

# **YANTRA INDIA LIMITED**

**A Govt. of India Enterprise**

## **YILPM-P&M 2025**

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### **CAUTION**

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While every care has been taken to ensure that the contents of this manual are accurate and up to date till Feb-2025, the procuring entities are advised to check the precise current provisions of law and other applicable instructions from the original sources. In case of any conflict between the provisions stipulated in this manual and in the original source such as GFR or the prevailing laws, the provisions contained in the extant law and the original instructions shall prevail.

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## CHAPTER-1

## INTRODUCTION

**1.1 Preamble**

- a. Investment in Plant & Machinery is a vital decision in any manufacturing organization. The same is equally applicable to the Ordnance Factories and other units under YANTRA INDIA LIMITED (YIL). All the units under YIL, has the primary objective of manufacturing and issuing the Indian Armed Forces and other customers with modern and quality Ammunitions and Explosive. Manufacture of Defence stores in Ordnance Factories under YANTRA INDIA LIMITED (YIL) utilizes a large number of P&M. Accordingly, these factories need Plant & Machineries in replacement of outlived ones as well as for capacity augmentation and modernisation.
- b. One pertinent challenge before the Organization is to meet the changing requirement of the users, which necessarily entails induction of machines with State of the Art Technology for flexibility, higher productivity and enhanced quality. In the recent time, the industrial scenario in the country has undergone rapid changes with economic reforms and policy liberalization. Preference to Public Procurement (Make in India) Order, 2017 and its subsequent revisions and amendments from time to time has given more importance to sourcing of product and services from Indian Manufacturers and thus pave the way for Atmanirbhar Bharat (self-reliant India) Mission of Govt. of India.

**1.2 The Present Manual:**

- a. Central Vigilance Commission (CVC) were issuing guidelines on public procurement from time to time. However, CVC has now decided that for the sake of uniformity and to avoid multiplicity of authorities for issuance of guidelines on procurement related issues, updated Procurement Manuals may be issued by Department of Expenditure and all other procurement manuals are to be in conformity of DoE's Manual.
- b. Keeping in view of the above, this Manual has been prepared in conformity with Goods and services procurement manual published by DOE on 22<sup>nd</sup> July 2024.

**1.3 Scope:**

This Manual covers the procurement of 'Plant and Machinery' in YIL HQ and all its constituent units including YITM.

The term 'Plant and Machinery' (P&M) generally means the various capital goods i.e. machineries, equipment, furnaces, vehicles, chemical plants, metallurgical plants, air conditioners, air conditioning plants, cranes, electrical equipment, IT Systems (comprising one or more Hardware, Networking, tailor-made and customized Software, Installation/Commissioning, Training, AMC/ CMC, Cloud Services, and other services) related services etc., acquired by Ordnance Factories and other units under YANTRA INDIA LIMITED (YIL) for their use.

#### 1.4 Terms and Definitions:

Standard terminologies relating to procurement and their meanings have been adopted in this Manual as under. In some cases, two or more widely used terminologies may bear the same meaning.

