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संख्या/No.



सत्यमेव जयते

भारतीय लेखापरीक्षा और लेखा विभाग
प्रधान महालेखाकार (लेखापरीक्षा)-I का कार्यालय, महाराष्ट्र,
प्रतिष्ठा भवन, 101, महर्षि कर्वे मार्ग, मुंबई - 400 020.
INDIAN AUDIT AND ACCOUNTS DEPARTMENT
OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL
(AUDIT)-I, MAHARASHTRA,
Pratishtha Bhavan, 101, Maharshi Karve Marg,
Mumbai - 400 020.

दिनांक/Date: 17-12-2019

सा.क्ष.-1/सू.अल.बी./शिकायत/का.53/7-51

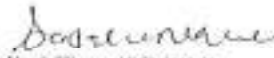
To
Shree Sachin Sawant,
Maharashtra Pradesh Congress Committee,
Tilak Bhavan, Kakasaheb Gadgil Marg,
Dadar, Mumbai-400025

Subject: Complaint regarding scam in tendering process of MMRDA under
PMAY of CIDCO, Maharashtra

Sir,

With reference to your letter dated 06/09/2019, it is to state that the complaint has
been verified and an audit point has been included in Inspection Report. (Copy of Inspection
Report point is enclosed for ready reference).

Yours faithfully,


Sr.Audit Officer/SSI/ULB

Encl: As above

Para 14: Construction of Metro Bhavan at Goregaon- Intermittent changes made in Eligibility criteria

For smooth functioning and proper communication of metro works, construction of Metro Bhavan with total 1,12,220 sq.m. BUA was planned on the lines of Delhi Metro run by DMRC. This proposed Metro Bhavan includes Main Building having two levels of basements+ 32 Storied, international standards centralized Operation & Control Centre (OCC) for all planned 13 metro lines and international standards Metro Training Academy and substation. The estimated cost of building was worked out to Rs.1032.54 crore including labour cess and contingencies. A proposal to obtaining approval to the estimated cost of Rs.913.962 crore for the building being put to tender, Draft RFP and to calling tender was put up vide Office Note dated 31.12.2018 to which the Metropolitan Commissioner asked (13.02.2019) to put up for Authority Approval. Authority accorded Administrative Approval in its 147th meeting held on 27.02.2019 for the cost of Rs.1032.53 crore. The Tender Document for construction of Metro Bhavan & OCC was floated on 28.02.2019 according to which pre-bid meeting was to be held on 11.03.2019 and the last date of submission of bid was on 15.04.2019 which was extended to 6.05.2019 on the request of five interested bidders. Subsequently in the meeting held on 18.04.2019, MC & AMC directed to make changes in the eligibility criteria as per the CVC Guidelines. Again in the meeting held in the Chamber of MC in presence of AMC/PD, FA, Director (Projects) and Chief (T&CP) many modifications were proposed which are given in brief as follows:

Sr.no.	Clause Reference/Pg.no.	Existing clause	Revised clause			
		Work Experience				
1	Detailed NIT 1.1.3.2 Minimum eligibility criteria	Tenderers will be qualified only if they have completed works in last seven years a. One similar works having BUA not less than 80% of the project i.e.89775 sq.m. each b. Two similar works having BUA not less than 50% of the project i.e.56,110 sq.m. each c.Three similar works having BUA not less than 40% of the project i.e.44,888 sq.m. each	No. of similar completed works	Completed project cost in INR		Minimum project area in sq.m.
			1	750 cr.	Or	80,000
			2	450 cr.	Or	50,000
			3	375 cr.	Or	40,000

