

TRANSMISSION BUSINESS GROUP
SUB CONTRACTS MANAGEMENT
LODHI ROAD, NEW DELHI

SPECIAL TERMS & CONDITIONS FOR SUPPLY PART (for Supply items - BOQ Part I)

1.0 INTEREST BEARING RECOVERABLE ADVANCES

- 1.1 Normally no advance is payable to the contractor. However, advance payment in exceptional circumstances shall be interest bearing and secured through an equivalent Bank Guarantee and shall be limited to a maximum of 5% of contract value.
- 1.2 In exceptional circumstances, with due justification, Competent Authority of BHEL is empowered to approve proposals for payment of additional interim interest bearing advance against matching Bank Guarantee, for resource augmentation towards expediting work for project implementation.
- 1.3 Payment and recovery of Interest Bearing Recoverable advance shall be at the sole discretion of BHEL and shall not be a subject matter of arbitration.
- 1.4 The rate of interest applicable for the above advances shall be the prime lending rate of State Bank of India prevailing at the time of disbursement of the advance + 2%, and such rate will remain fixed till the total advance amount is recovered.
- 1.5 Unadjusted amount of advances paid shall not exceed 5% of the total contract value at any point of time. Recovery of advances shall be made progressively from each Running Bill such that the advance amounts paid along with the interest is fully recovered by the time the contractor's billing reaches 80% of contract value.
- 1.6 Recovery rate per month shall not be less than sum of following (except for last adjustment where total amount to be adjusted may be less than the sum of following):
 - a. 10% of Running Bill amount
 - b. Simple interest up to the date of RA Bill on the outstanding Principle amount/amounts.
- 1.7 Contractor to submit Bank Guarantee as per prescribed formats for each of the advance and shall be valid for at least one year or the recovery duration or the balance contract period whichever is later. In case the recovery of dues does not get completed within the aforesaid BG period, the contractor shall renew the BG or submit fresh BG for the outstanding amount and the remaining recovery period.
- 1.8 BHEL is entitled to make recovery of the entire outstanding amount in case the contractor fails to comply with the BG requirement.

2.0 TERMS OF PAYMENT

A. Payment Terms: For Supply (BOQ for supply items – Part I)

- a. 80% of payment after receipt of the material at site, proper storage and certification from site in charge. The invoice must contain following documents in 3 sets (Original+2 copies)
 - Proof of receipt at site/ Receipted LR.
 - Transit insurance certificate from under writers or copy of intimation of transit insurance duly endorsed by under writers.
 - Excise invoice
 - Delivery challan/ Packing list (Casewise)
 - Dispatch clearance given by BHEL.
 - Guarantee certificate.
 - All test reports and inspection reports
- b. 10% on progress of erection works on the basis of per metric ton erected.
- c. 10% payment shall be paid after commissioning of the work and issuance of Operational Acceptance Certificate by the authorized Project Manager of the Principal Employer and after complete handing over to the principal employer/customer.

3.0 Interest Liability- In case of any delay in payment due to any reason, BHEL shall not pay any interest on delayed payment.

4.0 Final Engineering Documentation: Final documentation as called in the specification is to be submitted within 3 months from the dated of dispatch of material.

5.0 Inspection: As per quality assurance plan and procedures finalized between vendor and BHEL.

6.0 Dispatch Documents:

Following Dispatch documents are to be immediately send to purchaser on dispatch

- . Copy of LR/ proof of receipt at site
- . Copy of Delivery challan/ Packing list
- . Insurance certificate
- . Guarantee certificate

7.0 Consignee:

All the equipments/ materials after port clearance in case of imported items and material dispatch clearance in case of indigenous items shall be dispatched to HVDC Agra site and name of consignee will be notified later.

