

## **GENERAL TERMS & CONDITIONS**

Tender Enquiry No.: FDX/PRM/310/20-21/W-01; Date. 08.06.2020

Due Date: 29.06.2020, Time: 02:00pm

### **1. GENERAL TERMS AND CONDITIONS:**

- 1.1. BHEL shall have the privity of the contract with the contractor only and will give instructions to the contractor or his authorized representative. BHEL will have nothing to do or be concerned with the employment of employees working for the contractor. The relationship between BHEL and the Contractor will be that of independent entities and nothing herein contained will amount to joint venture, partnership or an employer-employee relationship.
- 1.2. The contractor shall maintain regular contact with the designated employee(s) of BHEL and will interact on matters relating to the work awarded under this contract
- 1.3. Contractor will ensure that the job is executed through his employees on his rolls and under no circumstances the contractor will deploy any casual employee to carry out the job nor shall sub-contract the job without prior written permission
- 1.4. Contractor shall observe Provisions of the Factories Act in respect of working hours, holidays, rest intervals, leave and overtime to his employee. No work shall be done on second/third shift, overtime, Sundays or on other declared holidays without written permission.
- 1.5. Contractor shall obtain Police Verification of all his workers
- 1.6. Contractor shall submit following Certificate for each contract separately:-

**It is certified that PF challans of the amount ----- pertains to my workers whose names are appearing in the wage sheet of the month ----- and these workers are engaged in ----- (type of work) against Work order no. ----- in ----- (name of department).**

#### **Signature of Contractor**

- 1.7. Rates quoted shall be net and inclusive of all the capital cost, material cost, cost of PPEs, taxes and levies which might be applicable to this type of job excluding GST.
- 1.8. In case, the Contractor does not carry out the Contractual/Statutory obligations, and/or, the services rendered by him are found to be unsatisfactory, BHEL shall bring the same to his notice and he will be obliged to discharge the obligations and rectify the deficiency/anomaly within three days' time failing which, BHEL reserves the right to terminate the contract without assigning any reason whatsoever. In such an event, no damages will be payable for short closure of the contract.
- 1.9. The decision of BHEL regarding interpretation of any of terms and conditions set forth in this agreement shall be final and binding on the Contractor.
- 1.10. Any matter arising out of or in connection with the agreement shall be under jurisdiction of Bhopal Court.
- 1.11. Notwithstanding anything contained in this Agreement, the contract may be terminated by BHEL without assigning any reason thereof by giving a notice of 30 days to the contractor.
- 1.12. The contract will remain valid for 12 months from the day of commencement of contract. The parties reserve the right to extend the contract on mutually agreed terms and conditions
- 1.13. All disputes arising in connection with the contract shall be settled by mutual consultation. If no agreement is reached the dispute shall be settled in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and the rules made there under. The dispute shall be referred for arbitration to any arbitrator to be appointed by the Head of the Unit. The award of the arbitrator shall be final and binding on both the Parties. The venue of the Arbitration shall be Bhopal in India. The Award to be given by the Arbitration shall be a speaking award. All questions, disputes, differences arising under, out of or in connection with this contract shall be to the exclusive jurisdiction of Bhopal Courts.
- 1.14. In case contractor fails to make payment of wages to his employees or remittance of contribution to the concerned authorities, the security deposit /other dues under the contract can be utilized by BHEL to discharge the liability of the contractor. The liability for any compensation on account of injury sustained by an employee of the contractor will be exclusively that of the contractor.
- 1.15. It shall be the responsibility of the contractor to arrange for PPEs like shoes, gumboots etc. & uniform for all the workers.

**2. PAYMENT OF WAGES:**

- 2.1. Contractor shall be responsible for making payment of wages through Bank/Cheque before expiry of 7 days from the last day of wage period. No other mode of payment shall be acceptable.
- 2.2. In case contractor fails to make payment of wages to his employees or remittance of contribution to the concerned authorities, the security deposit /other dues under the contract can be utilized by BHEL to discharge the liability of the contractor.
- 2.3. Payment of bonus under the Payment of Bonus Act, Payment of gratuity under the Gratuity Act, and retrenchment compensation under Act will be the sole responsibility of the contractor.

