

## **NOTICE INVITING TENDER**

### **GOVERNMENT OF INDIA MINISTRY OF INFORMATION & BROADCASTING**

#### **Invitation for Pre-Qualification Bids for expansion of FM Radio Broadcasting Services through Private Agencies (Phase – II)**

#### **TENDER No. 212/14/2005 – FM**

On behalf of the President of India, the Ministry of Information & Broadcasting invites sealed Pre-Qualification Bids in prescribed forms for expansion of FM radio broadcasting services through private agencies (Phase – II) for cities and number of channels specified in clause 1 below from companies registered in India under the Companies Act, 1956 satisfying the eligibility criteria specified herein under.

### **1. CITIES AND NUMBER OF CHANNELS**

1.1 A total of 338 channels in 91 cities across the country are being made available for bidding by Indian private companies at this stage. The list of cities along with categories and number of channels in each city for bidding is available on this Ministry's website [www.mib.nic.in](http://www.mib.nic.in). The Government reserves the right to vary the number of channels for any city as well as the number of cities at any stage.

1.2 Every applicant and its related entities as given below shall be allowed to bid for only one Channel per city provided that the total number of Channels allocated to an applicant and its related entities shall not exceed the overall limit of 15% of the total Channels allocated in India. In the event an applicant and its related entities are allotted such number of Channels as exceed the aforesaid overall limit, the applicant shall at its own discretion select and surrender such number of Channels as would enable it to comply with the overall limit and shall be entitled to refund of the amount paid to the Government of India along with the financial bid(s) for surrendered channels, if not otherwise forfeited.

Note: (1) The channels allotted to the following categories of companies would be reckoned for the purpose of calculating the total channels allocated to a company:

- (a) Subsidiary company of any applicant/ allottee;
- (b) Holding company of any applicant / allottee;
- (c) Companies with the Same Management as that of applicant/ allottee;
- (d) More than one Inter-Connected Undertaking with regard to the applicant/ allottee.

(2) In respect of existing license holders under Phase-I, the license(s) held by them under Phase-I shall be taken into consideration for calculating the 15% limit.

### **2. ELIGIBILITY FOR APPLICANTS**

#### **2.1 Foreign Investment:**

2.1.1 In the applicant company, total foreign investment, including FDI by Overseas Corporate Bodies/Non – Resident Indians/Persons of Indian Origin etc., portfolio investments by Foreign Institutional Investors (FII), within limits prescribed by RBI, and borrowings, if these carry conversion options, shall not exceed 20% of the paid up equity in the entity, subject to the following conditions:

- i. One Indian individual or company owns more than 50% of the paid up equity in the applicant entity excluding the equity held by banks and other lending institutions.
- ii. The majority shareholder exercises management control over the applicant entity.
- iii. The applicant entity has only resident Indians as directors on the board.
- iv. All key executive officers of the applicant entity are resident Indians.

## **2.2. Financial Eligibility:**

2.2.1 The applicants will be eligible to participate in bidding for Channels in all the four regions, their financial eligibility shall be assessed on the basis of the following criteria:

### **Minimum Net Worth required for one Channel per City in each region:**

▪ D category Cities:	Rs. 50 Lakh.
▪ C category Cities:	Rs. 1 Crore.
▪ B category Cities:	Rs. 2 Crore.
▪ A or A+ category Cities:	Rs. 3 Crore.
▪ All Cities in all regions:	Rs. 10 Crore.

[Note: 'Net worth' means the excess of the book value of assets (other than fictitious assets) of an enterprise over its liabilities. It would be calculated as sum of the paid up equity and free reserves minus accumulated losses, if any, in the company.]

2.2.2 However, each applicant may indicate the category of cities and the region (s) in the prescribed application form it desires to bid for and its eligibility will be determined accordingly. In case the applicant does not wish to intimate these details, the applicant company should have the minimum net worth of Rs.10 Crore.

