

**GOVERNMENT OF TELANGANA
HYDERABAD METRO RAIL LIMITED**

**REQUEST FOR PROPOSAL FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR O&M PERIOD FOR HYDERABAD METRO RAIL
PROJECT**

ADDENDUM No.3 Dated Aug 07, 2020

The following are the modifications to the Request for Proposal issued vide RfP No.2286/MD/GM(P)/HMRL/IE/2020 dated 08.06.2020 as per the orders of Ministry of Finance, Department of Expenditure, Public Procurement Division, Government of India vide its order dt.23.07.2020 issued under the General Financial Rules, 2017 (“**Order**”). The referenced provisions are to be read in the amended form as set out below. The deletions from the earlier text of the draft circulated are indicated as strikethroughs and the additions are underlined.

Sl. No	Clause Reference	RfP Clause	Modified Provision of the RfP Clause
1.	2.2.8	- Additional Clause -	<p data-bbox="695 721 1961 753">2.2.8 Restrictions on bidders from a country which shares a land border with India</p> <p data-bbox="695 841 2003 1166">2.2.8.1 The Ministry of Finance (Department of Expenditure), Government of India has issued Order (Public Procurement No. 1) and Order (Public Procurement No. 2) both dated July 23, 2020 under the General Financial Rules, 2017 (collectively referred to as the “Orders”), prescribing additional qualification restrictions for bidders from a country which shares a land border with India. The restrictions and conditions provided under the Orders, as may be amended, supplemented, clarified or substituted from time to time, shall apply hereto and form part of the Conditions of Eligibility under this RFP.</p> <p data-bbox="695 1253 2003 1409">2.2.8.2 No Applicant from a country which shares a land border with India, shall be eligible to submit a Proposal under this RfP unless registered, as provided in the Orders, with the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT) or a specific department/ authority of the</p>

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			<p>Government of Telangana designated for this purpose (“Competent Authority”). The restrictions provided in this Clause 2.2.8 shall also apply to the consortium member(s) or Associate(s) of an Applicant i.e. where a consortium member or an Associate (whose credentials are sought to be relied upon by the Applicant under the Proposal) is from a country which shares a land border with India, the relevant Applicant shall not be eligible to submit a Proposal under this RfP unless such consortium member or Associate is registered with the Competent Authority. Reference to the term Applicant as used in this Clause 2.2.8 shall include reference to consortium member(s) and Associate(s) of such Applicant.</p> <p>For the avoidance of doubt, no Applicant from a country which shares a land border with India shall be eligible to submit a Proposal if it is not registered with the Competent Authority as on or prior to the Proposal Due Date irrespective of the reason for such lack of registration including Applicant’s inability to apply for or obtain registration for any reason whatsoever.</p> <p>For the purposes of this RfP, "<u>Applicant from a country which shares a land border with India</u>" means:</p> <ul style="list-style-type: none"> (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.

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			<p data-bbox="804 191 1818 224">For the purpose of this Clause 2.2.8, the term “<u>beneficial owner</u>” means:</p> <p data-bbox="793 310 1999 467">(i) In case of a company or a 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;</p> <p data-bbox="890 553 1083 586">Explanations:</p> <p data-bbox="898 672 1999 789">(a) “controlling ownership interest” means ownership of, or entitlement to, more than 25% (twenty five percent) of shares or capital or profits of the company;</p> <p data-bbox="898 875 1999 1032">(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 arrangements;</p> <p data-bbox="793 1122 1999 1279">(ii) In case of partnership, firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more judicial person, has ownership of entitlement to more than 15% (fifteen percent) of capital or profits of the partnership;</p> <p data-bbox="793 1365 1999 1438">(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</p>

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			<p>through one or more juridical person, has ownership of or entitlement to more than 15% (fifteen percent) of the property or capital or profits of such association or body of individuals;</p> <p>(iv) Where no natural person is identified in points (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;</p> <p>(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 15% (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;</p> <p>For the purpose of this Clause 2.2.8, “agent” means a person employed to do any act for another, or to represent another in dealings with third persons.</p> <p>Provided that restrictions in this Clause 2.2.8 shall not apply to such Applicant(s), consortium member(s) or Associate(s) which are from countries as are expressly exempted under the Orders.</p> <p>2.2.8.3 The restrictions and conditions provided in this Clause 2.2.8 are as per applicable laws currently in force and effect and shall stand modified in the event of any amendment to applicable laws in this regard including any amendment, clarification or substitution of the Orders or any other orders/ notifications/ directions/ guidelines as may be issued by the Government of India or Government of Telangana from</p>

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			<p>time to time. The Applicants are advised to carefully peruse the Orders, as may be amended, supplemented, clarified or substituted and ascertain their eligibility to participate in this Selection Process as per terms hereof and applicable laws. Notwithstanding anything contained in this Clause 2.2.8, the decision as to the eligibility of an Applicant under this Clause 2.2.8 shall be taken by the Authority at its sole discretion, taking into account all relevant circumstances and applicable laws, and such decision shall be final and binding on the Applicants.</p>
2.	Para 4.10 of Schedule-2 (Agreement)	- Additional Para -	<p>The Independent Engineer shall not be permitted to hire any Sub-Consultant/ sub-contractor from a country which shares a land border with India unless such Sub-Consultant/ sub-contractor is registered with the relevant governmental authority as required under Applicable Laws.</p>
3.	Para 20A of Appendix-I, Form 1 (Technical Proposal)	- Additional Para -	<p>20A. (a) I/We have examined and understood all the conditions regarding restrictions on procurement from an Applicant from a country which shares a land border with India as provided in Ministry of Finance, Government of India Order (Public Procurement No. 1) and Order (Public Procurement No. 2) both dated July 23, 2020 (“Orders”) and mentioned in the RfP. We hereby acknowledge, confirm and agree that, in terms of the Orders, an Applicant from such a country is not eligible to submit a Proposal and participate in the Selection Process under the RfP. I/We hereby certify that [I/we, our consortium member(s) and Associate(s) are not from a country which shares a land border with India]/[I/ we/ our consortium member(s)/ Associate(s) are from a country which shares a land border with India and have been duly registered with the Competent Authority pursuant to the Orders]. I/We also certify that we fulfill all requirements in this regard and I/We are eligible to be considered under the RfP. [A copy of proof of registration issued by the Competent Authority is annexed along with the Proposal].</p>

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			<p>(b) I/ We hereby agree and confirm that if any information or confirmation provided by us in respect of compliance with the Orders is at any time found to be false or incorrect, then the Authority shall be entitled to take appropriate action including, without prejudice to any other rights or remedies it may have under the RfP, License Agreement or applicable laws, rejecting the Proposal, or terminating the LOI or License Agreement, as the case may be, without the Authority being liable in any manner whatsoever, and appropriating the Bid Security or Performance Security, as the case may be.</p> <p>(c) I/We have examined and understood all the conditions regarding restrictions on sub-contracting to contractors from a country which shares a land border with India. I/ We certify that I/ we will not sub-contract works to any Sub-Consultant/ sub-contractor from a country which shares a land border with India unless such Sub-Consultant/ sub-contractor is registered with the Competent Authority as required under the Orders.</p> <p>(d) The information and confirmations provided in this paragraph 20A are true, correct and accurate as of the date hereof and I/ we hereby agree and undertake to inform the Authority forthwith in the event of any of the information or confirmations provided herein ceasing to be true, correct or accurate and/ or us no longer being eligible to participate in the Selection Process for any reason whatsoever including on account of any changes in the applicable laws in this regard.</p>