2	Height of Bidg	Similar works means construction of building projects with at least Basement and 70 m height building constructed in RCC/Composite str.	Similar works means construction of at least one building project (commercial/Institutional/Residential excluding industrial structure of 100 meter height above Ground level in last 10 years.
	Financial Standing		
3	Net Worth and Working Capital	T3- Net Worth: During last financial year should be > Rs.61 crore	Net Worth should be INR 60 cr. For each of the last five consecutive years Net working capital should be (+)ive Should not have not having sickness
4	Annual Average turnover	The average annual turnover from construction of last financial years should be >Rs.244 cr.	The average annual turnover during the last financial years (2013-14, 2014-15,2015-16,2016-17,2017-18) should be >Rs.250cr
5	NIT 1.1 General i. Key Details &1.1.9	EMD:-Rs.5 cr.	EMD:-Rs.9.13 Cr.
6	Instructions to Tenderers (ITT), F5 Performance Security	2% of Contract Price i.e,20 crore	10% of Contract value
7	Detailed NIT 1.1.13	Not disclosed	Estimated cost of the work is INR913.96 cr.
8	ITT, F7 Additional Security Deposit	No provision	If the offer cost<10% of tender cost, ASD @1% of Tender cost If the offer cost is below between 10% & 15%, then for instance 14% below the ASD amount would be 1+4-5% of tender cost. If the offer cost is greater than below 15% or more, then it will be mandatory to the bidder to submit the remaining amount as ASD.

9	Volume 2 GCC Clause no.14.06 Limitation of Liability	The total liability of the contractor to the Employer under the Contract shall not exceed the contract price c	The total liability of the contractor to the Employer under the Contract shall not exceed the 10% of the contract price
10	SCC clause no.17.9 sub-clause 28 Arbitration clause	No provision	Newly added
11	NIT 1.1.2 key Details Vol. 2 SCC clause no.8.2 sub clause 29 Time completion		The time for completion of project will be considered after obtaining all the necessary approvals for starting construction of the project by the contractor. The approvals include Civil aviation NOC, Consent to Establish Environmental Approval, CFO NOC, Tree cutting Approval, National Green Tribunal NOC etc.
12	ASCC 17 Sub clause 10.1	The DLP shall be 60 months after the date of issue of the latest Taking Over Certificate for whole of the works	The DLP shall be 24 months after the date of issue of the latest Taking Over Certificate for whole of the works
13	Detailed NIT 1.1.3.2 Minimum Eligibility Criteria	The bidder who have the in-house capability of doing specialized or nominated sub-contractor works should demonstrate through submission of experience certificates for collective experience of handling the various disciplines of works in the contract	The bidder should have in-house capability of doing specialized work or nominated sub-contractor should have capability of doing work of various disciplines involved under the contract.

It was noticed that the many changes in provisions of tender document including post eligibility criteria and increase in scope of work were further executed vide Corrigendum No.6, Corrigendum No.8 and finally vide Corrigendum No.10 in which additional eligibility criteria was incorporated that says at least one Operational Control Centre/ Command Control Centre of 4000 sq.m. area completed in last 10 years on the advice of one of the interested bidders. After extending bid submission dates from time to time upto 31.07.2019 (against original 15.04.2019), only three bidders namely Tata Project Ltd., NCC Ltd. And L&T Ltd. against 6 bidders

initially interested in the process submitted their bids and found eligible for the bid. The offer of NCC Ltd. @25.82% above of estimated cost i.e. 1162.74 crore was found lowest and after reducing the offer by Rs.73.73 crore on negotiations, the final offer of Rs.1089 crore recommended for the award of contract. The Executive Committee in its 263th meeting held on 5.09.2019 approved the contract in favour of NCC Ltd for the cost of Rs.1089 crore. The Letter of Acceptance vis-à-vis 'Notice to Proceed' was issued to NCC Ltd on 19.09.2019 for the cost of Rs.972 crore due to reduction in scope of work.

In this connection, following remarks were offered:

- 1) From the Technical Bid Evaluation Report, it was noticed that though the envisaged structure was of 32 Floor composite building of 154-meter height consisting of OCC, the Consultant had considered the norms of height, Built Up Area, cost of building constructed of different works instead of the single work i.e. height of one building work, OCC in other building works, Cost of some other works etc. This shows that the experience criteria were not clearly defined and evaluated.

In reply, MMRDA stated that if all features would have been considered in a single building, it would have been restricted the competition and this was clearly defined in tender document. Reply is not tenable as definition of similar works given in tender provision did not stipulated that the different features can be considered in different buildings. Moreover the project being highly complex in nature and vital, strict eligibility criteria was required to select suitable contractor instead of viewing for more participants.