2.2.3 The applicant company would be required to furnish annual reports and audited final accounts for the last three years, or in the case of a newly incorporated company, balance sheets from the date of incorporation till March 31, 2005, along with its net worth as on 30<sup>th</sup> September 2005 or any date subsequent thereto up to the date of submission of the bid, certified by the statutory auditors, to support its claim of financial competence.

2.2.4 An applicant company registered after March 31, 2005 shall have to demonstrate its net worth as on 30.9.2005 or any date subsequent thereto up to the date of submission of the bid, through its paid up equity supported by requisite documents including a certificate from the statutory auditor or a chartered accountant.

## **3. DISQUALIFICATIONS:**

- (a) Companies not incorporated in India.
- (b) Any company controlled by a person convicted of an offence involving moral turpitude or declared as insolvent or applied for being declared insolvent;
- (c) A company which is an associate of or controlled by a Trust, Society or Non Profit Organization;
- (d) A company controlled by or associated with a religious body;
- (e) A company controlled by or associated with a political body;
- (f) Any company which is functioning as an advertising agency or is an associate of an advertising agency or is controlled by an advertising agency or person associated with an advertising agency;
- (g) Subsidiary company of any applicant in the same City;
- (h) Holding company of any applicant in the same City;
- (i) Companies with the Same Management within a City;
- (j) More than one Inter-Connected Undertaking at the same City.
- (k) A company that has been debarred from taking part in the bidding process by virtue of default in Phase - I or its associate company with the same management.
- (l) The defaulters of conditions under Phase-I, who have contested the revocation of their Letters of Intent/License Agreements, thereby continue to be debarred from participating in any future bidding process as per Phase – I policy.

Provided that the following shall not be disqualified:

- i. A company on default of terms and conditions under Phase-I, whose Letter of Intent/License Agreement has been revoked and who has accepted such revocation and has exercised its option to participate in Phase-II.

- ii. A Company already operating FM radio stations (except for cities where it is already operating under Phase I).

**Note 1:** For the purpose of sub clause (d) above a religious body shall be:

- (i) A body whose objectives are wholly or mainly of a religious nature;
- (ii) A body, which is controlled by a religious body or an associate of religious body

**Note 2:** For the purpose of sub clause (e) above a political body shall be:

- (i) A body whose objects are wholly or mainly of a political nature;
- (ii) A body affiliated to a political body;
- (iii) A body corporate, which is an associate of a body corporate controlled, held by, operating in association or controlling a body of political nature as referred above.

**Note 3:** For the purposes of clause (f) an “Advertising Agency” shall mean an individual or a body corporate who carries on business as an advertising agent (whether alone or in partnership) or has control over any body corporate which carries on business as an advertising agent and any reference to an advertising agency includes a reference to an individual who -

- (i) is a director or officer of any body corporate which carries on such a business, or
- (ii) is employed by any person who carries on such a business.

**Note 4:** For the purposes of clauses (g), (h) & (i) the terms “Same Management”, ‘Subsidiary Company’ and ‘Holding Company’ shall have the same meaning as assigned to them under Section 4 of the Companies Act, 1956;

**Note 5:** For the purposes of clause (j) the term “Inter Connected Undertakings” shall have the same meaning as assigned to it in the Monopolies and Restrictive Trade Practices Act, 1969;

**Note 6:** If the applicant and the subsidiary company/holding company/company with the same management/Inter-Connected Undertaking submit more than one bid for the same City, only the highest valid bid shall be taken into account for evaluation.

#### **4. BIDDING PROCESS AND OTHER CONDITIONS**

The final selection for grant of permission to establish and operate a FM radio channel in any city shall be made in Stage – II (Financial Bids) out of the applicants in the Pre-Qualification Bids (Stage – I) found eligible after following the criteria and the procedure as detailed in the Tender Document, which may be downloaded from Ministry’s website ([www.mib.nic.in](http://www.mib.nic.in)) or obtained free of cost from the facilitation counter, Ministry of I&B, Government of India, Shastri Bhawan, New Delhi 110 001.

