

JAIPUR VIDYUT VITRAN NIGAM LIMITED
OFFICE OF THE ADDL. CHIEF ENGINEER (M&P, PPP & DSM)
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NO.JPD/ACE(M&P-PPP-DSM)/PPP/D. 524

DATED: 16.12.2015

CORRIGENDUM NO. 2

TN-03 - Request for Proposal (RfP) for Appointment of 'Input plus Investment' based Distribution **Franchisee** for Distribution and Supply of Electricity in **Kota City**

Amendments- DFA Kota

1. DFA Clause 2.1.2

Submission of Performance Guarantee

The Distribution Franchisee shall secure the guarantee to perform by providing Performance Guarantee to the satisfaction of JVVNL from any nationalized bank or Scheduled Bank for an amount of Rs 86 Crores. This Performance Guarantee shall be governed as per conditions stipulated in Article-12.

This shall be now read as

1. DFA Clause 2.1.2

Submission of Performance Guarantee

The Distribution Franchisee shall secure the guarantee to perform by providing Performance Guarantee to the satisfaction of JVVNL from any nationalized bank or Scheduled Bank for an amount of **Rs 43 Crores**. This Performance Guarantee shall be governed as per conditions stipulated in Article-12

2. DFA Clause 2.1.3

Minimum Capital Expenditure:

The Distribution Franchisee shall submit details of Minimum Capital Expenditure to be carried out by the franchisee over a period of 5 years from the effective date as mentioned in Article

5.2.2, in line with the detailed Minimum Capital Expenditure provided by JVVNL in RFP Project Documents, to JVVNL. All capital investments from 16th year onwards by the Franchisee shall be subject to RERC approval. Distribution Franchisee shall submit such capital investment plans in last five years of the contract to JVVNL and JVVNL shall facilitate approval of the RERC for such capital investment Plans. Any investment made by the Distribution Franchisee 16th year onward which is not approved by the RERC shall not be compensated by JVVNL at the expiry / termination of the Franchise.

This shall be now read as

2. DFA Clause 2.1.3

Minimum Capital Expenditure:

The Distribution Franchisee shall submit details of Minimum Capital Expenditure to be carried out by the franchisee over a period of 5 years from the effective date as mentioned in Article 5.2.2, in line with the detailed Minimum Capital Expenditure provided by JVVNL in RFP Project Documents, to JVVNL. All capital investments from 16th year onwards **other than the load growth** by the Franchisee shall be subject to RERC approval. Distribution Franchisee shall submit such capital investment plans in last five years of the contract to JVVNL and JVVNL shall facilitate approval of the RERC for such capital investment Plans. Any investment made by the Distribution Franchisee 16th year onward **other than for load Growth** which is not approved by the RERC shall not be compensated by JVVNL at the expiry / termination of the Franchise.

3. DFA Clause no 5.2.1

The New Capital expenditure:

Distribution Franchisee shall plan and implement capital expenditure to improve efficiencies, upgrade infrastructure etc. as is deemed necessary by Distribution Franchisee. However Distribution Franchisee shall obtain the prior approval of work plan for making such expenditure. If no comments/observations is received from JVVNL for such work plan within 15 days of submission, it shall be deemed to be treated as approved.

This shall be now read as

3. DFA Clause no. 5.2.1

The Distribution Franchisee shall plan and implement capital expenditure to improve efficiencies, upgrade infrastructure etc. as is deemed necessary by Distribution Franchisee. **However Distribution Franchisee shall submit a work plan every year of 90% of the total amount proposed for such capital investment for which no formal approval is required from JVVNL. For balance 10% of the capital expenditure, DF shall have to take prior approval of JVVNL every year.**

4. DFA Clause 5.2.2

Distribution Franchisee shall provide for capital expenditure to improve efficiencies, augment and upgrade infrastructure, reduction in Distribution Losses and improvement in quality of supply in the Franchisee Area. The Distribution Franchisee shall make a minimum investment of Rs 215 Crores spread over a period of 5 years in accordance with details of Minimum Capital Expenditure submitted by Distribution Franchisee to JVVNL as indicated in Article 2.1.3 of Distribution Franchisee Agreement. The franchisee shall roll out its capital expenditure in such way that at least 10% of the minimum capital expenditure is spent every year for the first five years of the contract period.