**3. SAFETY AND DISCIPLINARY ACTION:**

- 3.1. Contractor shall ensure that his employee do not indulge in any unsafe or hazardous practices. They use safety equipment such as safety belts, safety shoes, goggles, helmet and masks where use of such equipment is required in day-to-day operations. All such safety gadgets will be provided by the contractor failing which the contract operating division will provide safety equipment to such employee of the contractor at the cost of the contractor to be recovered from his bills. Contractor shall fully indemnify BHEL against any claim for damages for injury to person or property resulting from such accidents.
- 3.2. Contractor to ensure that employee deployed in the premises is physically and mentally fit and do not have any criminal record.
- 3.3. Contractor will be responsible for good conduct of his employees. In case of misconduct, contractor shall take prompt disciplinary action as per "Model Standing Orders" on the advice of Contracting officer.
- 3.4. The contractor has to provide a distinct uniform different from BHEL employees. The Uniform should have logo of the Contractors firm / company. The uniform shall be kept in neat, tidy and wearable condition. Wherever necessary, the Cap shall be integral part of the uniform
- 3.5. Contract awarded is liable for termination for any contravention of statutory provisions or any other reasons without assigning any explanation or notice to the contractor.
- 3.6. Contractor shall fully comply provisions of various applicable labour laws

**4. RECORDS & INFORMATION TO BE FURNISHED BY CONTRACTOR:**

- 4.1. Contractor shall maintain neatly, completely and legibly registers, records, reports and returns for inspection by various authorities.
- 4.2. Contractor shall submit the details of work awarded to him by other departments indicating work order No., nature of work and maximum number of workers employed etc.
- 4.3. Contractor shall provide information as required in respect of all his employees employed by him to enable the contract operating division to monitor compliance of PF/ESI and also to enable him to furnish information to Ministry and Labour deptt. as may be required.
- 4.4. Contractor shall provide full particulars of each employee employed by him before start of the work and from time to time. He will also endorse a copy of returns furnished by him to the Labour Department under the Contract Labour (Regulation and Abolition) Act 1970.

**5. COMPLIANCE OF STATUTORY PROVISIONS:**

- 5.1. Contractor shall fully comply provisions of various applicable labour laws provisions of the following enactments and other enactments as applicable for such contracts.
  - i. Contract Labour (R&A) Act 1970 and rules 1971.
  - ii. Payment of Wages Act.
  - iii. Minimum Wages act 1948, M.P. Rules 1958
  - iv. Employees State Insurance Act 1948, Rules and regulations 1950
  - v. Employees Provident Fund Act 1952 and Pension Scheme 1995
  - vi. Workmen's Compensation Act 1923
  - vii. Factory Act 1948
  - viii. Maternity Benefit Act 1961
  - ix. Equal Emolument Act 1976
  - x. M.P. Shram Kalyan Nidhi Adhiniyam 1982
  - xi. Payment of Bonus Act 1963
  - xii. Shop & establishment Act 1958
  - xiii. Inter State Migrant Act

**5.2. STATUTORY REGISTRATIONS AND CLEARANCES:**

Contractor shall commence the work only after obtaining:

- i. Labour License
- ii. Provident fund code no.
- iii. ESI code no
- iv. Registration no.
- v. Notice of commencement in Form 6-A & Maintain Register of workers in form 13

**5.3. CONTRACTOR SHALL ENSURE FOLLOWING WHILE EXECUTING CONTRACT:**

- i. Employment card as per rule no 76 of Contract Labour (Regulation & Abolition) MP rules, 1973
- ii. Appointment letter to his employees.
- iii. Annual leave with wages including EL, CL, National Holiday & Festival holiday.
- iv. Leave record register.
- v. Shall engage only adult workers who have attained the age of 18.
- vi. Work to be done on second/third shift, overtime, Sundays or on other declared holidays with written permission.
- vii. Obtain insurance cover for his employees, equipment, tools etc. & third party insurance coverage at his own cost.
- viii. Remit Provident fund contributions in prescribed 3A & 6A forms
- ix. ESI contributions in Form 6
- x. Submit challans of PF & ESI contributions every month.
- xi. Provide Personal protective equipment's for his employees
- xii. Distribute wage slip each month to his employees
- xiii. Ensure payment of Statutory Minimum Wages as well as additional wages recommended by BHEL through bank account only.
- xiv. Submit employee and employer contribution as per Shram Kalyan Nidhi Adhiniyam 1982.

