

The Science, Indigenous Technology & Advanced Research Accelerator

**To**

**Shri P.K. Mishra**

**Principal Secretary to PM**

**PMO, South Block, New Delhi, 110011** July 1, 2021

**Sub: Violation of tender procedures to favour FOEM**

**BSNL Tender Enquiry No.: CA/NFS/UNMS/T-623/2018**

**Dear Sir,**

Please first allow us to thank you with our collective hearts for the decisions recently taken by Government, doubtless under PMO’s direction, to award experimental 5G licences previously denied by DoT to India’s top Institute IISC and top R&D-intensive company Saankhya Labs.

We also thank you very much for putting on hold the permission to facilitate Chinese imports through the back door under the pretence of technology transfers. Both these steps will hearten top-class domestic companies. We feel there is a court of appeal in PMO which is genuinely dedicated to the welfare of the People of India, unlike, we are sorry to add, some of the line Ministries. Hence our appeals to you.

**Current issue**

Sir, we had earlier drawn your kind attention to the fact that Government’s far-sighted procurement reforms are not being enforced. We are constrained to approach you again **as this time it directly affects the defense and security networks of the country.**

Around 2010, Defence had released some Radio Spectrum for DoT’s commercial use, in exchange for DoT building an exclusive and dedicated Network for Spectrum (NFS, which has seen its fair share of controversies over the years) – an exclusive national telecommunications network for the Defence Services with a current estimated cost of over Rs. 24,000 Crores, double the initial estimated cost.

Since then, BSNL has called for Tenders for various sub-systems, the last in this series being the Tender for a Unified Network Management System (UNMS). The UNMS software solution will **monitor, control**, **read** **and listen to everything happening in the extremely sensitive Defense Communication Network**. **More importantly, it will be able to write and reconfigure the network, causing denial of service. Any fault or dilution of specifications can open it up to vulnerabilities which can create havoc across systems. We are seeing Information Warfare in all its unrestricted dimensions being waged through information networks against our country (a list of cyber-attacks on India by China we prepared from open sources is appended) so it is absolutely critical for the defense of our country /** **National Security that a reliable, technically first class and impenetrable solution from a trusted indigenous player be deployed.**

***Foreign companies will go to any length to get a listening and command & control post in such a sensitive network, including lowering their quotations and subverting the tendering process. We would have thought India’s Armed Forces would be alert to this danger. There is clear evidence of the latter at least.***

The issue

**The issue only appears complicated but is actually very simple: L&T, as the System Integrator, has preferred to procure the critical UNMS software from a foreign company HPE (Hewlett Packard Enterprise) rather than go for a superior solution provided by a world-class Indian company - NMSWorks Software, ignoring the National Security considerations that should inform such a sensitive decision.**

NMSWorks Software is an IIT Madras incubated Software Product Company addressing the NMS/OSS/BSS Telecom opportunity in India and overseas, and is based at the IIT Madras Research Park. It provides high-tech employment to over 300 Engineers from India’s leading educational institutions such as IIT Madras, College of Engineering Guindy, Madras Institute of Technology, Sastra University, Vellore Institute of Technology etc. It competes with Ericsson, NEC, Nokia, AMDOCS, ORACLE, IBM, HPE etc. and is **one of the World Leaders in the NMS/OSS Telecom space, replacing some of the global brands in the Telecom Industry. The Network Management Software Solutions of NMSWorks has been deployed by large Indian Service Providers like BSNL, Bharti Airtel Ltd, Tata Communications Ltd, Vodafone Idea Ltd, Tata Teleservices Ltd and also Global OTT Players like Google, Facebook etc. NMSWorks’ software solutions have been selected by the Indian Army for ASCON Phase 4 which is a larger and more complex deployment. They have also been associated with many sensitive projects.**

**This is the kind of high-tech company that PMO/ PM would be proud of as it showcases India’s advanced, high-tech capabilities, creates high-tech employment opportunities, and exerts many positive multipliers for the ecosystem.**

**But the work was awarded to HPE despite the fact that HPE did not have the qualifications. It is highly suspicious that DoT violated/ diluted several procedures / aspects of the tendering process (the detailed note submitted by the wronged company is enclosed), which favoured the non-compliant foreign company, and therefore we feel it was done with mala fide intentions, given DoT’s “illustrious” record, before PMO stepped in, of permitting the takeover of sensitive networks by Chinese or foreign OEMs.**