This shall be now read as

4. DFA Clause 5.2.2

Distribution Franchisee shall provide for capital expenditure to improve efficiencies, augment and upgrade infrastructure, reduction in Distribution Losses and improvement in quality of supply in the Franchisee Area. The Distribution Franchisee shall make a minimum investment of **Rs 152.52 Crores** spread over a period of 5 years in accordance with details of Minimum Capital Expenditure submitted by Distribution Franchisee to JVVNL as indicated in Article 2.1.3 of Distribution Franchisee Agreement. The franchisee shall roll out its capital expenditure in such way that at least 10% of the minimum capital expenditure is spent every year for the first five years of the contract period.

5. DFA Clause 5.2.5

The Distribution Franchisee shall arrange the funds required for meeting its minimum capital expenditure. However, for capital expenditure beyond minimum capital expenditure, in case there is any capital investment funding scheme like R-APDRP, National Electricity Fund etc. proposed from Government of India or the State Government or any Department or Undertakings thereof or any multilateral funding organizations which is available to JVVNL as Distribution Licensee at terms and conditions which, in the opinion of the Distribution Franchisee, are better than those available to it from its own sources, then at the request of the Distribution Franchisee and detailed project proposals to be prepared and submitted by the Distribution Franchisee to JVVNL within the scope of such funding schemes, JVVNL may avail such schemes and get the same implemented in the Franchisee Area through the Distribution Franchisee. There shall be a back to back arrangement between JVVNL and the Distribution Franchisee with negotiated terms and conditions along with requisite bank guarantees mechanism for meeting the finance cost and loan liabilities of such schemes. For this purpose, JVVNL shall enter into a separate agreement with Distribution Franchisee, outside the purview of this Distribution Franchisee Agreement, covering payment of the interest, repayment of loan to the funding agency, conversion of loan into grant, transfer of assets on termination of such funding scheme and any other terms & conditions incident thereon etc.

This shall be now read as

5. DFA Clause 5.2.5

For The Distribution Franchisee shall arrange the funds required for meeting its minimum capital expenditure. However, for capital expenditure beyond minimum capital expenditure, in case there is any capital investment funding scheme like R-APDRP, National Electricity Fund etc. proposed from Government of India or the State Government or any Department or Undertakings thereof or any multilateral funding organizations which is available to JVVNL as Distribution Licensee at terms and conditions which, in the opinion of the Distribution Franchisee, are better than those available to it from its own sources, then at the request of the Distribution Franchisee and detailed project proposals to be prepared and submitted by the Distribution Franchisee to JVVNL within the scope of such funding schemes, JVVNL may avail such schemes and get the same implemented in the Franchisee Area through the Distribution Franchisee. There shall be a back to back arrangement between JVVNL and the Distribution Franchisee with negotiated terms and conditions along with requisite bank guarantees mechanism for meeting the finance cost and loan liabilities of such schemes. For this purpose, JVVNL shall enter into a separate agreement with Distribution Franchisee, outside the purview of this Distribution Franchisee Agreement, covering payment of the interest, repayment of loan to the funding agency, conversion of loan into grant, transfer of assets on termination of such funding scheme and any other terms & conditions incident thereon etc.