- (i) **Procurement:** Procurement refers to the entire gamut of activities involved in and the procedures to be adopted for acquiring goods and services.
- (ii) **Contract, Supply Order (SO):** An official document containing the acceptance of an offer and the details of consideration for the procurement of Goods and the various terms and conditions agreed to by the parties.
- (iii) **Goods:** Goods, includes all articles, materials, commodities, livestock, medicines, furniture, fixtures, raw materials, consumables, spare parts, instruments, hardware, machinery, equipment, industrial plant, vehicles, aircraft, ships, railway rolling stock, assemblies, sub-assemblies, accessories, a group of machines comprising an integrated production process or intangible products (e.g. technology transfer, licenses, patents, software or other intellectual properties) but excludes books, publications, periodicals, etc., for a library, procured or otherwise acquired by a procuring entity. Procurement of goods may include certain small work or some services that are incidental or consequential to the supply of such goods, such as transportation, insurance, installation, commissioning, training, and maintenance (Rule 143 of GFR 2017).
- (iv) **Supplier, Seller, Vendor, Contractor:** An entity (including a consortium) which provides goods as per the contract or supply order.
- (v) **Purchaser, Buyer:** The Purchaser in the case of Ordnance Factories and other units under YANTRA INDIA LIMITED (YIL) is the Executive Director of the respective factories and other units acting through the authority, issuing the supply order or signing the contract.
- (vi) **Specification:** A statement which unambiguously describes the requirements for the goods to be procured, including the Acceptance Criteria and procedures to determine that the requirements have been met.
- (vii) **Original Equipment Manufacturer (OEM):** The firm manufacturing the specified goods, as distinguished from the stockiest /distributors.
- (viii) **Bid, Offer, Quotation, Tender:** A document in the form of an offer to supply goods.
- (ix) **Bidder, Tenderer:** Bidder/tenderer (including the term 'tenderer', 'consultant' 'vendor' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), participating in a procurement process.
- (x) **Tender Enquiry (TE), Request for Tender (RFT), Invitation for Bids (IFB):** Initial step of contracting process in which suppliers are invited to submit offers for supply of specified goods/services.
- (xi) **Notice Inviting Bids, Notice Inviting Tenders (NIT), Tender Notice:** Advertisement containing brief information about the Tender Enquiry.
- (xii) **Bid Document, TE Document:** A detailed document issued by the purchaser containing technical specification, commercial terms & conditions and other requirements for potential Bidders to submit offers.
- (xiii) **Request For Proposal (RFP):** RFP is a solicitation for bids from potential suppliers with whom a creative relationship or partnership is being considered. RFP and TE are generally used synonymously, but typically TE looks for the best price and RFP looks for the best

solution. RFP is used when the purchaser is looking for the best value solution to resolve a problem or to deliver a good or service, but is not exactly sure how to achieve it. TE is used when the purchaser knows exactly what goods or service he wants and is looking for the best price to deliver it.

- (xiv) **Limited Tender Enquiry (LTE):** Inviting bids from limited number of potential suppliers.
- (xv) **Open Tender Enquiry (OTE), National Competitive Bidding (NCB):** Inviting bids through open advertisement from potential Indian suppliers. In OTE, payment is made only in Indian Rupees.
- (xvi) **Global Tender Enquiry (GTE), International Competitive Bidding (ICB):** Inviting bids through open advertisement from potential global suppliers including Indian suppliers. In GTE, the supplies may be paid in Foreign Exchange (only for foreign firm) and/or Indian Rupees.
- (xvii) **Expression of Interest (EOI):** Where technical specification needs to be iterated more than once i.e. the specification of the desired plant or machinery is not clear, multi-stage tendering process is resorted to. EOI is the first stage of a multi-stage tender process, when potential suppliers are asked to register their interest for submitting tenders and provide information on their capability to do the work. This helps in identifying & short-listing the potential suppliers, capable of delivering the required goods. EOI may be done with or without a pre-qualification process. During EOI, suppliers can also be asked to give technical details of their machines/plants as well as budgetary price for the purpose of firming up tender specification.
- (xviii) **Request for Information (RFI):** Solicitation of information either through advertisement or through direct approach to potential suppliers to gain detailed understanding of supplier market i.e. the availability of potential suppliers, the level of interest from amongst suppliers and the range of solutions and technologies available. It is used to develop documentation for a future RFP or TE. RFI is same as EOI without pre-qualification. Through analysis of RFI responses, strategic options, lower cost alternatives and cost reduction opportunities may be identified.
- (xix) **Pre Bid Conference, Tender Briefing:** A forum or meeting held by the purchaser after issue of TE but sufficiently before the opening date of tenders, where purchaser briefs prospective bidders regarding the tender requirements and also provides clarification to their queries, if any. All clarifications to queries raised in this meeting are compiled and issued along with necessary amendment, if any, to tender clauses, as a corrigendum to TE, sufficiently in advance of tender opening date.
- (xx) **e-Tendering:** A secured internet based tendering system that provides the facility to electronically advertise EOI and TE, provides various notices, distributes EOI or TE documents, receives bids, opens bids, generates CST etc.
- (xxi) **Earnest Money Deposit, Bid Security:** Monetary guarantee furnished by a Bidder along with the bid as an expression of earnestness of participation and as safeguard against a bidder's withdrawing or altering his bid during the bid validity period.
- (xxii) **Performance Security Deposit (PSD), Security Deposit (SD):** Monetary guarantee furnished by the successful bidder to the purchaser after award of contract for due performance of the contract including warranty obligations.
- (xxiii) **Performance Bond, Performance Bank Guarantee:** Bank guarantee furnished by the supplier to the purchaser after award of contract as security for performance of contract including warranty obligations.
- (xxiv) **Warranty Bond:** Bank guarantee furnished by the supplier to the purchaser after delivery of the goods as security for performance of warranty obligations as per the contract.