**5.4. PAYMENT OF WAGES ACT:**

- i. Those contractor engaging 100 workers or more should submit a copy of standing orders.
- ii. Contractor shall comply with all the provisions of Factories Act.

**5.5. ON COMPLETION OF WORK:**

Contractor shall submit PF & inspection report on completion of work.

**5.6. TERMINATION OF CONTRACT:**

Contract awarded is liable for termination for any contravention of statutory provisions or any other reasons without assigning any explanation or notice to the contractor.

**6. NEW CLAUSES ADDED IN GENERAL TERMS AND CONDITIONS OF WORKS CONTRACT**

**6.1. QUALIFICATION/SKILL REQUIREMENTS:**

- i. Refer tender enquiry clause no. 7.
- ii. BHEL reserves the right to reject any labour technically unsuitable.

**6.2. Attendance record of contract workers:** "The contractor should maintain an Attendance Register against each work order in respect of the contract laborers deployed by him in that department. The contractor shall record the daily attendance of the workers. The register shall bear the daily signature of contract workers & contractor. The register shall at all the times of work, be available at the place of work/deptt. Attendance register shall be maintained in the format of Form No XVI as per CL (R&A) Central rules 1971 and available on CLC web page. If during any inspection, the attendance register is not found at the place of work, the contract is liable to be short closed/ terminated. "

**6.3. Wage record of contract workers:** "The contractor should maintain a Wage Register against each work order in respect of the contract laborers deployed by him in that department. Wage Register shall be maintained in the format of Form No. XVII/XVIII as per CL (R&A) Central Rules 1971 and available on CLC web page. The Wage Register shall be based on the Attendance Register as mentioned above. The Contractor shall issue Wage Slip to each contract worker, every month on the last day of the wage month. Wage slip shall be as per the CLC format available at CLC Web page. **The Contractor shall pay wages not later than 7th of the succeeding month.** The Wage Register shall bear the PF and ESI nos. of the workers."

**6.4. Compliance of PF/ ESI deductions:** "The Contractor shall file the electronic return of PF/ ESI and submit proof of payment of both the employer's and employees' contributions every month. (PF has to be remitted by 15th and ESI by 21st of the succeeding month.) Contractor shall submit the challan along with copy of a self- certified list of contract workers (bearing their names and PF/ESI no. and deductions made) for whom the contribution has been submitted by him for the said period. Such list shall be displayed in the notice board of the department."

