

No. Fin(C) A (3)-5/2004
Government of Himachal Pradesh
Finance (Regulation) Department

From

The Principal Secretary (Finance) to the
Government of Himachal Pradesh.

To

1. All Administrative Secretaries to the
Government of Himachal Pradesh
2. All Heads of Departments in
Himachal Pradesh.

Dated, Shimla-171002 the 19th August, 2020

Subject: Restriction on Public Procurement from bidders of certain countries.

Sir,

I am directed to enclose herewith letter No.F.No.6(18)2019-PPD dated 24th July, 2020 on the subject cited above vide which attention has been drawn to a letter of Secretary, Department of Expenditure, Ministry of Finance of even number dated 23/7/2020 which communicates that State Governments are required to implement the said orders in respect of procurement by State Government, State Government Public Sector Undertakings, local bodies and all agencies controlled by them as well as Public Private Partnership Projects receiving financial support from State Government.

The para 3 of order (Public Procurement No. 1) dated 23/7/2020 lists out the methodology to be followed in "transitional Cases". In order to bring clarity and consistency in the implementation of the above order, a clarification has been issued by Department of Expenditure, Ministry of Finance vide order (Public Procurement No. 3 dated 24/7/2020 (Copy enclosed).

It is requested that enclosed instructions may please be brought to the notice of all concerned under you, for strict compliance.

Yours faithfully,

19/8/2020
Deputy Secretary (Finance) to the
Government of Himachal

संजय प्रसाद, भा.रा.से.
संयुक्त सचिव

SANJAY PRASAD, IRS
Joint Secretary



व्यय विभाग
वित्त मंत्रालय
भारत सरकार
Department of Expenditure
Ministry of Finance
Government of India

F.No.6(18)2019-PPD

To



Dated the 24th July, 2020

The Chief Secretary of all States
(Through email)

Sir/Madam,

Subject: Restrictions on public procurement from bidders of certain countries.

Kind attention is drawn to letter of Secretary, Department of Expenditure, Min. of Finance of even number dated 23.07.2020 on the above captioned subject enclosing Order (Public Procurement No.1) and Order (Public Procurement No.2). Vide this letter, it was conveyed that State Governments are required to implement the said Orders in respect of procurement by State Governments, State Government Public Sector Undertakings, local bodies and all agencies controlled by them as well as Public Private Partnership projects receiving financial support from State Governments.

2. Para 3 of Order (Public Procurement No.1) dated 23.07.2020 lists out the methodology to be followed in "Transitional Cases". In order to bring clarity and consistency in the implementation of the above Order, a clarification has been issued by Department of Expenditure, Min. of Finance vide Order (Public Procurement No.3 dated 24.07.2020). A copy of Order is enclosed.

3. It is requested that the Order may be circulated amongst all procuring agencies in the State Governments.

Yours faithfully,

(Sanjay Prasad)

Encl: As above.

F.No.6/18/2019-PPD
Ministry of Finance
Department of Expenditure
Public Procurement Division

161, North Block,
New Delhi
24th July, 2020

Order (Public Procurement No. 3)

Subject: Clarification to Order (Public Procurement No.1) dated 23rd July 2020

Attention is invited to paragraph 3(b) of the Order (Public Procurement No.1), under the heading "Transitional provisions" which reads as follows:

- b) If the tendering process has crossed the first exclusionary qualificatory stage: If the qualified bidders include bidders from such countries, the entire process shall be scrapped and initiated *de novo*. The *de novo* process shall adhere to the conditions prescribed in this Order.*

It is hereby clarified that for the purpose of paragraph 3 (b), "qualified bidders" means only those bidders who would otherwise have been qualified for award of the tender after considering all factors including price, if Order (Public Procurement No. 1) dated 23rd July 2020 had not been issued.

2. If bidders from such countries would not have qualified for award for reasons unconnected with the said Order (for example, because they do not meet tender criteria or their price bid is higher or because of the provisions of purchase preference under any other order or rule or any other reason) then there is no need to scrap the tender / start the process de novo.

3. The following examples are given to assist in implementation of the Order.

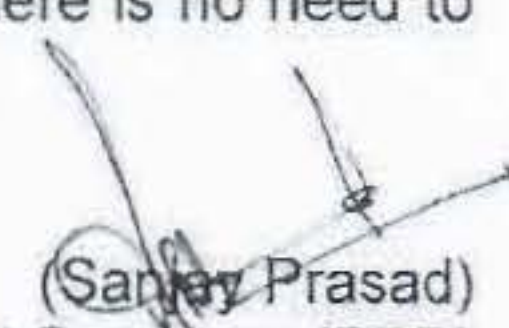
Example 1: Four bids are received in a tender. One of them is from a country which shares a land border with India. The bidder from such country is found to be qualified technically by meeting all prescribed criteria and is also the lowest bidder. In this case, the bidder is qualified for award of the tender, except for the provisions of the Order (Public Procurement No. 1) dated 23rd July. In this case, the tender should be scrapped and fresh tender initiated.

Example 2: The facts are as in Example 1, but the bidder from such country, though technically qualified is not the lowest because there are other technically qualified bidders whose price is lower. Hence the bidder from such country would not be

qualified for award of the tender irrespective of the Order (Public Procurement No. 1) dated 23rd July 2020. In such a case, there is no need to scrap the tender.

Example 3: The facts are as in Example 1, but the bidder from a country which shares a land border with India, though technically qualified, is not eligible for award due to the application of price preference as per other orders/ rules. In such a case, there is no need to scrap the tender.

Example 4: Three bids are received in a tender. One of them is a bidder from a country sharing a land border with India. The bidder from such a country does not meet the technical requirements and hence is not qualified. There is no need to scrap the tender.


(Sanjay Prasad)
Joint Secretary (PPD)
Email ID: js.pfc2.doe@gov.in
Telephone: 011-23093882

To,

- (1) Secretaries of All Ministries/ Departments of Government of India for information and necessary action. They are also requested to inform the clarification to all procuring entities.
- (2) Secretary, Department of Public Enterprises with a request to immediately circulate this clarification among Public Enterprises.
- (3) Chief Secretaries/ Administrators of Union Territories/ National Capital Territory of Delhi