ORDER

Whereas, Bureau of Pharma Public Sector Undertakings of India, New Delhi had published tender no. BPPI/Drugs/RC-066/2018 dated 29/09/2018 through e-procurement system i.e., CPP portal on 29/09/2018 for supply of drugs for two years.

Whereas, M/s Athens Life Sciences (hereafter called as the firm) addressed at F-31, Sector-10, DLF Faridabad-121006, Delhi NCR had participated in tender. While examining the technical bid, deficiencies were observed and the same was informed to the firm vide BPPI e-mail letter no. BPPI/Drug/RC-066/2018 dated 20.11.2018 for non-eligibility. The following deficiencies in the technical bid were informed to the firm for clarification:

i. Average annual turnover of last 3 years was only Rs.4.0574 cr. against the tender requirement of 20Cr.

ii. For DC-7, 118, 120, 125 and 463, WHO-GMP certificate was not valid.

iii. For DC- 6, 21, 29, 34, 96, 102, 136, 144, 196, 197, 225, 229, 230, 231, 232, 491, 509, 598, 673, 687, 816, 939, 1012, 1021, 1032, 1059, 1060, 1143, 1319 and 1401, drug manufacturing license have not submitted as per tender specification.

iv. Declaration of the active API polymorphic form used in formulation for quoted drugs and declaration that it is internationally accepted active polymorph have not been submitted.

v. Original ANNEXURE-II (Declaration for eligibility in participating the tender) submitted is not as per modified format attached with AMMENDMENT No. 1 DATED 08.10.18. Undertaking submitted in ANNEXURE –II (Declaration for eligibility in participating the tender) was ALSO not correct wherein it has been stated that company has not been debarred/blacklisted due to quality reason only as against any reason.

In reply to BPPI e-mail dated 20.11.2018, the Firm had submitted the following documents:

i. Revised Annexure-IV with correction in Turnover as Rs. 40.57 Crore by stating that due to typing error Annexure-IV submitted earlier was incorrect as the concerned person mentioned figures in lakhs instead of in Crores.

ii. Declaration of active API polymorphic form used in formulation for quoted drugs and it is internationally accepted active polymorph.

iii. GMP Certificate, WHO-GMP Certificate, Integrity Pact
iv. Color photocopy of Annexure-II (Modified) with correction instead of submitting the original.

v. Declaration on letter head bearing Reference no. Athens/2017-18/8974 dated 14/12/2018 that M/s Athens Life Sciences is formed in 2001 and manufacturing plant started in 2006 and due to typing error in Market Standing Certificate it was mentioned 2001 instead of 2006.

On the basis of undertaking/declaration and clarification as above, the price bid of the firm was opened as per terms and condition of the tender document.

Technical bid was again reviewed and following things were noticed:

1. M/s Athens Life Science was issued the manufacturing licence no. N-MB/16/175 and N-MB/16/176 on 27-07-2017

2. Market Standing Certificate submitted by M/s Athens Life Science is found false/fabricated as it was stating that the firm is holding drug manufacturing licence no. N-MB/16/175 and N-MB/16/176 granted on 27-07-2001 & valid up to 26-07-2022 having a Marketing Standing for more 3 years.

3. Declaration submitted in letter head is also found false/fabricated that M/s Athens Life Sciences is formed in 2001 and manufacturing plant started in 2006 and due to typing error in Market Standing Certificate it was mentioned 2001 instead of 2006.

4. Annual Turnover of M/s Athens Life Science for the past 3 years for manufacturing of drugs for the FY 2015-16, 2016-17 and 2017-2018 declared in Annexure-IV is also false/fabricated since the firm was issued the manufacturing licence on 27-07-2017.

5. On 17-12-2018, Mr. Ritesh Chander Jain of the firm had visited the office of CEO of BPPI where the Firm was asked to bring the Original set of Documents (3 years Financial Statement for both the companies i.e. M/s Athens Life Science and M/s Athens Lab Limited since in balance sheet there was name of M/s Athens Labs Limited, Market Standing Certificate, Partnership Deed, WHO-GMP Licence, PAN Card Copy, Form 15 & 25 and other relevant documents) for verification on 19.12.2018 but they came on 21.12.2018 without bringing the complete set of original documents as desired.

6. Information furnished in Annexure-II on Non-Judicial Stamp Paper, Haryana Government (Certificate No. E0292018J257 dated 29.10.2018) with respect to submitted document is found false/fabricated and not complying the tender terms and conditions. Thus, the firm is not eligible for consideration in tender.

As per Tender clause no. 25. (1) (a) (ii) “Fraudulent Practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation (a “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution)” is applicable for the bidders.
Whereas, Bureau of Pharma Public Sector Undertakings of India, New Delhi issued Show cause notice on 28/12/2018 to the firm informing the above observations and action to be taken as per clause no. 25.(1)(a) (ii) of tender document where firm was requested to explain within 7 days why not actions may be taken against M/s Athens Life Science to Blacklist for a period of 5 years along with forfeiture of the Earnest Money Deposit and /or Performance Security Deposit as per Declaration in Para b) of Annexure II (Modified) i.e. “I am / We are aware of the Tender inviting Authority’s right to forfeit the Earnest Money Deposit and /or Performance Security Deposit and blacklist me/us for a period of 5 years if, any information furnished by us proved to be false at time the of inspection and not complying the condition as per schedule M of the said Act for a period of five years.”

Whereas, the firm replied vide their e-mail dated 12/01/2019 after 15 days of Show Cause Notice dated 28.12.2018 that they may be allowed some time as concern person will be joining on 18th January 2019 and would be possible to reply by 20th January 2019 and however, they are trying to manage with other person to serve earliest. BPPI didn’t receive any response till date. The firm have failed to explain about submission of false/fabricated documents as stated above to BPPI.

In view of above, the firm “M/s Athens Life Sciences” is blacklisted for a period of 5 years to participate in the tender of Bureau of Pharma Public Sector Undertakings of India, New Delhi for supply of all drugs from date of issuance of this order.

This order is without prejudice to the legal and criminal action to be taken if any, by Bureau of Pharma Public Sector Undertakings of India, New Delhi in the matter.

Sachin Singh (IRS)  
Chief Executive Officer  
Bureau of Pharma PSUs of India, New Delhi

To

Regd.

Athens Life Sciences, F-31, Sector-10, DLF Faridabad-121006, Delhi NCR, India, Ph. No.-0129-4000772