- 6.5. **ESI card based Labour Entry:** “Only those workers shall be allowed entry into Factory premises who have valid ESI card.”
- 6.6. **Uniform, shoes & helmet for contract workers:** “In the first month of the execution of work order the contractor shall provide uniform, shoes & helmet to his workers and provide an undertaking on this regard to the department and the first bill shall be processed only on the production of the undertaking. In case of non-compliance beyond second month the contractor shall be issued notice of termination of contract.”
- 6.7. **Supervision of Contractor labour:** “The contractor should provide for at least one identified supervisor per shift. All issues regarding discipline at the works, like work allocation, early exit, snacks distribution etc. are to be supervisor’s personal responsibility. “
- 6.8. **Contract labour accidents while at work:** “In case of medical emergencies faced by contract worker at work, medical facilities in the interest of the well-being of the worker shall be provided by BHEL. The decision of the doctors attending the emergency shall be final and binding. The cost incurred shall be deducted from the bills of the contractor. The Contractor shall complete the ESI formalities and BHEL shall submit claim of reimbursement of medical expenses to ESI. The amount reimbursed by ESI shall be paid back to the contractor.”
- 6.9. **Prohibition on influencing and interfering on behalf of contractor:** “The Contractor shall neither try to influence, chase or interfere into the working of BHEL officials nor engage BHEL employee or any other third person for the same. In case such incident does occur, it may lead to disqualification/debarring from the contract. Any contractor shall be debarred from consideration if any of his relations is working in the product/functional group in which the contract is being issued. Before issuing tender form to any contractor for limited tender enquiry a confirmation has to be given by contractor that none of his relations are working in that product/functional group.”
- 6.10. **First and Final Bill to be cleared only after submission of Form VI A & VI B:** “Contractor shall within 5 days of commencement /completion of Work Order submit Form VI A to RLC office. Contractor shall submit a copy of Form VI A bearing the receipt seal of RLC office to HR department. The first and final bill shall be processed only on clearance regarding submission of Form VI A and VI B by contractor. New Work order no. shall be allotted only after the contractor concerned furnishes copy of Form VI A regarding the closure of the earlier contracts (if any). “
- 6.11. **Do’s and Don’ts for Works Contract inside factory dated 03/05/2012 on HR CLC site to be followed strictly.**
- i. **DEFINITIONS: -**  
The following terms and expressions shall have the meaning hereby assigned to them, except where the context otherwise requires.  
‘BHEL’ shall mean Bharat Heavy Electricals Limited, a Company registered under the Indian Companies Act, 1956 with its Registered Office at BHEL House, Siri Fort, New Delhi, Pin-110049 through its office at Piplani, Bhopal – 462022 or its authorized Officers or its Engineers or other employees authorized to deal with any matters with which these persons are concerned on its behalf.
  - ii. **‘CONTRACTOR’ or ‘FIRM’** shall mean the individual, firm or Company who is enlisted with BHEL for providing the services and shall include their executors, administrators, successors and permitted assigns.
  - iii. **‘CONTRACT’ or ‘CONTRACT DOCUMENT’** shall mean and include guidelines and declarations of the registration, the General Terms & Conditions and Statutory Compliances, schedules of quantities, accepted appendices of rates, if any, technical specifications, special specifications, if any, Letter of Intent, agreement& the work order, issued by BHEL.  
Any conditions or terms stipulated by the bidder in the tender documents or subsequent letters shall not form part of the contract unless specifically accepted in writing by BHEL and incorporated in the work order.
  - iv. **LETTER OF INTENT** shall mean the intimation by a letter / email / fax to the bidder that the tender has been accepted in accordance with provisions contained in that letter. The responsibility of the contractor commences from the date of issue of this letter and all the terms and conditions of contract are applicable from this date.
  - v. **APPROVED, DIRECTED or INSTRUCTED:** shall mean approved, directed or instructed by BHEL Shop Engineer/Shop- in-charge/Concerned authorities.
  - vi. **‘WORK’ or ‘CONTRACT WORK’** shall mean and include the work to be done in relevant work category by the firm or as specified in the Tender documents

**6.12. EARNEST MONEY DEPOSIT & SECURITY DEPOSIT: AS PER W.P. 2016.**

Earnest Money Deposit) amount of **Rs. 14,040/-** shall be payable as follows:-

Tenderer/bidder shall Earnest Money Deposit (EMD) to BHEL in the following forms before submitting the tender offer and the proof of payment has to be enclosed with the offer:

- (i) Cash deposit as per permissible under the extant Income Tax Act (before tender opening)
- (ii) Electronic Fund Transfer credited in BHEL account. (before tender opening).
- (iii) Banker's cheque / Pay order/ Demand Draft in favour of BHEL (along with techno commercial offer)
- (iv) EMD can also be accepted in the form of FDR issued by Scheduled Banks/Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL).

EMD shall not carry any interest.

EMD given by all unsuccessful bidders shall be refunded after completion of tendering process.

EMD of successful bidder shall be retained by BHEL as part of Security Deposit & the balance Security Deposit amount shall be deducted progressively from contractor's running bills as per the Works Policy.

