ITT is to be made by RTGS, NEFT & IMPS. The details of bank account of UPMRC are mentioned in succeeding para. The bidders are required to upload scanned copies of transaction of payment of tender security including e-receipt (clearly indicating UTR No. & tender reference must be entered in the remarks at the time of online transaction of payment) in online bid submission, failing which payment may not be considered. (Copy of GST registration no. to be provided along with Tender security/EMD)</p> <p>(ii) Payment of tender security as per clause C 18.1.2 (ii) of ITT is to be made by BG/FDR/Demand Draft. BG/FDR/ Demand Draft shall be submitted in original in a sealed envelope in the office of CE/ Contract within due date and time of submission end date of tender.</p> <p>Validity of Tender Security/EMD in case of BG shall remain valid for a period of 45 days beyond the final bid validity period.</p> |
| Completion period of the Work | 24 months |
| Tender documents on sale: | From 06.11.2023 (from 18:00 hrs) to 19.12.2023 (up to 15:00 hrs) on e-tendering website https://etenders.gov.in/e procure/app . Tender document can only be obtained on the website https://etenders.gov.in/e procure/app . |

| | |
|---|---|
| Cost of Tender documents | INR 23,600/- (inclusive of 18% GST) Non-Refundable (Payment of tender document cost/ tender fee is to be made only by RTGS, NEFT & IMPS. No other mode of payment will be accepted. The details of bank account of employer are mentioned in succeeding para.. The Tenderers are required to upload scanned copies of transaction of payment of tender document cost/tender fee including e-receipt (clearly indicating UTR No. & tender reference must be entered in the remarks at the time of online transaction of payment) failing which payment may not be considered at the time of online bid submission. (Copy of GST registration no. to be provided along with Tender document cost, if applicable) |
| Details of Bank Account for payment of Tender Security/ EMD and cost of tender document | Name of the Bank - HDFC Bank Banks Address - HDFC Bank Ltd, 6 Sapru Marg Hazratganj Lucknow Account Name - UPMRCL (Agra Project) Account No. - 50100301966491 IFSC code - HDFC0001267 |
| Last date of Seeking Clarification: | 24.11.2023 upto 18:00 hrs. Tenderers to note that seeking clarification on the tender shall be done by sending it on e-tendering portal only. Seeking clarification by mail or post will not be considered. Queries/clarifications from Tenderers after due date and time shall not be acknowledged. |
| Pre-bid Meeting | 24.11.2023 @ 15:00 Hrs The pre-bid meeting shall be conducted through video conferencing by software apps such as Google Meet, Microsoft Team, etc. All Prospective tenderers who have made online payment towards the cost of tender document shall provide the details of the person(s) (maximum up to two) who will be participating in such virtual meeting at least one day before the meeting to the registered official email of Employer i.e. cecontractlmrc@gmail.com / cecontract@upmrcl.co.in/ along with scanned copy of transaction of payment of tender cost / tender fee, including e-receipt (clearly indicating UTR No. and tender reference , so that links having details such as software, meeting ID, password etc. can be mailed to these persons at least 12 hours before the scheduled pre-bid meeting |
| Date & time of Submission of Tender online | Tender submission start date: 09.12.2023 (11:00 hrs). Tender submission end date: 19.12.2023 (15:00 hrs). |
| Date & time of opening of Tender | 20.12.2023 @ 15:00 Hrs. |
| Authority and place for seeking clarifications etc. | Chief Engineer/ Contract, Uttar Pradesh Metro Rail Corporation, Administrative Building, Vipin Khand, Gomti Nagar, Near Dr. Bhimrao Ambedkar Samajik Parivartan Sthal, Lucknow-226010, Uttar Pradesh, India Telephone - 0522-2304015 E-Mail – cecontractlmrc@gmail.com https://etenders.gov.in/eprocure/app |

- 1.3** Any clarification/corrigendum/addendum to the tender documents shall be uploaded on the official e-portal only, without any obligation of press notification.

For further details, please visit official e-portal <https://etenders.gov.in/eprocure/app>.

For any additional information & help for downloading & uploading, please contact e-tendering service desk at the following ID: support-eproc@nic.in or at Toll Free No.: (91)120-4001002, (91)120-4001005, (91)120-6277787.

1.3.1 SOURCE OF FUNDS:

This work shall be financed through equity participation of the Government of India and Government of UP and other appropriate means of Uttar Pradesh Metro Rail Corporation Ltd.