- 2) After publishing tender documents frequent changes in provisions, scope of work, eligibility criteria regarding work experience and financial standing were made. On being enquired by the Chief Secretary, Chairman of EC in the meeting, it was brought to his notice that the provisions for the cost of Heavy machineries, Tower Cranes, Labour Camp, Fabrication yard, batching plant etc. were not considered in the estimates. The Chief Secretary had instructed to convey to all bidders the change in estimates due to scope changes between the period of DPR and Final date of submission and revised estimates considering the rates of the items which are not included in rate list be prepared in future tendering. This fact clearly indicates that in the instant case the perspective bidders were not aware with the frequent changes in scope of work, rates of non-listed items etc. This shows inadequate preparedness for tendering of such a big and complex project and frequent changes in provision, scope, eligibility criteria etc. might have put lot of confusions in the mind of perspective bidders which resulted in low response.

In reply, MMRDA stated that there are no specific items mentioned in DSR/SSR rates to take care of all parameters involved in the project and they can be access only by open completion as done by

MMRDA. All modifications were conveyed to all perspective bidders immediately by e-tender portal. Reply is very vague and did not address the audit contention that why so much modifications including eligibility criteria were done after floating the tender.

- 3) Executive Committee approved the tender for the cost of Rs.1089 crore. However, as per the LOA issued on 19.09.2019 the scope of work was again changed by significant reduction. As (i) Total Built Up Area reduced from 1,12,220 sq.m to 90,047 sq.m, (ii) area of two-level basement restricted to non-OCC portion, (iii) no. of floors reduced from originally 32 floors to 27 floors. The revised and final cost of work was accepted at Rs.972 crore i.e reduced cost of Rs.117 crore. As the scope of project was not finalized before tendering and eligibility criteria was fixed considering the higher scope, many perspective bidders who could have been qualified as per eligibility criteria required for reduced scope would have been escaped from participating in tendering.

Therefore, in view of observations at Sr.No.1,2 & 3 deficiency in fixing scope of contract, change in eligibility criteria and other provisions as appeared in the above table would have larger impact on the transparency of tendering, which was also noticed by the Chief Secretary while approving the tender and had given instruction for future tendering.

In reply, MMRDA stated that the changes were made on request of various bidders to get the competitive rates and get more number of bidders. Considering the wider participation of bidders, the eligibility criteria were kept flexible. Reply itself confirms that the changes were made on advice of participating bidders, which was not a ideal condition for a transparent bidding. Further, by allowing change in eligibility criteria as per the wish of bidders chances of cartelization by few bidders were increased.

- 4) Documents related to reduction of scope after the approval of contract viz. Office note, minutes of meeting, correspondences with contractor, working of revised accepted cost etc. were called for. However the same were not enclosed with reply, which may be submitted.
- 5) As per NIT 1.1.2 key Details Vol. 2 SCC clause no.8.2 sub clause 29, added vide Corrigendum No.3& LOA, the time for completion of project will be considered after obtaining all the necessary approvals for starting construction of the project by the contractor. The approvals include civil aviation NOC, Consent to Establish Environmental Approval, CFO NOC, Tree cutting Approval, National Green Tribunal NOC etc. There was no time frame for obtaining these crucial approvals required for commencement. Therefore, the completion period of 36 months given in contract document for construction of Metro Bhavan was only tentative and delay in obtaining necessary approvals would have large impact on cost over-run as sub-clause 11.1.3 for price variations has no

restriction on the cost escalation due to the delay in obtaining approvals to protect the interest of MMRDA,

In reply, MMRDA stated that obtaining requisite permissions was in contractors whereby preliminary activities structural designs as well as submittals to authority would be carried out concurrently. Further, if in case price escalation was restricted, bidders tend to quote accordingly to cover the uncertainty. Reply is not convincing as without obtaining essential approvals work can't be commenced and moreover no time frame has been given for obtaining these approvals.

Further reply may be communicated to audit.

Sankar Kumar
Sr A.O/SSI