8.0 TAXES AND DUTIES:

- 8.1 Prices to be quoted by bidder should be inclusive of all taxes, duties and levies etc. etc. Any increase by Government at any stage during execution of contract shall be borne by bidder. All charges on account of Octroi, Terminal Tax, Entry Tax and/or other taxes and duties, what so ever on materials obtained for the work shall be borne by the supplier. The bidder shall pay all taxes, fees, license charges, deposits, duties, tolls, royalty, commissions or other charges which may be Leviable on account of any of his operations connected with this contract.
- 8.2 Though the Prices to be quoted are inclusive of all taxes & duties on FOR Destination Basis. Bidders are required to give break up in the following manner
- (a) Ex Works Price –EX Works Price including packing and forwarding.
 - (b) Sales Tax : ST/VAT/CST (Against C Form) : bidders should also mention applicable CST/VAT in unprice bid and price bid. In case of sale in transit, supplier will have to provide E1/E2 form.
 - (c) Freight & Insurance: Freight & insurance for Door delivery upto destination is to be quoted
- 8.3 Tender rates are inclusive of all taxes, duties and levies. Any increase by Government at any stage during execution of contract shall be borne by bidder. However, regarding newly introduced taxes (i.e. taxes introduced by Govt. after technical bid opening date), reimbursement will be made by BHEL subject to following:
- (i) Reimbursement will be made only if tax becomes directly applicable on rates specified. No reimbursement will be made for taxes / duties not directly levied on items specified in Bill of Quantities.
 - (ii) Further, if the new tax introduced by Central/State Govt. becomes directly applicable on items specified in Bill of Quantities but is in substitution / abolition / reduction of any of present taxes, BHEL will reimburse to the extent it has additional burden on contractor. For verification of working of additional burden, which will be calculated with reference to tax rate structure prevailing as on date of tender opening, contractor will have to provide such documents, details, information as considered fit by BHEL.

9.0 GUARANTEE:

The material shall be guaranteed for 18 months from date delivery or 12 months from the date of commissioning/ issuance of operational acceptance certificate, whichever is later. The defective material /component shall be replaced free of cost at site.

10.0 PERFORMANCE BANK GUARANTEE:

The contractor shall submit Bank Guarantee of an approved Nationalized Bank / Scheduled Bank as per BHEL proforma for an amount equal to 10 % of the total value of purchase order within a period of 30 days from the date of issue of LOI / PO. Bank guarantee should be initially valid for a period of 21 months and shall be kept valid till expiry of guarantee period.

11.0 OVER ALL CONTRACT PRICE VARIATION

The individual quantity can vary to any extent or may be deleted for which no compensation will be payable to the contractor and the rates will remain firm. Also the rate of each item remains firm as long as the variation in the total value of work executed under the contract including extra items if any remains within plus/minus 30 percent of the contract value. In case the actual value of executed work including extra work on completion of work becomes less than 70% of the basic/original contract value then the following method shall be adopted.

The actual executed value shall be raised by 7% (For arriving at the final payment against work executed) subject to the condition that total value of work executed plus increase by 7% as above shall be limited to 70% of the basic/original contract value. The rate quoted shall be firm irrespective of any upward variation in the contract price. It is further clarified that the enhancement/rate revision on the basic rate as per PVC clause (if any) shall not be accounted for the purpose of operating this clause.

12.0 DELIVERY PERIOD:

Deliver schedule of the material shall be as given below:

- (i) DC Hall -1- 20 Feb'13.
- (ii) DC Hall -2- 20 June'13
- (iii) DC Hall-3 –20 Nov'13
- (iv) DC Hall -4- 20 Feb'14

13.0 DELAYED DELIVERY:

In case of delay in execution of order beyond then lot wise contractual delivery, an amount of ½ % of total Ex-Works Value per week or part there-of subject to maximum of 5% of total Ex-Works value of P.O. will be withheld.

14.0 LEGAL SETTLEMENT:

All suits / claims in respect of this contract shall be in the courts having jurisdiction at New Delhi.

15.0 SUBCONTRACTING:

Further subcontracting of BHEL order or part thereof is not allowed in this contract.

16.0 SAFETY MEASURES:

Safety plan of customer is given in the tender. All safety rules and codes as applicable / may become applicable to work shall be followed without exception.

17.0 PRICE VARIATION:

Prices will be firm for total contract period and extended period , if any , and no price escalation / price variation will be applicable.

