

**CIL's Response to Queries/Suggestions of prospective bidders during Pre-Bid Conference held on 17.08.2023 against Tender no. CIL/C2D/Bulk Explosives/2023-25/391 dated 05.08.2023 for conclusion of Running Contracts (RCs) and empanelment as Reserve RC holders for a period of two years for supply of Bulk Explosives to all the subsidiary companies of CIL**

Sl. No.	NIT Ref.	NIT Clause	Pre-Bid Inputs	CIL's Response
1	VI-TSS 2.3	<p><b>PESO license</b></p> <p>1. Details of PESO license i.e. license number, date, validity period, license capacity, list of consignees covered, etc. shall be indicated by the bidders.</p> <p>2. A bidder shall quote for a subsidiary, only if the PESO license for the plant includes the name of that particular subsidiary even if the PESO license for the plant is for "tender purpose only". A bidder having PESO license "for tender purpose only" for the plant, shall ensure that name of the particular subsidiary is included/endorsed in the PESO license within 30 days of date of issue of contract failing which the supply order shall stand cancelled along with forfeiture of EMD. The cancelled ordered quantity shall be re-distributed amongst other suppliers, including Reserve RC holders, as the case may be, within that subsidiary company.</p> <p>3. A bidder offering for a particular subsidiary company, shall be bound to supply anywhere within that subsidiary company.</p>	<p><b>Firm B:</b></p> <p>Introduction of Clause no 2.3.8:</p> <p>For last many tenders since 2008 the minimum offer quantity by any bidder for any subsidiary, was kept at 10% of the subsidiaries requirement (2.2.2 of TSS in current NIT), which was in line with distribution clause which allows minimum distribution of 10% to L 4 &amp; L 5 bidders (Distribution Clause 29 of ITB).</p> <p>Also in the Pre-NIT dated 18-07-2023, Section VI, 2.2.3 very clearly states that subsidiary wise yearly quantity for 1st &amp; 2nd year shall be at least 10% of the subsidiary wise yearly tendered quantity of 1st &amp; 2<sup>nd</sup> year respectively, whereas in the Final NIT cited above, in Section – VI you have added another Clause 2.3.8 wherein you have stated in case the bidder does not have required PESO Licence capacity of 10% of subsidiary, tendered quantity at the time of submission of bid but has capacity for 5% of tendered quantity and also applied for Industrial Licence for capacity enhancement, the bidder is eligible to participate by submitting copy of valid PESO Licence and copy of application for enhancement of Industrial Licence.</p> <p>The above clause is contradictory to other clause of the NIT which are given below</p> <p>Contraction no 1 – Clause no 1 of TSS related to Eligibility Criteria The above clause states that "Only those who have valid statutory Licence from concerning Licensing authority are eligible to bid". As per the Clause no 2.3.8 mere application for IL is making the bidder eligible for participating in the tender process, however the Clause no 1 makes the bidder eligible only if they possess valid Licence.</p> <p>Contradiction no 2 – Clause no 2.2.6 of TSS states that "Which clearly states without PESO Licence (valid/applied for validation) shall not be accepted. Further, application for new Licence and enhancement even receipted by PESO will not be considered". Whereas in 2.3.8 you have stated that even if a person does not have an Industrial Licence for capacity enhancement, but he has made an application for enhancement of Industrial Licence will be considered even if his quantity is 5%.</p>	<p>Clause-2.3 should be read as a whole and not in parts. A harmonious reading will clarify that different sub-clauses define different situations and are not in contradiction.</p> <p>The provision for allowing bidders with less than 10% PESO license capacity to participate in the tender was introduced after concerns were raised in the Pre-NIT meeting by some prospective bidders including MSE vendors that they would not have sufficient PESO License to meet the minimum 10% tender quantity criteria due to sudden significant increase in tender quantity over previous tender's quantity. This provision enables MSE firms to participate and improves competition. However, to ensure that the said provision is not misused, the provision for submission of additional SDBG for 10% of RC value has been incorporated as a deterrent</p>