#### **5. APPLICATIONS AND PROCESSING FEE**

An interested party may submit only one Application for any number of channels it wishes to bid for as per the formats specified in Appendix A & B to the Tender Document. An application must be accompanied by all necessary documents as specified in the Tender Document and a demand draft on a scheduled bank payable at par at New Delhi for an amount of Rs.10000/- (Indian Rupees Ten thousand only) drawn in favour of the Pay & Accounts Officer, Ministry of I&B, Government of India towards processing fee. All applicants found meeting the eligibility criteria, as specified above and other conditions specified in the Tender Document, shall be invited to participate in Stage II (Financial Bids) of the Bidding Process.

#### **6. AMENDMENT OF BID DOCUMENTS**

6.1 At any time, prior to the last date for submission of Pre-Qualification Bids (Bid Pack for Stage –I), the Ministry of I&B, Government of India may, for reasons to be recorded, whether at its own initiative or in response to a clarification requested by prospective applicants, modify the requirements for the same.

6.2 The amendments will be notified to the public in the same manner as the original Tender Document and these amendments will be binding on applicants and compliance to the same has to be submitted by the applicants.

6.3 In order to provide prospective applicants reasonable time in which to take the amendments into account in preparing their bids, the Ministry of I&B, Government of India may at its discretion, extend the deadline for the submission of bids suitably.

## **7. SUBMISSION OF BIDS**

7.1 Three copies of the Bid Pack for Stage I (Pre-Qualification Bids) complete in all respects must be submitted in sealed covers and marked as under:

<p style="text-align: center;"><b>Tender for FM Radio Broadcasting Phase II – STAGE I</b> <b>(Name &amp; Address of Applicant)</b></p>
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Each page thereof should be numbered and also the total number of pages should be indicated on the first page. One copy of the Bid Pack should be marked as 'ORIGINAL' and shall be signed in ink on each page by the applicant and other two copies shall be marked as 'COPY'.

**The sealed covers shall be sent by Registered Post/Courier to Shri B.S. Rawat, Under Secretary, Ministry of I&B, Government of India, A Wing, Shastri Bhawan, New Delhi 110 001 or deposited with the facilitation counter, Ministry of I&B, Government of India, Shastri Bhawan, New Delhi 110 001. The Government of India shall not be responsible for any delay in receipt of bidpack by post/ courier.**

## **8. DEADLINE FOR SUBMISSION OF BIDS**

8.1 The Bid Pack for Stage I (Pre-Qualification Bids) should be delivered at the address specified at Para 8.1 above, not later than 1:00 PM on 7<sup>th</sup> November 2005.

8.2 Ministry of I&B, Government of India may, at its discretion, extend this deadline for the submission of bids.

8.3 Any bid received after the deadline for submission of bids prescribed, whatever be the reason for delay, will be rejected and returned unopened to the applicant.

8.4 Incomplete bids shall be summarily rejected. However the Government of India in its discretion may ignore minor deficiencies in the bids and/ or grant time for making up such deficiencies.

## **9. SAVING**

In case of any conflict between the clauses of this NIT and corresponding clauses of the Tender Document, the terms set out in the latter shall prevail.

## **10. WEBSITE**

10.1 The Government of India, Ministry of Information & Broadcasting, as mentioned hereinbefore, has placed the Tender Document on its website ([www.mib.nic.in](http://www.mib.nic.in)) and will use this website as principal means of giving general clarifications, if any, or intimation about changes, if any, in the tender conditions or bidding process etc. Similarly, all relevant documents such as the draft Letter of Intent/Grant of Permission Agreement, Agreement with Prasar Bharati/BECIL, various Formats and Appendices etc. will be posted on this website from time to time. All prospective applicants are, therefore, advised to visit the website as frequently as possible to remain fully apprised of latest developments in respect of the implementation of the Policy for FM Radio Broadcasting (Phase – II). For any query regarding this NIT, the interested party may also send e-mail at [usfm-inb@nic.in](mailto:usfm-inb@nic.in).

(R K GOYAL)  
Director (BPL & BDF)

New Delhi  
Dated: 21st September 2005