18.0 EVALUATION:

Evaluation shall be on the basis of total cost to BHEL. Total input credit in respect of VAT (available to BHEL as per law), as indicated by the bidders in their price bid, shall be deducted from the cost for purpose of ascertaining total cost to BHEL for purpose of evaluation.

19.0 RISK & COST:

In case successful bidder fail to supply the material or fails to comply with terms & conditions of the tender / Purchase Order / LOI, BHEL reserves the right to procure such material / component / equipment / system whether by itself or from any other agency, at risk and cost of the successful bidder. Rights of BHEL shall be as per B.7 of 'Conditions of Contract'

20.0 ADJUSTMENT OF RECOVERY:

Any amount payable by the supplier under any condition of this contract, shall be liable to be adjusted against any amount payable to the supplier under any other works/contract/purchase order awarded to him by any BHEL unit or from security deposit of any other work / contract / purchase order with any unit of BHEL or by encashment of bank guarantee furnished by supplier with any unit of BHEL pertaining to any works / contract / purchase order. This is without prejudice to any other action as may be deemed fit by BHEL or any other right of BHEL mentioned elsewhere in this tender.

21.0 FORCE MAJEURE:

The following shall amount to force majeure conditions:

throughout the acts of God, Act of any Government, war, sabotage, riots, civil commotion, Police action, revolution, flood, fire cyclone, earthquake, epidemic and other similar causes over which the contractor has no control.

If the contractor suffers delay in the due execution of the contract, due to delays caused by force majeure conditions, as defined above, the agreed time of completion of the work covered by this contract may be extended by a reasonable period of time in consultation and after agreement of BHEL's clients/owner, provided that on the occurrence of any such contingency, the Contractor immediately reports to BHEL in writing the causes of delay. The Contractor shall not be eligible for any compensation on this account.

ARBITRATION :

Except where otherwise provided for in the contract all questions and disputes relating to the meaning of the specification designs, drawings and instruction herein before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings specifications, estimates, instructions, orders of these conditions or otherwise concerning the works, of the execution or failure to execute the same whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to the sole arbitration of the Head, TBG, BHEL, New Delhi and if the Head, TBG is unable or unwilling to act, to the sole arbitration of some other person appointed by the Head, TBG willing to act as such arbitrator. There will be no objection if the arbitrator so appointed is an employee of BHEL, New Delhi and that he had to deal with the matters to which the contract relates and that in the course of his duties as such he had expressed views on all or any of the matters in dispute of difference. The arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason such Head, TBG as aforesaid at inability to act shall appoint (see note) another person to act as arbitrator in accordance with the terms of the contract such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor. It is also a term of this contract that no person other than a person appointed by such Head, TBG as aforesaid should act as arbitrator and if for any reason that is not possible the matter is not to be referred to arbitration at all, in all cases where the amount of the claim dispute is Rs. 50,000/- (Rupees fifty thousand) and above the arbitrator shall give reasons for the award.

Subject as aforesaid the provisions of the arbitration Act, 1940 or any statutory modification or re-enactment thereof and the rules made there under and the time being in force shall apply to the arbitration proceeding under this clause.

It is a term of the contract that the party involving arbitration shall specify the dispute or disputes to be referred to arbitration under this clause together with the amounts claimed in respect of each dispute.

The arbitrator (s) may from time to time with consent of the parties enlarge the time for making and publishing the award.

The work under the contract shall, if reasonably possible, continue during the arbitration proceedings and no payment due or payable to the contractor shall be withheld on account of such proceedings.

The Arbitrator shall be deemed to have entered on the reference on the date he issues notice to both the parties fixing the date of the first hearing.

The Arbitrator shall give a separate award in respect of each dispute or difference referred to him.

The Venue of arbitration shall be such place as may be fixed by the Arbitrator in his sole discretion.

The award of the arbitrator shall be final, conclusive and binding all parties to this contract.

Laws governing the Contract:

The contract shall be governed by the Indians Laws for the time being in force.

NOTE: - The Authority appointing the arbitrator should not be lower in rank than the Authority accepting the Agreement.