1.4 QUALIFICATION CRITERIA:

1.4.1 Eligible Applicants:

- i. The tenders for this contract will be considered only from those tenderers (proprietorship firms, partnerships firms, companies, corporations, consortia or joint ventures) who meet requisite eligibility criteria prescribed in the sub-clauses of Clause 1.4.1 of NIT. In the case of a JV or Consortium, all members of the Group shall be jointly and severally liable for the performance of whole contract. Also, each member shall be individually responsible for its duties as specified in the MOU/JV agreement submitted by the bidder in terms of clause 1.4.1.vii d.

Performance of each JV/Consortium partner shall also be judged on quarterly basis. In case, the performance of the partner(s) is not found satisfactory, actions as deemed appropriate by the Employer may be taken including termination of contract or termination of any of JV/Consortium member(s) from the contract i.e Part Termination of the contract. In case of part termination of contract, the Performance Security(ies) submitted by the member(s) for their portion of work in contract as per their share in JV/Consortium shall be forfeited and the scope of the work/duties assigned to the defaulting JV/Consortium member(s) as per the MOU/agreement submitted, may be terminated, however, same may be done by the Employer only if other member(s) of JV/Consortium are ready to complete the entire scope of work. In such a case, remaining works pertaining to the scope of defaulting member of JV, may be completed by other member(s) of JV in the following manner:

- a) At their own, if they have adequate technical competence to the satisfaction of Employer.
- b) By subcontracting such scope of work of defaulting member(s) to technically competent Agency with the consent of Employer & without any financial implication to the Employer. In such cases, the limit of subcontracting the works up to 50% of total scope of work shall not apply.
- c) By induction of new member having adequate technical competence and meeting the original tender eligibility conditions, acceptable to the Employer in JV/Consortium replacing the defaulting member(s) & without any financial implication to the Employer. The new member(s) shall be jointly & severally liable for the performance of the whole contract and also shall submit the Performance Security from their bank account for an amount equivalent to the amount of forfeited amount of Performance security of defaulting member.

In case of (a) & (b) above, forfeited amount of Performance Security(ies) of the defaulting member(s) shall be submitted by other member(s) of the JV/Consortium.

Further, the performance of each of JV/Consortium member may also be specifically stated in the Work Experience Certificate / performance Certificates which may be issued to the bidder during or after execution of Work for their Business Development purposes.

In this regard, an undertaking by JV/Consortium members is required to be submitted as per the format Appendix-6 A of Form of Tender.

- ii. (a) A non-Indian bidder (not restricted as defined in Clause 1.4.1 x below) is permitted to tender only in a joint venture or consortium arrangement with Indian contractor, or their wholly owned Indian subsidiary registered in India under Companies Act 2013. In such JV/Consortium, Indian contractor or Indian subsidiary (owned by foreign bidder) shall have minimum 74% participation and non-Indian bidder shall have maximum 26% participation.
(b) A tenderer shall submit only one bid in the same tendering process either individually as a tenderer or as a partner of a JV/Consortium. A tenderer who submits or participates in more than one bid will cause all of the proposals in which the tenderer has participated to be disqualified. No tenderer can be a subcontractor while submitting a bid individually or as a partner of a JV/Consortium/Association in the same bidding process. A tenderer, if acting in the capacity of subcontractor in any bid, may participate in more than one bid, but only in that capacity
- iii. Tenderers shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. Tenderers shall be considered to have a conflict of interest with one or more parties in this bidding process, if:
 - (a) a tenderer has been engaged by the Employer to provide consulting services for the preparation related to procurement for / on implementation of the project;
 - (b) a tenderer is any associates/affiliates (inclusive of parent firms) mentioned in subparagraph (a) above; or
 - (c) a tenderer lends, or temporarily seconds its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for / on implementation of the project, if the personnel would be involved in any capacity on the same project.
- iv. The payment of the tender cost is acceptable from any account. However, tenderer shall submit such transaction details along with their tender submission on e-portal. If the same transaction reference number has been submitted for more than one bids, all such bids shall be considered ineligible and summarily rejected.
- v (a) UPMRC/ Any Other Metro Organization (100% owned by Govt.)/ Ministry of Housing & Urban Affairs/ Order of Ministry of Commerce, applicable for all Ministries must not have banned business with the tenderer (including any member in case of JV/consortium) as on the date of tender submission end date. The tenderer should submit undertaking to this effect in **Appendix-19** of Form of Tender.
(b) Also no contract of the tenderer of the value more than 10% of NIT cost of work, executed either individually or in a JV/Consortium, should have been rescinded / terminated by UPMRC/ Any Other Metro Organization (100% owned by Govt.) after award during last 03 years (from the last day of the previous month of tender submission end date) due to non-performance of the tenderer or any of JV/Consortium

members. The tenderer should submit undertaking to this effect in **Appendix- 19** of Form of Tender.