	<p>4. Copy of the valid license of PESO shall be submitted along with offer.</p> <p>5. If the PESO license is not valid on the date of tender opening, copy of application duly receipted by PESO (Nagpur/Regional office) or acknowledgement of online application submitted for revalidation of license, shall be submitted along with offer.</p> <p>6. Offers without PESO license (valid/applied for revalidation) shall not be accepted. Further, application for new license/enhancement (even receipted by PESO) will not be considered.</p> <p>7. Supply of explosives against RCs shall be accompanied by self-attested copy of valid PESO license.</p> <p>8. In case the bidder does not have the required PESO License capacity for manufacturing of SME for 10% of the tendered quantity at the time of submission of bid, but has capacity for at least 5% of the tendered quantity and has also applied for 'Industrial License' for capacity enhancement, the bidder is eligible to participate by submitting a copy of the valid PESO license of existing capacity and a copy of application for enhancement of 'Industrial License' along with an undertaking with the offer that in the event of conclusion of RC with them, they will obtain</p>	<p>A Mere application to Ministry does not guarantee award of Licence. The process of getting Industrial Licence take at least 2 years as it requires clearances from the State Government, Panchayat, Home Ministry, District Magistrate/PWD, etc. and thereafter construction permissions are given by CCE and CCE to issue further Licenses on satisfactory inspection. PESO Licence is issued within the capacity of Industrial Licence.</p> <p>Contradiction no 3 – Clause no 2.5 related to AN storage capacity states that Bidder shall have valid PESO licence for storage of Ammonium Nitrate at a time equivalent to 50% of total offered quantity for all subsidiaries divided by twelve. Also 2.5.3 states that in case the bidder does not have required License for storage of Ammonium Nitrate (at a time), the bidder will have to submit an undertaking ....</p> <p>Through the clause no 2.5, CIL is trying to ensures / qualifying the bidder who are having sufficient AN storage capacity to participate in the tender however the same diluted through Clause no 2.3.8. Further there is no clarity bidder can be disqualified based on insufficient AN storage capacity or it can furnish another additional SDBG for insufficient AN storage capacity (apart from 10% additional SDBG for not having minimum 10% PESO licence capacity).</p> <p>Contradiction no 4 – Clause no 9.1 Note of SCC related to allocation by the subsidiary states that ...allocation &amp; requisition of the quantity by the subsidiaries shall be made accordingly in compliance with the provision of the RC for the quantities .... Allocation by the subsidiaries for various suppliers are given in proportion to their orders. In case bidder offers 10%, in-spite of having mere 5% Licence PESO capacity how this will be ensured in the first 6 months of the RC. Subsidiaries can't comply with the provision of the RC for the supplier who is having mere 5% PESO licence capacity and ultimately other suppliers will be asked to supply additional quantity.</p> <p>Contradiction no 5 – Limitation of quantity offered by bidders who are having licence capacity as per the requirement. As per Clause 2.3.8, a person with 5% capacity of Subsidiary Company can bid for 100% of Subsidiary Company demand without having Industrial &amp; PESO License capacity. Whereas as per clause 2.3.6 other suppliers who have applied for enhancement of License capacity, this will not be considered. This Also as per Clause no 31 of ITB related to Quantity variation CIL is asking the bidders to be ready to supply 140% of the ordered quantity on the other hand allowing bidder who is having just 3.57% (5% divided by 1.40) capacity as per this clause to participate in the tender. It is also pertinent to point out people may participate with 5% offered quantity and participate in bidding to bring down prices of bonafide vendors who have built large capacities at exorbitant cost to meet the escalating requirement of Coal India. This will only entail that some bidders will participate in Reverse auction and withdraw when the prices are down to destroy fair bidding in the process.</p>	<p>for non-serious bidders. Therefore, the above provision remains unchanged.</p> <p>It is to clarify that bidders intending to quote as per Clause-2.3.8, Sec-VI, TSS of the NIT can offer only 10% of tender quantity of that Subsidiary, for which a corrigendum to the NIT is / will be issued to that extent.</p> <p>If a supplier has manufacturing plant catering to multiple Subsidiaries with sufficient PESO license capacity, they cannot distribute their offer among multiple Subsidiaries in such a way that they commit less than 10% of tender quantity for one or more Subsidiaries (in line with Clause-2.3.8 of TSS of NIT) while offering more than 10% of tender quantity for other Subsidiaries.</p> <p>It is further clarified that in case more than one Subsidiary is being offered from a single manufacturing plant, then the Subsidiary-wise split of offer quantity should be mentioned against the corresponding PESO license in TPS2.</p>
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	<p>the required PESO license capacity for offered quantity from the concerned authority within 6 months from the date of issue of RC.</p> <p>In such case, the successful bidder/ RC holder shall have to provide additional SDBG for 10% of the contract value with a validity of 9 months, within 30 days from date of issue of RC, failing which EMD shall be forfeited and CIL shall reserve the right to rescind / short close the RC for the subsequent period and distribute the balance quantity among any of the existing RC / Reserve RC Holders. If the successful bidder / RC holder is exempted from payment of EMD, they will be asked to submit the EMD amount of the tender within 7 days from date of issue of RC, failing which it will be debarred from participating in any tender of CIL or its Subsidiaries for a period of 1 year from the date of the tender.</p> <p>If documentary evidence (PESO License) of the required capacity is not submitted within 6 months from the date of issue of RC, the SDBG will be forfeited and CIL shall reserve the right to rescind / short close the RC for the subsequent period and distribute the balance quantity among any of the existing RC / Reserve RC Holders.