

NOTICE INVITING TENDER (NIT)

1. GENERAL

1.1. Name of Work:

Uttar Pradesh Metro Rail Corporation (UPMRC) Ltd., invites open tenders on Local Competitive Basis (LCB) from eligible applicants, who fulfill qualification criteria as stipulated in Clause 1.4 of NIT, for the work, **“AGCC-01: Construction of elevated viaduct and 3 Nos. elevated stations (viz. Taj East Gate, Basai & Fatehabad Road Metro Station) including Civil, Architectural Finishes, Water Supply, Sanitary Installation, Drainage, External Development, Fire Fighting, Fire Detection, E&M works and PEB structures on Priority Section of Corridor-1, Phase-I 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)

1.2. Key details:

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| Approximate cost of work | Rs. 290.00 Crores |
| Tender Security amount | Rs. 2.90 Crores |
| Completion period of the Work | 26 months |
| Tender documents on sale: | From 06.08.2020 to 04.09.2020 (between 09:30 hrs to 17:30 hrs) on working days |
| Cost of Tender documents | INR 23600/- (inclusive of GST) (Demand Draft on a scheduled commercial bank based in India in favour of “Uttar Pradesh Metro Rail Corporation Ltd”) payable at Lucknow |
| Last date of Seeking Clarification: | 07.09.2020 |
| Pre-bid Meeting | 07.09.2020 @ 1500 Hrs |
| Last date of issuing addendum | 11.09.2020 |
| Date & time of Submission of Tender | 05.10.2020 up to 15:00 Hrs. (IST) |
| Date & time of opening of Tender | 05.10.2020 @ 15:30 Hrs. |
| Authority and place for purchase of tender documents, seeking clarifications and submission of completed tender documents. | 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 Email: cecontractlmrc@gmail.com |

1.3. SOURCE OF FUNDS:

This work shall be financed through equity participation of the Government of India and Government of Uttar Pradesh and other appropriate means.

1.4. QUALIFICATION CRITERIA:

1.4.1. Eligible Applicants:

- i. The tenders for this contract will be considered only from those tenderers who meet requisite eligibility criteria prescribed in the sub-clauses of clause 1.4 of NIT. **Joint Ventures and consortiums are not allowed to participate in the tender.**
- ii. A tenderer shall submit only one bid in the same tendering process. 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 in the same bidding process.
- iii. A Tenderer shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this tendering process, if:
 - (a) a Tenderer has been engaged by the Employer to provide consulting services for the preparation related to procurement for or 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 or implementation of the project, if the personnel would be involved in any capacity on the same project.
 - (d) The Tenderer/applicant must not have been blacklisted or debarred as on the due date of submission of bid by Funding Agency/Government of India/ State Government / Government undertaking from participating in the tenders. The tenderer should submit an undertaking to this effect in Form of Tender. The tenderer shall also submit a "Verification Statement" to this effect as per proforma placed at **Annexure 1A of ITT.**
- iv. **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.

v. 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 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. Minimum local content shall be 80% for the subject tender.
- ii. 'Local Supplier' means a supplier or service provider whose product or service offered for procurement meets the minimum local content as prescribed at sr. no. i. above.
- iii. 'L1' means the lowest tender or lowest bid received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.
- iv. 'Margin of purchase preference' means the maximum extent to which the price quoted by a 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 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 from a local supplier, the contract for full quantity will be awarded to L1.
- ii. If L1 bid is not from a local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the local suppliers, will be invited to match the L1 price for the remaining 50% quantity subject to the local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such local supplier subject to matching the L1 price.
- iii. In case such lowest eligible local supplier fails to match the L1 price or accepts less than the offered quantity, the next higher 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 local suppliers, then such balance quantity may also be ordered on the L1 bidder.

c) Procedure for Purchase Preference 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 from

a local supplier, the contract will be awarded to L1.

- ii. If L1 is not from a local supplier, the lowest bidder among the local suppliers, will be invited to match the L1 price subject to local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such local supplier subject to matching the L1 price.
- iii. In case such lowest eligible local supplier fails to match the L1 price, the 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 local suppliers within the margin of purchase preference matches the L1 price, then the contract may be awarded to the L1 bidder.

d) Minimum local content and verification of local content:

- i. The local supplier at the time of tender shall be required to provide self-certification that the item offered meets the minimum local content and shall 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 local supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company or from a practicing cost accountant or practicing chartered accountant 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-15** and **Appendix-16** of FOT duly filled to be uploaded along with the technical bid. In case, bidder do not submit **Appendix-15** and **Appendix-16** of FOT duly filled along with their technical bid, local content shall be considered as 'Nil' in tender evaluation.

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.

vi. 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".

Note: Joint Ventures and consortiums are not allowed to participate in this tender

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

"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 shareholders 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.