- (c) The overall performance of the tenderer (all members in case of JV/consortium separately) shall be examined for all the ongoing Civil Engineering works awarded by UPMRC/ any other Metro Organization (100% owned by Govt.) of value more than 40% of NIT cost of work and also for all the completed Civil Engineering works awarded by UPMRC/ any other Metro Organization (100% owned by Govt.) within last one year (from the last day of the previous month of tender submission end date), of value more than 40% of NIT cost of work, executed either individually or in a JV/Consortium. The tenderer shall provide list of all such works in the prescribed Performa given in **Appendix-19A** of the Form of Tender. The tenderer (all members in Case of JV/Consortium separately) may either submit satisfactory performance Certificate issued by the Client/ Employer for the works or give an undertaking regarding satisfactory performance of the work with respect to completion of work/execution of work (for ongoing works) failing which their tender submission shall not be evaluated and the tenderer shall be considered non-responsive and non-compliant to the tender conditions. In case of non-submission of either satisfactory performance Certificate from Client /Employer or undertaking of satisfactory performance of any of the above work, the performance of such work shall be treated as unsatisfactory while evaluating the overall performance of tenderer in terms of Note (b) of **Appendix-19A**. In case of performance certificate issued by the client, same should not be older than three month (from the last day of the previous month of tender submission) for on-going works. **In case the tenderer does not have any work falling in above criteria, his performance will not be judged unsatisfactory.**
- (d) Tenderer (including any member in case of JV/consortium) for the works awarded by UPMRC/ any other Metro Organization (100% owned by Govt.) must have been neither penalized with liquidated damages of 10% (or more) of the contract value due to delay nor imposed with penalty of 10% (or more) of the contract value due to any other reason in any Civil Engineering works of value more than 10% of NIT cost of work, during last three years (from the last day of the previous month of tender submission end date). The tenderer should submit undertaking to this effect in **Appendix-20** of Form of Tender.
- (e) Tenderer (any member in case of JV/Consortium) must not have suffered bankruptcy/insolvency during the last five (5) years (from the last day of previous month of tender submission end date). The tenderer should submit undertaking to this effect in **Appendix – 21** of Form of Tender.
- (f) The tenderer (each individual member separately in case of JV/Consortium) shall not have total amount of dispute in their pending litigation more than Fifty percent (50%) of the tenderer's net worth (each individual member separately in case of JV/Consortium). The tenderer (each individual member separately in case of JV/Consortium) shall be examined for all pending litigation from all contracts completed or all ongoing contracts. The tenderer (each individual member separately in case of JV/Consortium) shall provide detailed information of all such pending litigations in the prescribed proforma given in **Appendix-22** of Form of Tender. The details of all pending litigation shall comprise of all pending arbitration cases and also all pending court cases irrespective of whether these litigations have been initiated by the tenderer against their employer/client or by the client/employer against the tenderer. The amount of disputes shall also comprise of all the claim amount and also all counter-claim amount in such arbitration/court cases.

- (g) If the Tenderer or any of the constituent JV/Consortium member(s) does not meet the criteria stated in the **Appendix-19 or Appendix-19A or Appendix-20, or Appendix-21 or Appendix-22 (pending litigation criteria as per Clause 1.4.1 v(f))**, the tenderer including the constituent JV/Consortium member(s) shall be considered ineligible for participation in tender process and they shall be considered ineligible applicants in terms of Clause 1.4.1 of NIT.
- vi. If there is any misrepresentation of facts with regards to undertaking submitted vide **Appendix- 19**, or performance in any of the works reported in the **Appendix 19A**, or undertaking submitted vide **Appendix-20 or Appendix-21** or information submitted in **Appendix-22**, the same will be considered as “fraudulent practice” under Clause 4.33.1 a (ii) of GCC and the tender submission of such tenderers will be rejected besides taking further action as per Clause 4.33.1 (b) & 13.2.1 of GCC.
- vii. **LEAD PARTNER/ NON SUBSTANTIAL PARTNERS/ CHANGE IN JV/ CONSORTIUM**
- a. Indian Contractor / Indian Subsidiary of JV/ Consortium must be the lead partner. Also lead partner must be a substantial partner in the JV/Consortium i.e. it should have a minimum of 26% participation in JV/Consortium. Each substantial partner in case of JV/Consortium shall have experience of executing at least one “similar work” of minimum **40% of NIT value** in last 07 years.
- b. Each Non-substantial partner should have a minimum of 20% participation in the JV/ Consortium. Partners having less than 26% participation will be termed as non-substantial partner and will not be considered for evaluation which means that their financial soundness and work experience shall not be considered for evaluation of JV/Consortium. However, in this tender for Civil work **, a Joint Venture / Consortium to qualify, each of its non-substantial partner must have experience of executing at least one Civil Work** of minimum **20% of NIT value** in last 07 years. The tenderer shall submit details of above works in the Performa of **Appendix-1 & 1A of NIT** etc. as per Notes b), c), d) & g) of Clause 1.4.2.A of NIT.
- c. In case of JV/Consortium, change in constitution or percentage participation shall not be permitted at any stage after their submission of bids. In case of changes during tendering stage, the bid shall be treated as non –responsive.
- d. The tenderer, in case of JV/Consortium, shall clearly and unambiguously define the role and responsibilities for each substantial/non-substantial partner particularly with reference to financial, technical and other obligations in the JV agreement/MOU submitted vide foot note (d) of **Appendix 6 of Form of Tender**, providing clearly that any abrogation /subsequent re-assignment of any responsibility by any substantive /non-substantive partner of JV/Consortium in favour of other JV/Consortium partner or any change in constitution of partners of JV/Consortium (without written approval of Employer) from the one given in JV agreement /MOU at tender stage, will be treated, as ‘breach of contract condition’ and/or ‘concealment of facts’ (as the case may be), vide GCC clause 4.33.1 [a (ii) and (iii)] and acted accordingly.