</p>	<p>Also, a non-serious bidder may who is having sufficient quantity to offer in one subsidiary may divide his PESO licence and offer in more than one subsidiary by offering 5% in each and participate in the RA and later on chooses to match the price or not for each subsidiary. It is unthinkable that companies who do not have adequate Industrial Licence capacity, leave alone CCE Licence can participate in the Coal India Tender.</p> <p>Relaxation under Clause no 2.3.2 of TSS:</p> <p>The above Clause allows the bidder to get the PESO licence for tender Purpose for inclusion of the Subsidiary name in their plant licence. No relaxation should be given for this. The bidder should be allowed only if subsidiary name is included in the plant's licence. This will ensures compliance of various provision of Explosive rules like plant should be situated within 250 KM from the time of tendering.</p> <p>In view of the above We once again request you to kindly ensure that only those bidders who are having Valid Industrial &amp; PESO Licence for AN &amp; Bulk Explosive on the date of Technical bid submission should be eligible to participate in the Tender, otherwise the whole process would attract non-serious bidders to reduce Prices and who would withdraw during price matching.</p> <p><b>Firm C:</b></p> <p>We would like to draw your kind attention regarding the dilution of eligibility criteria of PESO license for minimum offer quantity as per Clause 2.3.8 of Technical Section including Specifications (TSS) page no. 62.</p> <p>The subsidiary-wise minimum offer quantity for 1<sup>st</sup> year and 2<sup>nd</sup> year shall be 10% of subsidiary Wise annual tender quantity as per Clause 2.2.3 of TSS page no. 61. Eligibility for offered Bulk explosives are governed by Clause 1 of TSS, page no. 61. The Clause read as:</p> <p><i>“The bidder(s) whose offered items are already approved or has been successfully tested and tried at any of the CIL Subsidiary Cos., duly certified by CMPDIL and who are in possession of valid statutory license from the concerned licensing authorities are only eligible to offer against this tender.”</i></p> <p>However, the eligibility criteria to offer minimum quantity is diluted by additional Clause 2.3.8 of TSS, page no. 62 by allowing bidders who do not have statutory license for offering minimum quantity as per Clause No. 1 of TSS, page 61. This is contradictory and suited to selected bidders. The PESO license is mandatory for minimum offer quantity of 10% and the eligibility criteria are in vogue for more than 15 years. The similar eligibility criteria are valid for recently concluded cartridge and Accessories tender of CIL. CIL cannot adopt different eligibility criteria for explosives procurement to suit a few bidder, This is unfair and injustice to genuine bidder who have secured PESO license to offer minimum quantity as per Clause No. 2.2.3 of TSS. Thus,</p>	
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			<p>the additional Clause destroys level playing field and allow illegitimate bidders to offer minimum quantity as well as 100% of subsidiary requirement just by giving an undertaking only.</p> <p>Further, Clause no. 2.2.6 of TSS read as  <i>“Offers without PESO license (valid/applied for revalidation) shall not be accepted. Further, application for new license/ enhancement (even receipted by PESO) will not be considered”</i></p> <p>Above mandatory requirement of PESO license diluted through Clause No. 2.3.8 of TSS, page no. 62.  <i>“In case the bidder does not have the required PESO License capacity for manufacturing of SME for 10% of the tendered quantity at the time of submission of bid, but has capacity for at least 5% of the tendered quantity and has also applied for ‘Industrial License’ for capacity enhancement, the bidder is eligible to participate by submitting a copy of the valid PESO license of existing capacity and a copy of application for enhancement of ‘Industrial License’ along with an undertaking with the offer that in the event of conclusion of RC with them, they will obtain the required PESO license capacity for offered quantity from the concerned authority within 6 months from the date of issue of RC.”</i></p> <p>This clause no. 2.2.6 and Clause no. 2.3.8 contradicted each other, The additional clause of 2.3.8 for dilution of eligibility criteria lacks equality and preferential treatment for a few bidders for making them eligible to participate in the above tender.</p> <p>Therefore, the additional clause 2.3.8 of TSS contradicts Clause no. 1 of TSS and Clause No. 2.2.6. The additional clause will also violate the Transparency Principles of Fundamental Principles of Public Procurement as laid down in Manual for Procurement of Good 2017 (Published by Ministry of Finance, Department of Expenditure). One of the important criteria of transparency principle include equal opportunity / absence of discrimination in the process, Moreover, dilution of eligibility criteria will attract non-serious bidders who will bid irrationally and jeopardize the tendering process, Therefore we request you to amend the above NIT by removing the Clause 2.2.5 and 2.3.8 of TSS, Page no. 61 and 62 of the above tender.</p>	
2	VI-TSS 2.5	<p><b>Ammonium Nitrate Storage Capacity</b>  Bidders shall have the valid PESO License for storage of Ammonium Nitrate at a time, equivalent to 50% of the total offered quantity (each year) for all subsidiaries taken together, divided by twelve (i.e. total yearly offered Qty. / 24), rounded off to the nearest integer.</p>	<p><b>Firm A:</b>  Kindly consider the interest of MSEs and retain Clause-2.5.2 of Pre-NIT which states as follows: “MSE bidders shall have the valid PESO License for storage of Ammonium Nitrate at a time, equivalent to 25% of the total offered quantity (each year) for all subsidiaries taken together, divided by twelve (i.e. total yearly offered Qty. / 48), rounded off to the nearest integer.”</p> <p>Further, as license for purchase of Ammonium Nitrate per month is much higher than license for stocking Ammonium Nitrate, the offer should be assessed based on annual purchase capacity of Ammonium Nitrate instead of stocking capacity.</p> <p><b>Firm B:</b></p>	<p>In view of the concerns raised by Firm A and considering that preference / relaxation to MSEs is in line with the spirit of MSME Act, 2006, the relaxed provision in Pre-NIT is being retained. A corrigendum is / will be issued amending the NIT to this extent.</p>