## 1.5 Abbreviations:

The abbreviations used in the manual are as given below.

|       |                                   |       |                                        |
|-------|-----------------------------------|-------|----------------------------------------|
| ABG   | Advance Bank Guarantee            | KVIC  | Khadi & Village Industries Commission  |
| AOTR  | Anticipated Out Turn Report       | LAO   | Local Accounts Office                  |
| ATE   | Advertised Tender Enquiry         | LC    | Letter of Credit                       |
| B/E   | Bill of Entry                     | LD    | Liquidated Damage                      |
| BER   | Beyond Economic Repair            | LFD   | Last Free Date                         |
| BG    | Bank Guarantee                    | LIBOR | London Inter Bank Offered Rate         |
| BQ    | Budgetary Quotation               | LPR   | Last Purchase Rate                     |
| B/L   | Bill of Lading                    | LTE   | Limited Tender Enquiry                 |
| CBEC  | Central Board of Excise & Customs | MoD   | Ministry of Defence                    |
| CFA   | Competent Financial Authority     | MOU   | Memorandum of Understanding            |
| CIF   | Cost, Insurance and Freight       | MRO   | Military Receivable Order              |
| CIP   | Carriage and Insurance Paid To    | MSE   | Micro and Small Enterprises            |
| CPSU  | Central Public Sector Undertaking | MSME  | Micro Small and Medium Enterprises     |
| CNC   | Computerized Numeric Control      | MT    | Motor Transport                        |
| CPM   | Critical Path Method              | NC    | New Capital                            |
| CPPP  | Central Public Procurement Portal | NIT   | Notice Inviting Tenders                |
| CR    | Condemnation Report               | NIET  | Notice Inviting E-Tenders              |
| CST   | Comparative Statement of Tender   | NIEOI | Notice Inviting Expression of Interest |
| CVC   | Chief Vigilance Commission        | NSIC  | National Small Industries Corporation  |
| CW    | Civil Works                       | OEM   | Original Equipment Manufacturer        |
| DAP   | Delivered At Place                | OTE   | Open Tender Enquiry                    |
| DD    | Demand Draft                      | P&M   | Plant and Machinery                    |
| DEC   | Duty Exemption Certificate        | PAC   | Proprietary Article Certificate        |
| DO/GO | Divisional Officer/Group Officer  | PBG   | Performance Bank Guarantee             |
| DP    | Delivery Period                   | PDC   | Probable Date of Completion            |
| DPM   | Defence Procurement Manual        | PDI   | Pre Dispatch Inspection                |
| DPP   | Defence Procurement Procedure     | PFC   | Plan Finalization Committee            |
| DPR   | Detailed Project Report           | PMB   | Project Monitoring Board               |
| DSC   | Digital Signature Certificate     | POL   | Petroleum, Oil and Lubricant           |
| E/M   | Engineering Machine               | PQ    | Pre Qualification                      |
| EHQ   | Embarkation Head Quarters         | PSD   | Performance Security Deposit           |
| EMD   | Earnest Money Deposit             | PSU   | Public Sector Undertaking              |
| EOI   | Expression of Interest            | RC    | Rate Contract                          |
| FAC   | Final Acceptance Certificate      | RE    | Rupee Exchange                         |
| FAS   | Free Alongside Ship               | RFI   | Request for Information                |
| FE    | Foreign Exchange                  | RFP   | Request For Proposal                   |
| FOB   | Free on Board                     | RR    | Renewal and Replacement                |
| FOH   | Fixed Over-Head                   | RST   | Resultant Single Tender                |
| FOR   | Freight on Road                   | SD    | Security Deposit                       |
| FOTR  | Final Out Turn Report             | SKS   | Single Known Source                    |
| GeM   | Government e-Marketplace          | SMH   | Standard Man-Hour                      |
| GST   | Goods & Service Tax               | SO    | Supply Order                           |
| GM    | General Manger                    | SOC   | Statement of Case                      |