Note:- The MOU may stipulates mandatory information to be provided. However, bidder can include additional details/arrangements finalized between the members in this MOU provided, these additional details/arrangements should not be in contravention of Employer's interest as per terms and conditions of Contract. Bidder may further note that no separate MOU/JV agreement should be executed

for the sake of working arrangement amongst the partners other than the MOU/JV agreement accepted by the Employer.

In case, it comes to notice of UPMRC either during or even after completion of Work that JV/ Consortium members have either altered / modified the MOU / JV agreement w.r.t. to the MOU submitted at tendering stage or entered a separate MOU/ agreement or made any other arrangement in to a contract without the specific approval of Employer in writing, it shall be treated as a fraudulent practice under GCC clause 4.33.1(a) (ii) of this tender for which every constituent of the JV/Consortia is liable to be debarred for a period upto three years along with such other legal actions as may be permissible under the law. The JV/Consortium members shall submit undertaking to this effect in **Appendix-6 A of Form of Tender.**

e. The Employer in such cases, may in its sole discretion take action under clause 4.33.1 (b) of GCC against any member(s) for failure in tenderer's obligation and declare that member(s) of JV/Consortium ineligible for award of any tender in UPMRC or take action to terminate the contract in part or whole under clause 13 of GCC as the situation may demand and recover the cost/damages as provided in contract.

viii. **Participation by Subsidiary Company / Parent Company with credential of other Company**

a) Applicant in the capacity of a Subsidiary Company as a single entity is not permitted to use the credential of its Parent Company and/or its Sister Subsidiary Company/ Companies.

b) Applicant in the capacity of a Parent Company as a single entity is not permitted to use the credential of its Subsidiary Company/ Companies.

ix. **Purchase Preference to Local Suppliers/Preference to Make in India:**

a) Definitions:

i. 'Local content' means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all custom duties) as a proportion of the total value, in percent.

ii. 'Class-I local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content equal to or more than 50%, as defined under the Order No. P-45021/2/2017-PP(BE-II) dated 04.06.2020 issued by Department for Promotion of Industry and Internal Trade (DPIIT). **Minimum local content for 'Class-I local supplier' shall be 90% for the subject tender.**

iii. 'Class-II local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content more than 20% but less than 50%, as defined under the Order No. P-45021/2/2017-PP (BE-II) dated 04.06.2020 issued by Department for Promotion of Industry and Internal Trade (DPIIT).

iv. 'Non-local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than or equal to 20%, as defined under the Order No. P-45021/2/2017-PP (BE-II) dated 04.06.2020 issued by DPIIT.

v. 'L1' means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the

evaluation process as per the tender or other procurement solicitation.

- vi. 'Margin of purchase preference' means the maximum extent to which the price quoted by a "Class-I local supplier" may be above the L1 for the purpose of purchase preference. Margin of purchase preference shall be **20%** for the subject tender.

b) Procedure for Purchase Preference to 'Class-I local supplier' in procurement of goods or works which are divisible in nature: NOT APPLICABLE FOR THE SUBJECT TENDER

- 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.
- iii. 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.
- iv. 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.

c) Procedure for Purchase Preference to 'Class-I local supplier' in procurement of goods or works which are not divisible in nature and in procurement of services where the bid is evaluated on price alone: APPLICABLE FOR THE SUBJECT TENDER.