1.4.2. Minimum Eligibility Criteria:

A. Work Experience: The tenderers will be qualified only if they have completed work(s) during last Seven years ending **31.07.2020** as given below:

- (i) At least one "similar work"*** of value of **Rs. 232 Crores** or more

OR

(ii) Two “similar work”^{***} each of value of **Rs. 145 Crores** or more

OR

(iii) Three “similar work”^{***} each of value of **Rs. 116 Crores** or more

- “*****Similar Work**” for this contract shall be work of construction of Metro Viaduct having a pre-stressed concrete super structure, with or without elevated metro station (which may/may not include finishing work and E&M works)
- The tenderer should have constructed at least one elevated metro station as a part of at least one “*****Similar Work**” referred in para (i) / (ii) / (iii) above.

Notes :

- The tenderer shall submit details of work executed by them, in the Performa of **Annexure-1** for the works to be considered for qualification of work experience criteria. 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 C.A., T.D.S certificates for all payments received and copy of final/last bill paid by client shall be submitted.
- Value of successfully completed portion of any ongoing work up to **31.07.2020** will also be considered for qualification of work experience criteria.
- For completed works, value of work done shall be updated to **31.07.2020** price level assuming 5% inflation for Indian Rupees every year and 2% for foreign currency portions per year. Selling rate of exchange at the close of business of the State Bank of India on the day twenty-eight days before the latest date of Tender Submittal shall be considered for calculating equivalent value in INR.
- In case, the qualifying work(s) were done by tenderer in JV/Consortium, then the value of work as per their percentage participation in such JV/Consortium shall be considered.
- If the tenderer does not have the experience of executing E&M works, then the tenderer will not be permitted to take up E&M works. In such case, tenderer will have to propose a sub-contractor. **The eligibility of the subcontractor shall be evaluated after award of work.** The contractor shall be required to submit undertaking for engaging subcontractor in Appendix 19.

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 equal to cash flow requirement of value **Rs. 19.00 Crores** for the contract.

- 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 UPMRC 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.

ii) T2 - Profitability: Profit before Tax should be Positive in at least 2(two) years, out of the last five audited financial years.

iii) T3 - Net Worth: Net Worth of tenderer should be positive in last 2 (two) financial years.

iv) T4 - Annual Turnover: The average annual turnover **from construction** in last five financial years should be \geq **Rs. 107.00 Crores**.

Notes :

- Financial data for latest last five audited financial years has to be submitted by the tenderer in **Annexure-2** along with audited balance sheets. The financial data in the prescribed format shall be certified by Chartered Accountant with his stamp and signature. In case audited balance sheet of the last financial year is not made available by the bidder, 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 off any year other than last year is not submitted, tender may be considered as non- responsive.

- Where a 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.

1.4.3 Bid Capacity Criteria:

Bid Capacity: The tenderers will be qualified only if their available bid capacity is more than the approximate cost of work as per NIT. Available bid capacity will be calculated based on the following formula:

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

Where,

A = Maximum of the value of construction works executed in any one year during the last five financial years (updated to **31.07.2020** price level assuming 5% inflation for Indian Rupees every year and 2% for foreign currency portions per year).

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

B = Value of existing commitments (**as on 31.07.2020**) for on-going construction works during period of **26 months w.e.f. 01.08.2020**.

Notes:

- Financial data for latest last five financial years has to be submitted by the tenderer in **Annexure-3A** along with audited financial statements. The financial data in the prescribed format shall be certified by the Chartered Accountant with his stamp and signature in original.
- Value of existing commitments for on-going construction works during period of **26 months w.e.f. 01.08.2020** has to be submitted by the tenderer in **Annexure-3B**. These data shall be certified by the Chartered Accountant with his stamp and signature.

1.4.4. The tender submission of tenderers, who do not qualify the minimum eligibility criteria & bid capacity criteria stipulated in the clauses 1.4.2 to 1.4.3 above, shall not be considered for further evaluation and therefore rejected. The mere fact that the tenderer is qualified as mentioned in sub clause 1.4.2 to 1.4.3 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.

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

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|----------|---|
| | Employer's Requirements – General |
| | Employer's Requirements – Functional |
| | Employer's Requirements – Design |
| | Employer's Requirements – Construction |
| | Employer's Requirements – Appendices |
| Volume 4 | Bill of Quantities |
| Volume 5 | Technical Specifications |
| Volume 6 | Tender Drawings |
| Volume 7 | Condition of Contract on Safety, Health & Environment (SHE) |

- 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.
- 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 (email id: cecontractlmrc@gmail.com)
- 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. Late tenders (received after date and time of submission of bid) shall not be accepted under any circumstances.
- 1.10. Tenders shall be valid for a period of **180 days** from the date of submission of Tenders and shall be accompanied with a tender security of the requisite amount in the form of a Bank Guarantee (as per Annexure-7 of ITT) from Scheduled Commercial Bank in India.
- 1.11. UPMRC 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 UPMRC for rejection of his proposal.
- 1.12. 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.

Chief Engineer/Contract
Uttar Pradesh Metro Rail Corporation