|            |                                                                  |       |                                               |
|------------|------------------------------------------------------------------|-------|-----------------------------------------------|
| GTE        | Global Tender Enquiry                                            | SRO   | Sale Release Order                            |
| ICC        | International Chamber of Commerce                                | SSI   | Small Scale Industry                          |
| IEC        | Importer Exporter Code                                           | STE   | Single Tender Enquiry                         |
| IMTMA      | Indian Machine Tool Manufacturers' Association                   | TE    | Tender Enquiry                                |
| INCO-TERMS | International Commercial Terms                                   | TEC   | Technical Evaluation committee                |
| IP         | Integrity Pact                                                   | TIR   | Technical Inspection Report                   |
| IPBG       | Integrity Pact Bank Guarantee                                    | TOC   | Taking Over Certificate                       |
| IRR        | Internal Rate of Return                                          | TOD   | Tender Opening Date                           |
| ISO        | International Organization for Standardization                   | TOT   | Transfer of Technology                        |
| DOO        | Directorate of Ordnance (Cooperation and services)               | TPC   | Tender Purchase Committee                     |
| DAT        | Delivered At Terminal                                            | TSC   | Technical Scrutiny Committee                  |
| YIL        | YANTRA INDIA LIMITED                                             | VOH   | Variable Over-Head                            |
| ATC        | Additional Terms and Conditions                                  | E/M   | Engineering (Machine Purchase) section of YIL |
| BS-ATC     | Bid Specific Additional Terms and Conditions                     | CMD   | Chairman Cum Managing Director                |
| INCO-TERMS | International commercial terms                                   | DPP   | Defence Procurement Procedure                 |
| CPT        | Carriage Paid To                                                 | DPSU  | Defence Public Sector Undertaking             |
| EXW        | Ex Works                                                         | GTC   | General Terms and Conditions                  |
| ICC        | International Chamber of Commerce                                | STC   | Special Terms and Conditions                  |
| SOFR       | Secured Overnight Financing Rate –Replacement of LIBOR from 2021 | ATC   | Additional Terms & Conditions                 |
| FCA        | Free Carrier (Insert named place of delivery)                    | CFR   | Cost and Freight                              |
| Buyer      | Procurement Initiating entity in GeM Portal                      | DPU** | Delivered at Place Unloaded                   |
| ED         | Executive Director                                               |       |                                               |

\*\* [Renamed “term” in place of DAT (Delivered at Terminal) as per Incoterms® 2020.]

## 1.6 Interpretation:

1.6.1 (a) In the event of a doubt/dispute on interpretation of provisions of this Manual, the matter will be referred to Operation division of YIL Head Quarter Nagpur for decision. Any interpretation or clarification on the provisions of this manual shall be issued with the approval of Director (Operation) with concurrence of Director (Finance). The concerned project handling sections shall also be consulted for matters pertaining to the projects. Legal opinion may be sought in matters involving legal implication.

(b) In case of contradiction between provisions of P&M manual and Delegation of Financial Power (DFP), the provisions of DFP will prevail

1.6.2 In this Manual, the words 'shall', 'should', 'may' and 'can' are used to express provisions in accordance with their usage in ISO standards.