- 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.
- iv. 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."

d) Minimum Local content and verification of local content:

- i. The 'Class-I local supplier' / 'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of minimum local content and provide self- certification that the item offered meets the minimum 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.

- ii. In case 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 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 after completion of works to the Engineer.
 - iii. If any false declaration regarding local content is found, the company shall be debarred for a period of three years from participating in tenders of all metro rail companies.
 - iv. Supplier/bidder shall give the details of the local content in a format attached as **Appendix-17 and Appendix-18** of FOT duly filled to be uploaded along with the technical bid. In case, bidder do not upload **Appendix-17 and Appendix-18** of FOT duly filled along with their technical bid, supplier/bidder shall be considered as 'Non-local supplier' and will not be eligible to participate for estimated value of purchases up to Rs. 200 crores except Global tender enquiries in terms of Clause 3(b) of Order No. P-45021/2/2017- PP(BE-II) dated 04.06.2020 issued by Department for Promotion of Industry and Internal Trade (DPIIT).
- e) Complaints relating to implementation of Purchase Preference**
- Fees for such complaints shall be Rs. 2 Lakh or 1% of the value of the local item being procured (subject to maximum of Rs. 5 Lakh), whichever is higher. In case the complaint is found to be incorrect, the complaint fee shall be forfeited. In case, the complaint is upheld and found to be substantially correct, deposited fee of the complainant would be refunded without any interest.
- f) Only Class-I local supplier & Class-II local supplier is eligible to bid in this tender.**
- x. Restriction of Bidders from Countries sharing Land Borders with India as per Ministry of Finance order (Public Procurement No. 1) F.No.6/18/2019-PPD dated 23.07.2020.**
- Any bidder from a country which shares a land border with India will be eligible to bid either as a single entity or as a member of a JV / Consortium with others, in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority. The Competent Authority for registration will be the Registration Committee constituted by the Department for Promotion of Industry and Internal trade (DPIIT). Political & Security clearance from the Ministries of External and Home Affairs respectively will be mandatory. However, above condition shall not apply to bidders from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects. *Updated lists of countries to which lines of credit have been extended or in which development projects are undertaken are given in the website of the Ministry of External Affairs.*
- "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 registered with the Competent Authority".

Certificate of Compliance

An undertaking shall be taken from bidders as per **Appendix-23 of FOT**, certifying that the bidders fulfil all the requirements contained in the aforesaid clause.

Definitions pertaining to "Restriction of Bidders from Countries sharing Land Borders

with India”

"Bidder" (including the term 'tenderer', 'consultant' 'vendor' 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.

"Bidder from a country which shares a land border with India" 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

"Beneficial owner" will be as under:

- (i) 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(s), has a controlling **ownership interest** or who exercises **control** through other means.

Explanation—

- a. **"Controlling ownership interest"** means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;
- b. **"Control"** shall include the right to appoint the majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholder's agreements or voting agreements;
- (ii) 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;
- (iii) 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;
- (iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
- (v) 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.

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

- (vi) Contractor shall ensure the compliance of 'Make in India' guidelines issued by government authorities from time to time.

1.4.2 Minimum Eligibility Criteria:

A. Work Experience:

- (i) The tenderers will be qualified only if they have successfully completed or ** substantially completed *similar work(s) as a prime contractor/ member of JV, completion date (s) of which falling during last seven years ending last day of the month previous to the month of tender submission end date as given below (Value shall be rounded off to two decimal places):

At least one "similar work" * of value of **INR 237.42 Crore** or more.

OR

At least Two "similar works" * each of value of **INR 148.39 Crore** or more.

OR

At least Three "similar works" * each of value of **INR 118.71 Crore** or more.

* **"Similar Work/s"** for this tender shall be **"Construction of Viaduct (which may include station along with viaduct /Bridge /Flyover (excluding approaches & embankments) having a pre/post-stressed concrete super-structure"**.

** **"Substantial"** completion shall be based on 80 (eighty) percent (value wise) or more works completed under the contract of the work. Client Certificate for 'substantial completion' of project/work/asset should contain 'financial value of work done' along with financial percentage progress wrt original/revised contract value.