However apart from meeting the minimum capital expenditure (Rs 152.52 Cr), Distribution Franchisee may avail the funds granted through IPDS scheme to JVVNL by Ministry of power, Government of India (GoI). For availing this scheme, there shall be a back to back arrangement between JVVNL and the Distribution Franchisee with negotiated terms and conditions along with requisite bank guarantees mechanism for meeting the finance cost and loan liabilities of such schemes. For this purpose, JVVNL shall enter into a separate agreement with Distribution Franchisee, outside the purview of this Distribution Franchisee Agreement, covering payment of the interest, repayment of loan to the funding agency, conversion of loan into grant, transfer of assets on termination of such funding scheme and any other terms & conditions incident thereon etc.

6. DFA Clause no 5.2.13

All capital expenditure to be made by the DF 16th year onwards will require prior approval from RERC

This shall be now read as

6. DFA Clause 5.2.13

All the capital expenditure to be made by the DF 16th year onwards **other than for load growth** will require prior approval from RERC

7. DFA Clause 12.8

Collateral Arrangement

As an additional measure to ensure compliance of [Name of the Franchisee] obligations under this Agreement, [Name of the Franchisee] and the JVVNL, on or prior to the Effective Date, shall execute a separate Default Escrow Agreement (referred as “Default Escrow Agreement”) for the establishment and operation of the Default Escrow Account in favour of JVVNL, through which the revenues of [Name of the Franchisee] shall be routed and used as per the terms of the Default Escrow Agreement. [Name of the Franchisee] and JVVNL shall also enter into a separate Agreement to Hypothecate Cum Deed of Hypothecation, whereby [Name of the Franchisee] shall agree to hypothecate, to JVVNL, the amounts to the extent as required for the Letter of Credit as per Article 12.1 and Article 12.4 routed through the Default Escrow Account and the Receivables in accordance with the terms of the Agreement to Hypothecate Cum Deed of Hypothecation. The Default Escrow Agreement and the Agreement to Hypothecate Cum Deed of Hypothecation are collectively referred to as the “Collateral Arrangement”. The minimum revenue flow in any Month in the Default Escrow Account shall be at least equal to the amount required for the Letter of Credit as per Article 12.1 and 12.4.

Provided further that the Franchisee shall ensure that JVVNL has first ranking charge on the revenues routed through the Default Escrow Account. However, such first ranking charge shall be on the amounts, in excess of amounts, which have already been charged or agreed to be charged prior to the date of the execution of the Default Escrow Agreement.

This shall be now read as

7. DFA Clause 12.8

Collateral Arrangement

As an additional measure to ensure compliance of [Name of the Franchisee] obligations under this Agreement, [Name of the Franchisee] and the JVVNL, on or prior to the Effective Date, shall execute a separate Default Escrow Agreement (referred as “Default Escrow Agreement”) for the establishment and operation of the Default Escrow Account in favour of JVVNL, through which the revenues of [Name of the Franchisee] shall be routed and used as per the terms of the Default Escrow Agreement. [Name of the Franchisee] and JVVNL shall also enter into a separate Agreement to Hypothecate Cum Deed of Hypothecation, whereby [Name of the Franchisee] shall agree to hypothecate, to JVVNL, the amounts to the extent as required for the Letter of Credit as per Article 12.1 and Article 12.4 routed through the Default Escrow Account and the Receivables in accordance with the terms of the Agreement to Hypothecate Cum Deed of Hypothecation. The Default Escrow Agreement and the Agreement to Hypothecate Cum Deed of Hypothecation are collectively referred to as the “Collateral Arrangement”. The minimum revenue flow in any Month in the Default Escrow Account shall be at least equal to the amount required for the Letter of Credit as per Article 12.1 and 12.4.

Provided further that the Franchisee shall ensure that JVVNL has first ranking charge on the

revenues routed through the Default Escrow Account. However, such first ranking charge shall be on the amounts, in excess of amounts, which have already been charged or agreed to be charged prior to the date of the execution of the Default Escrow Agreement.

This Escrow account shall also serve as security for non-adherence of investment of stipulated minimum capital expenditure.