EMD by the Tenderer will be **forfeited** as per NIT conditions, if:

- i) After opening the tender and within the offer validity period, the tenderer revokes his tender or makes any modification in his tender, which is not acceptable to BHEL.
- ii) The Contractor fails to deposit the required Security deposit or commence the work within the period as per LOI/ Contract.

EMD by the tenderer shall be withheld in case any action on the tenderer is envisaged under the provisions of extant "Guidelines on Suspension of business dealings with WORKS POLICY-2016 Document

**6.13. SECURITY DEPOSIT: AS PER WORKS POLICY 2016.**

Upon acceptance of offer, the successful bidder shall deposit the prescribed amount of security deposit, within the time specified in the letter of intent for satisfactory completion of work.

The total amount of Security Deposit will be 5% of the contract value. EMD of the successful tenderer shall be converted and adjusted towards the required amount of Security Deposit.

Balance security deposit calculated as above shall be deposited as per following: -

- At least 50% of Security shall be deposited through e-Mode (ie NEFT/RTGS/Net Banking/ PoS/SB Collect etc) before start of work (in case contract value exceeds Rs. 20 lakhs) or before submission of first running bill (In case contract value is below Rs. 20 Lakhs).
- Balance shall be recovered from running bills @ 10% of the value of each running bill commencing from first running bill itself till the full Security Deposit is made up

**6.14. RETURN OF SECURITY DEPOSIT:**

The Security deposit shall be refunded to the firm, of successful completion of the contract, after producing "Clearance and No Dues Certificate" from the concerned executive.

If the value of the work done at any time exceeds the accepted Contract value, the Security Deposit shall be correspondingly enhanced and the Contractor shall immediately deposit the extra Security Deposit otherwise it shall be recovered from payments due to him. Failure to deposit the Security Deposit within the stipulated time may lead to forfeiture of Earnest Money and cancellation of the award of work. BHEL reserves the right of forfeiture of Security Deposit in addition to other claims and penalties in the event of the Contractor's failure to fulfil any of the contractual obligations or in the event of termination of contract as per terms and conditions of contract. BHEL reserves the right to set off the Security Deposit, against any claims of any other contracts with BHEL.

No interest shall be payable by BHEL on Earnest Money, Security Deposit / or on any moneys due to the Contractor by BHEL.

**6.15. OFFER SUBMISSION IN RESPONSE TO INVITATION:**

An offer, each page duly signed by an authorized person, with all formalities, in a sealed & properly super scribed envelope, shall be deposited, in tender box at the central designated venue, on or before the date and time specified in NIT.

Offers thus received shall be opened at the designated venue on the specified date & time, in the presence of those bidders or their representatives, who choose to be present.

Earnest Money Deposit and Security Deposit will be as per the tender documents.

The rate shall be quoted as the Final rate including of PF, ESI, all other statutory payments, levies and all other Govt. taxes but Excluding of the GST. No escalation/ additional / overtime/ waiting charges will be paid other than the quoted rate.

An offer will be treated as invalid offer if it contains any condition, deviation, or insufficiency. Quoting of any ambiguous, impractical, unworkable rate or over written, unclear or erased rate in Price bid shall be strictly avoided. Any such case may lead to cancellation of the offer. Validity period of an offer shall be up to three months after the submission date.