- (ii) If the tenderer is a **JV/Consortium having foreign partner(s)** and above work(s) have been executed by the foreign partner of JV and the work(s) were done in the country of the foreign partner, then in addition to this the foreign partner must have executed works (which need not be similar in nature) of total put together of minimum **40% of NIT Value** or more outside the country of the foreign partner.
- (iii) Tenderer should have experience of executing E&M works similar to scope of work defined in Technical Specification/E&M works for at least one Metro Station / Railway Station / Commercial building etc. In case tenderer doesn't meet the requisite experience, Contractor may engage sub-contractor having the required experience for E&M works. **The eligibility of the subcontractor shall be evaluated after award of work.** The contractor shall be required to submit confirmation for the same in **Appendix 15 of Form of Tender.**

Notes :

- a) The tenderer shall submit details of work executed by them in the Performa of **Annexure-1 & 1 A of NIT** for the works to be considered for qualification of work experience criteria. **Prime contractor shall mean a bidder who has executed the works in the capacity of Contractor (and not in the capacity of Project Implementing Agency/ Project Executing Agency/ Employer/ Project Management Consultant (PMC) as defined in Clause 3.1.4 (i) of Manual for Procurement of Works, June 2022).** Bidders should also specifically take note of **clause no 4.5 of SCC.** Documentary proof such as completion certificates from client clearly indicating the nature/scope of work, actual completion cost and actual date of completion for such work should be submitted. **The offers submitted without this documentary proof shall not be evaluated.** In case the work is executed for private client, copy of work order, bill of quantities, bill wise details of payment received certified by Chartered Accountant (C.A), Tax Deducted at Source (TDS)

certificates/ Form 26 AS for all payments received and copy of final/last bill paid by client shall be submitted.

- b) For completed works, value of work done shall be updated from date of completion to last day of the month previous to the month of tender submission end date price level assuming 5% inflation for Indian Rupees every year and 2% for foreign currency portions per year. The exchange rate of foreign currency shall be applicable 28 days before the submission end date of tender.
- c) In case of Joint venture / Consortium, full value of the work, if done by the same joint venture shall be considered. If the qualifying work(s) were done by them in JV/Consortium having different constituents, then the value of work as per their percentage participation in such JV/Consortium shall be considered.
- d) If the above work(s) i.e. "Similar Work" comprise other works, then client's certificate clearly indicating the amount of work done in respect of the "similar work" shall be furnished by the tenderer in support of work experience along-with their tender submissions.
- e) After opening of financial bids, the work experience credentials (work experience certificate along with other documents if any) of L-1 bidder shall be sent for verification and certification to the concerned client(s). **In case of any concealment or misrepresentation of facts, appropriate action(s) in accordance with Tender Conditions shall be taken as deemed fit.**

B. Financial Standing: The tenderers will be qualified only if they have minimum financial capabilities as below:

(i) T1 – Liquidity: The tenderer must have liquidity of at least **Rs. 21.20 Crores**.

- a) The liquidity shall be ascertained from Net Working Capital {Current Assets – (current liabilities + provisions)} as per latest audited balance sheet and/or from the Banking reference(s).
- b) Banking reference(s) should contain in clear terms the amount that the Bank will be in a position to lend for this work to the applicant/ member of the Joint Venture/Consortium. In case the Net Working Capital (as seen from the Balance Sheet) is negative, only the Banking reference(s) will be considered, otherwise the aggregate of the Net Working Capital and submitted Banking reference(s) will be considered for working out the Liquidity.
- c) The Banking references should be from a Scheduled Commercial Bank in India or from an International Bank of repute (in case of foreign vendors) acceptable to Employer as per standard performa provided in NIT **as Annexure 5** and it should not be more than 3 months old as on the date of submission of bids.
- d) In Case of JV: - Requirement of working capital is to be distributed between members as per their percentage participation and every member should satisfy the requirement for his portion.

Example: Let member-1 has percentage participation=M and member-2 has percentage participation=N. If minimum working capital required is 'W' then working capital of member-1 $\geq \frac{W M}{100}$ and working capital of member-2 $\geq \frac{W N}{100}$

- e) In case the applicant is a Joint Venture/Consortium and if Banking Reference is issued by the bank in favour of the Joint Venture/Consortium for this contract, then it will be considered for the tenderer and if the Banking reference(s) is issued in favour of any member of JV/Consortium it will be considered only for that member.

ii) **T2 - Net Worth:** Net Worth of tenderer during last audited financial year should be \geq **INR 29.68 Crore.**

In Case of JV/Consortium- Net worth will be based on the percentage participation of each Member.

Example: Let Member-1 has percentage participation = M and Member-2 has percentage participation = N. Let the Net worth of Member-1 is 'A' and that of Member-2 is 'B', then the Net worth of JV/Consortium will be

$$= \frac{AM+BN}{100}$$

iii) **T3 - Annual Turnover:** The average annual financial turnover of the bidder during the last five years ending 31st March of the previous Financial Years should be \geq **INR 118.71 Crore .**

In Case of JV/Consortium- Average Annual Turnover will be based on the percentage participation of each Member.