- a) **'shall' indicates a requirement:** It is used to indicate requirements strictly to be followed in order to conform to the document and from which no deviation is permitted.
- b) **'should' indicates a recommendation:** It is used to indicate that among several possibilities, one is recommended as particularly suitable, without mentioning or excluding others, or that a certain course of action is preferred but not necessarily required, or that in the negative form ('should not'), a certain possibility or course of action is deprecated but not prohibited.
- c) **'may' indicates permission:** It is used to indicate a suggestion or a course of action permissible within the limits of the document.
- d) **'can' indicates possibility and capability:** It is used for statements of possibility and capability, whether material, physical or casual.

#### **1.7 Amendments:**

Amendments to this Manual can be made with the approval of the BoD/YIL.

## CHAPTER-2

**BASIC GUIDELINES & LAWS ON PURCHASE****2.1 Guidelines for Public Procurement:**

Article 299 of the Constitution is the apex of the legal framework governing public procurement. It stipulates that contracts legally binding on the Government shall be executed in writing by officers specifically authorized to do so. Indian Contract Act, 1872 and the Sale of Goods Act, 1930 are major legislations governing contracts of sale/ purchase of goods in general. There is no such Parliamentary Act exclusively governing public procurement of goods. But generic guidelines for public procurement of goods in DoE manual for procurement of goods and services published on Manual for Procurement of Goods, Second Edition 2024, 22-7-2024 has been followed in this manual.

**2.2 Fundamental Principles of Public Buying:**

2.2.1 These principles are contained in Rule 144 of GFR, 2017. It is stipulated therein that every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy, transparency in matters relating to public procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement.

This will enable the prospective bidders to formulate competitive tenders with confidence. Thus, the cardinal principles to be followed are:

- (i) Efficiency
- (ii) Economy
- (iii) Transparency
- (iv) Fairness
- (v) Competition

2.2.2 The procedure to be followed in making public procurement must conform to the following yard-sticks:-

- (i) The description of the subject matter of procurement to the extent practicable should
  - a) be objective, functional, generic and measurable and specify technical, qualitative and performance characteristics.
  - b) not indicate a requirement for a particular trade mark, trade name or brand.
- (ii) The specifications in terms of quality, type etc., as also quantity of goods to be procured, should be clearly spelt out keeping in view the specific needs of the procuring organizations. The specifications so worked out should meet the basic needs of the organization without including superfluous and non - essential features, which may result in unwarranted expenditure.
- (iii) Where applicable, the technical specifications shall, to the extent practicable, be based on the national technical regulations or recognized national standards or

building codes, wherever such standards exist, and in their absence, be based on the relevant international standards. In case of Government of India funded projects abroad, the technical specifications may be framed based on requirements and standards of the host beneficiary Government, where such standards exist. Provided that a procuring entity may, for reasons to be recorded in writing, adopt any other technical specification.

- (iv) Care should also be taken to avoid purchasing quantities in excess of requirement to avoid inventory carrying costs.
- (v) Offers should be invited following a fair, transparent and reasonable procedure.
- (vi) The procuring authority should be satisfied that the selected offer adequately meets the requirement in all respects.
- (vii) The procuring authority should satisfy itself that the price of the selected offer is reasonable and consistent with the quality required.
- (viii) At each stage of procurement the concerned procuring authority must place on record, in precise terms, the considerations which weighed with it while taking the procurement decision.
- (ix) All Units shall prepare Annual Procurement Plan before the commencement of the financial year and the same should also be placed on their website.

## **2.3 Authorities competent to purchase goods and the Purchase Powers:**

a) As per YIL delegations of financial powers.

b) A demand shall not be split into small quantities for the sole purpose of avoiding the necessity of taking approval of the higher authority required for sanctioning the purchase of the original demand.