			<p>Relaxation to the bidder not having sufficient AN storage capacity.</p> <p>At Section VI, 2.5 refers to Ammonium Nitrate storage capacity with the supplier. As you are aware, that in the past couple of years there was acute shortage of Ammonium Nitrate as a result Coal India's production was grossly affected. It was then decided that bidders shall mandatorily have valid PESO licence for all subsidiaries taken together for a quantity equal to 50% of offered quantity divided by 24.</p> <p>We also like to inform you that any construction of AN storage requires sufficient land as per AN Rules (as PESO doesn't allow any AN store house outside the plant area for Possess &amp; Use purpose) as well as requires DM's NOC for the construction therefore bidders eligibility should be allowed based on the assumption that the bidder is having land for construction of AN storage within plant and will be able to get NOC for the same within 6 months. Since the above clause was introduced in last tender and sufficient time have already been given, no room should be left for the bidders to build the required AN storage capacity after receipt of the order. As the explosives are required on daily basis the only bidder who are having minimum licence capacity on the date of tender submission should only be allowed to participate in the tender.</p>	<p>Assessment of AN Storage capacity is being retained as CIL has faced difficulties in the past due to lack of sufficient AN Storage capacity of suppliers, and evaluation based on annual purchase capacity of AN is not a true reflection of AN Storage capacity.</p> <p>The clause for minimum AN Storage capacity was introduced in the previous tender before 2 years. However, considering the significant increase in tender quantity over previous tender's quantity, Clause-2.5.3 is being retained.</p>
3	VII-8	<b>Number of Subsidiary-wise Parallel Running Contracts to be concluded against this tender</b>	CIL should increase the number of parallel RC holders by one more supplier across all Subsidiaries.	This suggestion was already deliberated during Pre-NIT meeting. Due to limited supplier base, increasing the number of parallel RC holders might reduce competition. Hence, no change.
4	CPS	<b>Bank Account Details</b>	Can the suppliers submit multiple Bank A/C details in the offer so that on issue of RC, they can receive payment against supplies into multiple accounts?	Multiple Bank accounts is accepted. In case bidder wants multiple Bank accounts, the details of the same may be filled in the CPS sequentially as well as uploaded in PDF Format in Commercial Docs folder along with corresponding cancelled cheques.