#### **6.16. RESPONSIBILITIES OF THE FIRM: -**

##### **A. General Responsibilities: -**

- i. The firm shall follow all the statutory compliances as mentioned above and all the prevailing Industrial / Labor laws/ Govt. laws, as amended from time to time.
- ii. The firm shall pay all taxes, fees, license charges that may be him or otherwise as deemed fit.
- iii. The firm shall ensure that no damage is caused to any person/any-existing work/property of BHEL/other parties working inside the factory. If any such damage is caused, it shall be the responsibility of the firm to make good the losses and compensate the affected parties at his own cost.
- iv. The firm shall fully indemnify BHEL/its customer against all claims of whatever nature arising during the course of execution of this contract due to acts of the firm/their personnel.
- v. Gate Pass for entry into BHEL Factory would be required for all the persons deployed by the firm. The firm shall be arranging the passes and working permission beyond normal working hours on their own. BHEL Engineer shall provide necessary help and guidance for the same.
- vi. Firm shall maintain a Wages register showing the following details clearly, for each month, exclusively contract / area wise: -
  - a. Measure of work (or attendance) for which worker is entitled for wages.
  - b. Wages paid,
  - c. PF and ESI deduction from each worker,
  - d. PF and ESI contribution by firm,
  - e. Whether monthly wages slip received,
  - f. Signature of worker.One copy of wages record shall be furnished every month, for inspection purpose of various labour authorities. Firm shall preserve all such wages records and other records, up to as specified by Labour laws and at least up to the security deposit clearance.
- vii. Firm shall furnish the following certificates duly applicable for the working year, whenever desired by BHEL.
  - a. Annual returns & inspection certificates of PF and ESI.
  - b. Monthly challans of PF and ESI.
  - c. MP Welfare fund receipt.
  - d. Annual statement for availed/paid leaves,
  - e. Bonus paid (Form-C & D)
  - f. The firm shall ensure that the employees deployed by them restrict their movement in the area earmarked.

##### **B. Technical responsibilities:**

- i. Firm shall perform all activities of the enlisted work category, or activities as notified in the Tender, as per directives of BHEL shop engineer.
- ii. Only qualified workers with required experience in the relevant work category shall be deployed to execute the work.
- iii. The work shall be done under the full time and complete administrative & technical supervision by graduate engineer / experienced diploma holder / Group leaders appointed by the firm.
- iv. All materials required to perform above activities and other shop equipment/fixtures/ tools / crane facility will be provided at free of cost by BHEL.
- v. Working time can be any time during 1<sup>st</sup>/ 11<sup>nd</sup> shifts as required by BHEL including Sundays & Holidays. Normal working hours in the plant is 8 hours.
- vi. The firm shall complete the allotted work, meeting all norms & safety parameters of BHEL and up to the satisfaction of shop executive.
- vii. Measurement unit of assigned work shall be generally per technology hours or per weight unit, per MVA, per job, per Crane hours others etc. which shall be notified during bidding invitation.

#### **6.17. RIGHTS OF BHEL:**

BHEL reserves to itself, the following rights without entitling the Contractor to any compensation: -  
Resorting to any, some, all of the actions like Contract termination, recovering the dues/ losses from the Security Deposit and the contract amount, forfeiting the Security Deposit, getting the work done through other agencies at the cost of the contractor, cancellation of registration, banning the business with BHEL etc., in any event of the followings:

- i. Contractor's repeated poor performance, withdrawal from or abandonment of the work, except in force majeure conditions.
- ii. Serious lapse in performance, Persistence disregard of the BHEL instructions.
- iii. Insolvency of the contractor.
- iv. Assignment, transfer, subletting of the contract work without BHEL's written permission.
- v. Non-fulfillment of any contractual obligations or obligations under the law.

**6.18. AGREEMENT SIGNING:**

The firm will be required to sign a contract with BHEL on a Non-judicial stamp paper of appropriate value, in the prescribed format before the start of work. The cost towards agreement shall be borne by the firm.

**Essential ingredients of an agreement between principal employer and the contractor-**

- i. That the agreement should be drafted and executed on non-judicial stamp paper.
- ii. That the agreement must disclose the names, addresses of the contractor and the principal employer.
- iii. That the agreement should contain the rights and obligations of both the parties.
- iv. That the agreement must disclose the place of work, time of working, rate of compensation (towards consideration) and consequences arising out of breach contract and procedure of termination by either of the parties to the agreement.
- v. That the agreement must carry out the objectives of statutory provisions and judicial pronouncements. That the agreement must disclose the scope of work, period of validity, compensation, security deposit and terms of payment of bills.
- vi. That the agreement should be between the contractor and the principal employer and should be witnessed by two witnesses.

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