8. DFA Clause 12.9

Performance Guarantee

As provisioned in the Article-2.1.2 of this Agreement, the Distribution Franchisee shall submit and maintain valid for the term of this Agreement, a performance guarantee to the satisfaction of JVVNL in the form of an irrevocable and unconditional Performance Guarantee from any nationalized bank or Scheduled Bank for an amount of Rs 86 Crore. The Performance Guarantee shall be governed in the manner described in this Article.

This shall be now read as

8. DFA Clause 12.9

Performance Guarantee

As provisioned in the Article-2.1.2 of this Agreement, the Distribution Franchisee shall submit and maintain valid for the term of this Agreement, a performance guarantee to the satisfaction of JVVNL in the form of an irrevocable and unconditional Performance Guarantee from any nationalized bank or Scheduled Bank for an amount of **Rs 43 Crore**. The Performance Guarantee shall be governed in the manner described in this Article.

9. DFA Clause 12.12

While the Performance Guarantee shall be valid for the term of the agreement, one half of the same shall remain locked with JVVNL throughout the term of the agreement whereas the other half of the Performance Guarantee shall be released in proportion to the minimum mandatory investment done by the Distribution Franchisee over the first 5 years.

This shall be now read as

8. DFA Clause 12.12

The Performance Guarantee shall be valid for the term of the agreement and the same shall remain locked with JVVNL throughout the agreement.

9. DFA Clause 12.13

JVVNL has the right to invoke the unreleased portion of the Performance Guarantee in case of non-compliance to Standards of Performance.

This shall be now read as

9. DFA Clause 12.13

JVVNL has the right to invoke the Performance Guarantee in case of non-compliance to Standards of Performance.

10. DFA Clause 13.2

Category - 1	Technical	Lineman, technical helpers, etc
Category - 2	Ministerial	AAO, LDC, UDC, Typist, Peon/4 th Class and other non-technical employees etc.
Category - 3	Officers	J.En. /A.En. /X.En. /S.E. /A.C.E. /C.E. and A.O. /Sr. A.O. /C.A.O. /F.A. etc.

This shall be now read as

10. DFA Clause 13.2

Category - 1	Technical	Lineman, technical helpers, etc
Category - 2	Ministerial	LDC, UDC, Typist, Peon/4 th Class and other non-technical employees etc.
Category - 3	Officers	J.En. /A.En. /X.En. /S.E. /A.C.E. /C.E. and A.A.O/ A.O./ Sr. A.O./ C.A.O./F.A. etc.

11. DFA Clause 13.3

Thereafter, the Distribution Franchisee shall choose at least one third (1/3 rd) from each such category of willing employees subject to the maximum of 735 numbers of employees. The

employees willing to go on deputation may be from the area demarcated for franchisee operation or any other location of JVVNL. If the number of willing employees wish to go for deputation is more than one third (1/3 rd) from each category, Distribution Franchisee will have a right to accept/ reject without assigning any reason thereof after choosing one third (1/3 rd) of employees from each category. However If the number of willing employees wish to go for deputation is less than one third (1/3 rd) from each category, Distribution Franchisee shall be bound to take all such employees from each category willing to go for deputation.

This shall be now read as

11. DFA Clause 13.3

Thereafter, the DF shall choose at least one third (1/3rd) of willing employees from Category-1 and Category-2 subject to upper limit of total 245 numbers of employees. However, if DF is willing to take more employees on deputation than the upper limit, it can be considered by JVVNL.

The employees willing to go on deputation may be from the area demarcated for franchisee operation or any other location of JVVNL.

Employees of Category-3 are over & above the obligation of minimum employees criteria hence it is not binding on DF to take them on deputation. However, on receiving DF's request JVVNL in its sole discretion may consider deputing employees from Category-3 as well.