## **2.4 Price preference for MSE/MSME Units and Make in India Policy:**

- 2.4.1 Price preference for MSE Units as per Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2018 has been notified under section 11 of MSMED Act, 2006. The Policy is effective from 1<sup>st</sup> April 2019 (Gazette notification on 9 November 2018). The objective of Policy is promotion and development of Micro and Small Enterprises by supporting them in marketing of products produced and services rendered by them. However, the policy rests upon core principle of competitiveness, adhering to sound procurement practices and execution of supplies in accordance with a system which is fair, equitable, transparent, competitive and cost effective.
- 2.4.2 Public Procurement (Preference to Make in India) Policy Provisions contained in Public Procurement (Preference to Make in India), Order 2017 issued by DIPP, Ministry of Commerce & Industries vide letter No.P-45021/2/2017-B.E-II dated 15-06-2017 along with MoD I.D No.59011/8/2015-D(HAL-II) dated 19-07-2017 and subsequent amendment issued by DIPP dated **30/09/2020** shall be followed. (Please refer link <https://dpiit.gov.in/public-procurements> for latest updates)
- 2.4.3 No such restrictive clauses should be mentioned in terms and conditions of tender enquiries including matter like turnover, production capability and financial strength

for the bidders that would be advantageous to the foreign manufactured goods at the cost of domestically manufactured goods.

2.4.4 Before considering any price preference to Small Scale Sector, the latest directive in this regard may be checked for necessary action.

2.4.5 Further details can be accessed on DIPP& MSME websites.

2.4.6 Compliance of Restrictions under Rule 144 (xi) of GFR 2017 as per DOE Order (Public Procurement No.4) dated 23.02.2023 (as amended from time to time)

### **Public Procurement Policy for Micro and Small Enterprises (MSEs) (Rule 153 (ii) of GFR 2017)**

1. **The Policy:** From time to time, the Government of India (Procuring Entity) lays down procurement policies to help inclusive national economic growth by providing long-term support to micro, small and medium enterprises, and disadvantaged sections of society. The Procurement Policy for Micro and Small Enterprises, 2012 [amended 2018 and 2021] has been notified by the Government in the exercise of the powers conferred in Section 11 of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, which is mandatory to be followed by Central Government Ministries/ Departments/ Public Sector Undertakings. Details of the policy, along with the amendments issued in 2018 and 2021, are available on the MSME website<sup>25</sup>.
2. **Eligibility:** a) Micro and Small Enterprises (MSEs) registered under Udyam Registration are eligible to avail the benefits under the policy. b) This Policy provides preferential procurement of goods produced and services rendered by MSEs. Traders/ distributors/ sole agents/ Works Contract are excluded from the purview of the policy. i) In case of an upward change in terms of investment in plant and machinery or equipment or turnover or both, and consequent re-classification, an enterprise shall continue to avail of all nontax benefits of the category (micro, small, or medium) it was in before the re-classification, for a period of three years from the date of such upward change. ii) MSEs would be treated as owned by SC/ ST or Women entrepreneurs: 1) In the case of proprietary MSE, proprietor(s) are SC /ST or Woman; 2) In the case of partnership MSE, the SC/ ST or Women partners hold at least 51% (fifty-one per cent) shares in the unit; 3) In the case of Private Limited Companies, SC/ ST or Women promoters hold at least 51% (fifty-one per cent) share.
3. **Applicability and Exemptions:** a) The policy is applicable to Central Government Ministries/ Departments/ Public Sector Undertakings b) The policy is not applicable to State Government Ministries/ Departments/ State PSEs, but they have similar policies applicable in their state. c) Exemptions: Given their unique nature, defence armament imports shall not be included in computing the 25 (twenty-five) per cent goal for the Ministry of Defence. In addition, defence equipment like weapon systems, missiles, etc., shall remain out of the purview of such a reservation policy. Monitoring of goals set under the policy will be done, as far as they relate to the Defence sector, by the Ministry of Defence itself in accordance with suitable procedures to be established by them.
4. **Facilities for MSE:** a) Reduced Transaction Costs: To reduce the transaction cost of doing business, MSEs will be facilitated by providing them tender documents free of cost, exempting MSEs from payment of earnest money deposits, and adopting e-procurement to bring transparency in the tender process. However, exemption from paying Performance Bank Guarantee/ Security Deposit is not covered under the policy. b) Relaxation in Prior Turnover and Experience: The Procuring Entity may relax the condition of prior turnover and prior experience for start-up enterprises recognized by the Department for Industry & Internal Trade (DPIIT), subject to