Example: Let Member-1 has percentage participation = M and Member- 2 has = N. Let the average annual turnover of Member-1 is 'A' and that of Member-2 is 'B', then the average annual turnover of JV will be = (AM+BN)/100

iv) **T4 - Bid Capacity Criteria:**

Bid Capacity: The tenderers will be qualified only if their Available Bid Capacity (**As per Annexure 4 of NIT**) is more than the approximate cost of work as per NIT. Available bid capacity will be calculated based on the following formula (Value shall be rounded off to two decimal places):

$$\text{Available Bid Capacity} = 2 * A * N - B$$

Where,

A = Maximum of the value of construction work executed in any one year during the last five financial years (updated at current price level assuming 5% inflation for Indian Rupees every year and 2% for foreign currency portions per year), taking into account the completed as well as works in progress.

N = No. of years prescribed for completion of the work of this NIT.

B = Value (updated at current price level assuming 5% inflation for Indian Rupees every year and 2% for foreign currency portions per year) of existing commitments for on-going works to be completed in next 'N' years.

In the case of a group, the above formula will be applied to each member to the extent of his proposed participation in the execution of the work. If the proposed % participation is not mentioned, then equal participation will be assumed.

Example for calculation of bid capacity in case of JV / Consortium / Group

Suppose there are 'P' and 'Q' members of the JV / Consortium / Group with their participation in the JV / Consortium / Group as 70% and 30% respectively and available bid capacity of these members as per above formula individually works out 'X' and 'Y' respectively, then Bid Capacity of JV / Consortium / Group shall be as under:

Bid Capacity of the JV / Consortium / Group = 0.7X + 0.3Y

Notes :

- a) Financial data for latest last five audited financial years has to be submitted by the tenderer in **Annexure-2 of NIT** along with audited balance sheets. The financial data in the prescribed format shall be certified by Chartered Accountant with his stamp, signature and UDIN. In case any discrepancy in data is found between the balance sheet and the financial information submitted, the data as available in the balance sheet will be considered. In case audited balance sheet of the last financial year is not made available by the Tenderer, he has to submit an affidavit certifying that 'the balance sheet has actually not been audited so far'. In such a case the financial data of previous '4' audited financial years will be taken into consideration for evaluation. **If audited balance sheet of any year other than last year is not submitted, tender may be considered as non- responsive.**
- b) However, the tenderer including all substantial members of JV / Consortium should have been incorporated more than three years earlier from the last day of the previous month of tender submission end date. In this case, for such tenderer, the average annual turnover shall be arrived considering 'nil' turnover for the financial year(s) for which tenderer was not able to submit audited balance sheet on account of non-incorporation of tenderer. Such data shall be divided by 5 to work out the average annual turnover. In case balance sheet of the last year has not been audited so far, then data shall be divided by 4 to work out the average annual turnover.
- c) Any certification or document required to be provided by CA, must contain UDIN thereon and the particulars of certifications must be same as mentioned on document/certification and submitted to ICAI on its website which can be verified online. In case financial statements for any of the financial year is not required to be audited as per any relevant section of the Income Tax Act, then, same should be supported by C.A. (Chartered Accountant) certificate along with all the GST returns, ITR-3/4 (including all the forms) and form 26AS for each of the financial year not liable to be audited as per relevant section of the income tax Act.
- d) Where the work is undertaken by a group, only that portion of the contract which is undertaken by the concerned applicant/member should be indicated and the remaining done by the other members of the group be excluded. This is to be substantiated with documentary evidence.
- e) Value of existing commitments for on-going works during completion period of this NIT w.e.f from the first day of the month of tender submission end date has to be submitted by the tenderer in **Annexure - 3 of NIT**. These data shall be certified by the Chartered Accountant with his stamp and signature with membership number and UDIN.

1.4.3 The tender submission of tenderers, who do not qualify the minimum eligibility criteria stipulated in the clauses 1.4.2 above, shall not be considered for further evaluation and therefore rejected. If the tenderer fails to meet the eligibility and qualification criteria, then further scrutiny of other technical parameters will not be done and Financial Proposals of such Tenderers shall not be opened. The mere fact that the tenderer is qualified as mentioned in sub clause 1.4.2 shall not imply that his bid shall automatically be accepted. The same should contain all technical data as required for consideration of tender prescribed in the ITT. Technical proposals meeting the Technical requirement and found substantially responsive only will be qualified for opening of their Financial Proposal.