12. DFA Annexure:4

Schedule of Annualized Input Rate

Year	Estimated Annual Energy Input (MUs)	Minimum Benchmark Input Rates (Rs/kWh)	Annualised Input Rate (Rs/ kWh) (Up to three decimal place)
1	1147.56	3.871	
2	1210.28	4.106	
3	1276.42	4.272	
4	1346.18	4.404	
5	1419.74	4.501	
6	1497.33	4.582	
7	1579.16	4.649	
8	1665.46	4.707	
9	1756.48	4.757	
10	1852.47	4.801	

Year	Estimated Annual Energy Input (MUs)	Minimum Benchmark Input Rates (Rs/kWh)	Annualised Input Rate (Rs/ kWh) (Up to three decimal place)
11	1953.71	4.841	
12	2060.48	4.878	
13	2173.08	4.904	
14	2291.84	4.922	
15	2417.09	4.940	
16	2459.18	4.957	
17	2688.49	4.968	
18	2835.42	4.971	
19	2990.37	4.975	
20	3153.80	4.978	

This shall be now read as

12. DFA Annexure:4

Schedule of Annualized input rate

Year	Minimum Benchmark Input Rates (Rs/kWh)	Annualised Input Rate (Rs/ kWh) (Up to three decimal place)
1	3.487	
2	3.557	
3	3.794	
4	4.067	
5	4.131	
6	4.195	
7	4.259	
8	4.295	
9	4.331	
10	4.368	
11	4.404	
12	4.440	
13	4.477	

Year	Minimum Benchmark Input Rates (Rs/kWh)	Annualised Input Rate (Rs/ kWh) (Up to three decimal place)
14	4.500	
15	4.521	
16	4.541	
17	4.546	
18	4.553	
19	4.560	
20	4.567	

13. DFA Annexure:6

Performance Guarantee

Ref.:

Date:

Bank Guarantee No.....

1. In accordance with the tender specification No._____ of Jaipur Vidyt Vitaran Nigam Limited(hereinafter referred to as the “JVNL”) for the work of selection of Distribution Franchisee for Distribution of Electricity along with meter reading, billing, collection, operation maintenance etc. for Kota City of Rajasthan,

M/s (Company Name)
 Address.....(hereinafter referred to as “Bidder”) wished to participate in the said tender and as a Bank Guarantee for the sum of Rs._____ for a period of _____ from the date of opening of techno-commercial bid as required to be submitted by the Bidder, we the(Name of the Bank).....(hereinafter referred to as “The Bank”) do hereby unequivocally and unconditionally guarantee and undertake to pay during the above said period, on written request by JVNL, an amount not exceeding Rs. ----- Only to JVNL without any reservation. The guarantee would remain valid up to 5.00 P.M. of (date) and if any further extension to this is required, the same will be extended on receiving instructions from the Bidder on whose behalf this guarantee has been issued.

2. We, the (Indicate the name of the Bank) do hereby further undertake to pay the amounts due and payable under this guarantee without any demur, merely on demand from JVNL stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by JVNL by reason of any breach by the said Bidder(s) of any of the terms of conditions and failure to perform said tender. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs.....

3. We, the (Indicate the name of the Bank) undertake to pay to JVVNL any money so demanded notwithstanding any dispute or disputes raised by the Bidder(s) in any suit or proceeding instituted/ pending before any court of tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment there under and the Bidder(s) shall have no claim against us for making such payment.
4. We, the (Indicate the name of the Bank) further agree that the guarantee herein contained shall remain in full force and effect during the aforesaid period of days and it shall continue to be so enforceable till all the dues of JVVNL under or by virtue of the said tender have been fully paid and its claims satisfied or discharges or till JVVNL certifies that the terms and conditions of the said tender have been fully and properly carried out by the said Bidder(s) and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the We shall be discharged from all liability under this guarantee thereafter.
5. We, the (Indicate the name of the Bank) further agree with JVVNL that JVVNL shall have the fullest liberty without our consent and without effecting in any manner our obligations hereunder to vary any of the terms and conditions of the said tender or to extend time of performance by the said Bidder(s) from time to time or to postpone for any times or from time to time only of the powers exercisable by JVVNL against the tender Bidder(s) and to forebear or enforce any of the terms and conditions relating to the said tender and we shall not be relieved from our liability by reason of any such variation, postponement or extension being granted to the said Bidder(s) or for any forbearance act or omission on the part of JVVNL or any indulgence by JVVNL to the said Bidder(s) or by any such matter or thing what-so-ever which under the law relating to sureties would, but for this provision, have effect of so relieving us.
6. This guarantee will not be discharged due to the change in the name, style and constitution of the Bank or the Bidder(s).
7. We, the (Indicate the name of the Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of JVVNL in writing.