## **DOs & DON'Ts**

### **DOs**

1. Please go through each clause of the tender document carefully and submit your offer as per the provisions contained therein.
2. The registration on the e-Procurement Portal should be in the name of bidder whereas DSC holder may be either bidder himself or his duly authorized person.
3. The DSC of the person bidding online on behalf of bidder (the bidding firm) should be mapped / registered with the name of the bidding firm.
4. Bidders claiming purchase preference under Make in India policy, MSME Act or under any policy of Government of India specifically mentioned in the NIT should submit the required documents correctly. These documents may be subject to verification and any discrepancy can lead to disqualification in the tender and/or banning.
5. Local Content Certificate should be submitted as per format and UDIN No. is mandatory.
6. Bids must be submitted online before or upto 17:00 hours Indian Standard Time on last date of online submission of offers.
7. The bidder has to quote for at least 10% of the yearly quantity of the respective Subsidiary.
8. Incomplete template or templates not submitted as per the instruction given will be rejected.
9. GST Registration No. should be mentioned separately for every Subsidiary for which bid is being submitted.
10. Only one approved brand should be quoted in the TPS.
11. Bank account details should be carefully filled in the CPS. Payment would be made based on these details. Copy of cancelled cheque should also be uploaded.
12. Pre-Contract Integrity Pact – download the format and upload it in the specified folder. Physical signature is not required.
13. The unit of measure is Metric Ton. Prices are to be quoted accordingly.
14. In case more than one Subsidiary is being offered from a single manufacturing plant, then the Subsidiary-wise split of offer quantity should be mentioned against the corresponding PESO license in TPS2.

## **DON'Ts**

1. Do not give any price information in the Techno-Commercial Bid, Cover-I. In such case the offer is liable to be rejected.
2. Bidders may withdraw their bids online within the last time and date of bid submission. However, the bids once withdrawn cannot be re-submitted again and bidder will not be able to participate in the tender. In case bidders wish to modify their bids, they should not opt for “Withdraw” option. Instead, they should opt for “Re-submit” option.
3. Do not use Cut and Copy paste commands in the excel sheets provided in TPS and BOQ template.
4. Do not specify a range for Local Content. Indicate the exact percentage.
5. Do not submit conditional price quotation. In such case, bid will be rejected.
6. Do not submit forged or tampered documents as these documents may be subject to verification and any discrepancy can lead to disqualification or banning.
7. Do not submit superfluous / redundant information not required for evaluation purpose.
8. There should not be any Conflict of Interest between bidders.