**Specific tender violations:**

1. **Cartelization**: The amplification of the scope of the Tender is also worth scrutiny: while the Tender is for "Procurement of a Network Management Software/ Unified Network Management Software (UNMS)", it incorporates many works far beyond the UNMS component, which shrinks down to 15% of the total value. This gives an opportunity for cartelization - thereby killing competitive bidding: market intelligence suggests that more than 90% of the value submitted by L&T and TCIL, OEMs in the two Bids, is the same. This cartelization has resulted in: (i) the bidding prices are significantly higher than the estimated cost of the Tender, with opening prices by L&T (over Rs. 3,400 Crores) and TCIL (over Rs. 4,500 Crores) more than double of the estimated cost; (ii) keeping out technically superior and commercially competitive Indian OEMs from the Project, against GoI’s “Make in India” policy. Details are elaborated below.
2. **The Tender had the PMI (Preference for Make in India) Clause; so 100% of NMS should have been sourced from Indian companies. Moreover, a superior Indian Solution with a proven track record should have been the natural choice for a sensitive defense deployment. However, both Bidders chose not to quote the indigenous software solution and quoted instead a foreign entity HPE’s package. BSNL too did not enforce the PMI Clause.**
3. **The Tender specified all software modules for UNMS should come from the same OEM. HPE does not have all the solutions and had to give a dozen “Undertakings”, which is a reflection of non-compliance. NMSWorks on the other hand were fully technically compliant. NMSWorks had also agreed to the prices both bidders had asked for.**
4. **The published DNIT mandatory requirements were revised and diluted, giving an opportunity to Companies that did not meet DNIT Eligibility Criteria to participate.**
5. **Moreover the modifications were not published as is mandatory when the terms of any tender, as published in the DNIT, are changed.**
6. **The Tender makes it mandatory for the Bidder to supply certain proprietary material of a specific Brand/Make/Model, the value of which at over Rs. 500 Crores is not insignificant. It is well-established that Tenders should not specify any particular Brand/Make/Model. CVC guidelines on Government or PSU tendering are unambiguous on this issue and Indian Courts have given judgments upholding the CVC guidelines. It appears the CVC guidelines have been violated in the subject Tender. Moreover, para 10 (a) of** **DPIIT’s PMI-MII’s Order [[1]](#footnote-1) clearly prohibits any restrictive or discriminatory provisions against domestic suppliers such as this one.**

**To conclude, not only have the established guidelines laid down by CVC been flouted in the subject Tender, the expanded scope of the Tender has resulted in cartelization and violations of the tender process, significantly undermining National Security at its very foundations and increasing the Project Cost.**

**It also seems, as per independent reports, that the then BSNL CMD had the Tender opened in unseemly haste just before he retired, and a vigilance case is pending with DOT on this issue.**

Strangely, none of the departments including Vigilance have responded to the representations of the company (their note enclosed). A former Telecom Secretary, who was appointed as Independent Director in L&T, consistently ignored their representations. SITARA attended a meeting arranged by VIF with Japanese and American participants, where the same Secretary ran down Indian industry as having “modest capabilities”. There was no need to do that in front of foreigners. **This is in stark contrast to the national pride shown by China and treatment the Chinese give to their national companies, and explains the huge gap in the ICT capabilities of the two countries, despite the proven excellence of Indian brains and talent. We have just completed part of a study on how the Indian telecom industry was destroyed by ill-considered and non-holistic policies from the 1990s onwards, while China from the 1980s enforced domestic procurement, funded R&D and removed bureaucratic obstacles in the way of its ICT Industry. We shall be privileged to share the report with you once it is ready as it contains great pointers on how the situation is being and can be addressed.**

**These are grounds for a review of this deal and for its award to an Indian company. If we are to turn the tide, DOT/BSNL must live up to the mandate and trust bestowed on them by the Government and the Indian Public.**

With deepest regards and best wishes for your safety and long life,

Smita Purushottam

Chairperson SITARA

1. No. P-45021 /2/ 2017-PP (BE-ll) dated 29th May 2019; <https://dipp.gov.in/sites/default/files/PPP-MII%20Order%20dt%2029th%20May%2019_0.pdf> [↑](#footnote-ref-1)