Dated, the day of

Witness:

- 1.
- 2.

For

(Indicate name of Bank)

This shall be now read as

13. DFA Annexure:6

Performance Guarantee

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution)

In consideration of the (insert name of the Selected Bidder) (hereinafter referred to as "Distribution Franchisee or DF) agreeing to undertake the obligations under the Distribution Franchisee Agreement (DFA) dated_____ and the other RFP Project Documents and Jaipur Vidyut Vitran Nigam Limited or JVVNL, agreeing to execute the DFA to execute and the other RFP Project Documents, inter alia with the DF, regarding sale, purchase and distribute power and services as a DF in the Franchise Area i.e. _____ Urban Area under the _____ District, the (Name of the Bank) (hereinafter referred to as "Guarantor Bank") hereby agrees unequivocally, irrevocably and unconditionally to pay to JVVNL at Jaipur forthwith on demand in writing from JVVNL or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees _____only, on behalf of M/s (Name of the DF)

This guarantee shall be valid and binding on this Bank up to and including _____ and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective DFA.

Our liability under this Guarantee is restricted to Rs. _____ (Rs. _____ only). Our Guarantee shall remain in force until _____. The JVVNL shall be entitled to invoke this Guarantee till (insert a date which is 30 days after the date in the preceding sentence).

The Guarantor Bank hereby agrees and acknowledges that the JVVNL shall have a right to invoke this BANK GUARANTEE in part or in full, as it may deem fit.

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand by the JVVNL, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to the JVVNL.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by JVVNL /Authorized Representative and [Insert name of the DF] and/or any other person. The Guarantor Bank shall not require the JVVNL to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against the JVVNL in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

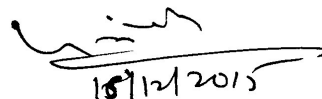
This BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring or any other change in the constitution of the Guarantor Bank.

This BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly the JVVNL shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the [Insert name of DF] , to make any claim against or any demand on [Insert name of DF] or to give any notice to [Insert name of DF] or to enforce any security held by the JVVNL or to exercise, levy or enforce any distress, diligence or other process against [Insert name of DF].

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to the JVVNL and may be assigned, in whole or in part, (whether absolutely or by way of security) by JVVNL to any entity to whom the JVVNL is entitled to assign its rights and obligations under the DFA.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. _____ (Rs. _____ only) and it shall remain in force until _____ [Date to be inserted on the basis of Contract Period i.e. 20 Years) with an additional claim period of thirty (30) days thereafter. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if the JVVNL serves upon us a written claim or demand.

Signature _____
Name _____
Power of Attorney No. _____
For _____ [Insert Name of the Bank] _____
Banker's Stamp and Full Address.
Dated this _____ day of _____, 20__

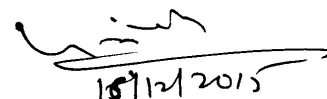


15/12/2015

(P.K.JAIMINI)
ADDL. CHIEF ENGINEER (M&P, PPP & DSM)

Copy forwarded to the following for information & necessary action:-

- 1) The Superintending Engineer (IT), Jaipur Discom, Jaipur for arranging hosting of the above extension in NIT.
- 2) The Sr. Accounts Officer (TW), Jaipur Discom, Jaipur.



15/12/2015

ADDL. CHIEF ENGINEER (M&P, PPP & DSM)