1.5 The Tender documents consist of:

Volume 1

- Notice Inviting Tender (including Annexures)
- Instructions to Tenderers (including Annexures)
- Form of Tender (including Appendices)

Volume 2

- General Conditions of Contracts
- Special Conditions of Contract (including Schedules)

Volume 3

- Employer's Requirements – General
- Employer's Requirements – Functional
- Employer's Requirements – Design
- Employer's Requirements – Construction
- Employer's Requirements – Appendices

Volume 4

- Outline Construction Specification (OCS)
- Outline Design Specification (ODS)
- Schedule of Dimension (SOD)

Volume 5

- Bill of Quantity (BOQ) / Pricing Documents

Volume 6

- Tender Drawings

Volume 7

- Condition of Contract on Safety, Health & Environment (SHE)

Volume 8

- Geotechnical Investigation Report

- 1.6** The contract shall be governed by the documents listed in Para 1.5 above along with latest edition of CPWD Specification, IRS Specifications & MORTH Specifications. These may be purchased from the market by the tenderer.
- 1.7** The tenderers may obtain further information/clarification, if any, in respect of these tender documents from the office of Chief Engineer/Contract, Uttar Pradesh Metro Rail Corporation, Administrative Building, Vipin Khand, Gomti Nagar, Near Dr. Bhimrao Ambedkar Samajik Parivartan Sthal, Lucknow - 226010
- 1.8** All tenderers are hereby cautioned that tenders containing any material deviation or reservations as described in Clause. E4 of "Instructions to Tenderers" and/or minor deviation without quoting the cost of withdrawal shall be considered as non-responsive and is liable to be rejected.
- 1.9** The intending tenderers must be registered on e-tendering portal **<https://etenders.gov.in/eprocure/app>**. Those who are not registered on the e-tendering portal shall be required to get registered beforehand. After registration, the tenderer will get user id and password. On login, tenderer can participate in tendering process and can witness various activities of the process. Instructions for online bid submission is attached as **Annexure A** to NIT.
- 1.10** The authorized signatory of intending tenderer, as per Power of Attorney (POA), must have valid **Class-II or Class-III digital signature**. The tender document can only be downloaded or uploaded using **Class-II or Class-III digital signature**. However, the tenderer shall upload their tender on <https://etenders.gov.in/eprocure/app> using class-II or class-III digital signature of the authorized signatory only.
- 1.11** Tender submissions shall be done online on **<https://etenders.gov.in/eprocure/app>** after

uploading the mandatory scanned documents towards cost of tender documents such as scanned copies of transaction of payment i.e. RTGS, NEFT & IMPS and scanned copy of Tender Security/ EMD and other documents as stated in the tender document. Instructions for on-line bid submission are furnished hereinafter.

- 1.12** Submission of Tenders shall be closed on e-tendering website of Employer at the date & time of submission prescribed in NIT after which no tender shall be accepted. It shall be the responsibility of the Tenderer / tenderer to ensure that his tender is submitted online on e-tendering website **<https://etenders.gov.in/eprocure/app>** before the deadline of submission. The Employer shall not be responsible for any delay, difficulties and/or inaccessibility of the downloading and/or uploading facility from the e-procurement portal for any reason whatsoever.
- 1.13** Tenders shall be valid for a period of **180 days** (both days inclusive i.e. submission end date of tenders and the last date of period of validity of the tender) from the end date of submission of Tenders and shall be accompanied with a valid tender security/ EMD of the requisite amount as per clause C18.1 of ITT.
- 1.14** Employer reserves the right to accept or reject any or all proposals without assigning any reasons. No tenderer shall have any cause of action or claim against the Employer for rejection of his proposal.
- 1.15** Tenderers are requested to visit e-tendering portal <https://etenders.gov.in/eprocure/app> regularly for any Employer's issued clarifications, addendum, corrigendum and/or due date extensions.
- 1.16** Employer will award the Contract to the Tenderers whose Tender has been determined to be substantially responsive and compliant to the requirements contained in the Tender Documents and who has offered the Lowest Evaluated Tender Price. Variant bids are not allowed.
- 1.17** Any suit or application, arising out of any dispute or differences on account of this tender shall be filed in a competent court at Lucknow, Uttar Pradesh only and no other court or any other district of the country shall have any jurisdiction in the matter.
- 1.18** For any complaints, tenderers may contact CVO UPMRC at Administrative Building, Vipin Khand, Gomti Nagar, Near Dr. Bhimrao Ambedkar Samajik Parivartan Sthal, Lucknow-226010, Uttar Pradesh, India, 0522-2304015 E Mail- gmfupmrc@gmail.com

**Chief Engineer/Contract
Uttar Pradesh Metro Rail Corporation**