meeting quality & technical specifications. Startups may be MSMEs or otherwise. Such relaxation can be provided in the case of procurement of works as well. It is further clarified that such relaxation is not optional but normally has to be ensured, except in case of procurement of items related to public safety, health, critical security operations and equipment, etc) where adequate justification exists for the Procuring Entity not to relax such criteria<sup>27</sup>. The decision of the Procuring Entity in this regard shall be final. Please also refer to para 5.1.3-7-c) and 7.4.1-1-b). (Rule 173 (i) of GFR 2017). c) Timely Payments: Chapter V of the MSMED Act, 2006, also has provisions for ensuring timely payments to the MSE suppliers. The period agreed upon for payment must not exceed forty-five days from the deemed acceptance of the materials supplied by the MSMEs; in case of any discrepancies in the supplies, then the Procuring Entity shall raise an objection to the MSME supplier within 15 days from the date of receipt of materials if such objection is not raised, then it will be taken as deemed acceptance. For delays in payment, the buyer shall be liable to pay compound interest to the supplier on the delayed amount at three times the bank rate notified by the Reserve Bank. For arbitration and conciliation regarding the recovery of such payments and interests, the Micro and Small Enterprises Facilitation Council has been set up in various states.

5. Purchase Preference: a) Under the amended Public Procurement Policy for MSEs, Order 2012, the Central Government Ministries/ Departments/ Public Sector Undertakings shall procure a minimum of 25 per cent of their annual value of goods or services from MSEs. (In accordance with General Financial Rules, 2017, Rule 153-(ii)). b) The annual goal of procurement from MSEs also includes subcontracts to Micro and Small Enterprises by large enterprises and consortia of Micro and Small Enterprises formed by the National Small Industries Corporation. If a subcontract is given to MSEs, it will be considered as procurement from MSEs. c) In tender, if the L1 price is from someone other than an MSE, participating Micro and Small Enterprises (MSE) quoting prices within a price band of L1+15 (fifteen) per cent shall be allowed to supply up to 25 (twenty-five) per cent of the total tendered value by bringing down their price to L1 price. If there is more than one eligible MSE within such price band who agree to match the L1 price, the 25 (twenty-five) per cent quantity is to be distributed proportionately to them

Note: If the procuring entity negotiates with the non-MSE L1 bidder, the price band (L1+15%) should be calculated based on the original L1 price, not the lower negotiated price, and such eligible MSE bidders shall be called to match the new negotiated L1 price as per procedure mentioned above for placement of 25% quantity.

- i) Out of the target of 25% of annual procurement from MSEs (Not in the specific tender), the sub-target of 4% of annual procurement from MSEs is earmarked for procurement from MSEs owned by Scheduled Caste (SC)/ Scheduled Tribe (ST) entrepreneurs, and 3% of annual procurement from MSEs is earmarked for procurement from MSEs owned by women entrepreneur. However, in the event of failure of such MSEs to participate in the tender process or meet tender requirements and L1 price, the 4% sub-target for procurement earmarked for MSEs owned by SC/ST entrepreneurs and 3% earmarked to women entrepreneurs will also be met from other MSEs. ii) In case the tender item cannot be split or divided, etc., the MSE quoting a price within the band L1+15% may be awarded for full/ complete supply of total tendered value to MSE, considering the spirit of the Policy for enhancing Govt. Procurement from MSEs. iii) When an L1 bidder is not a Micro and Small Enterprise (MSE), MSE bidders eligible for purchase preference under the policy are those whose prices fall within the preference margin of L1+15%. If the procuring entity negotiates with the L1 bidder, the preference margin (L1+15%) should be calculated based on the original L1 price, not the lower negotiated price. Such eligible MSEs should be invited to match the

negotiated L1 price as per the policy.

Developing MSE Vendors: The Central Ministries or Departments or Public Sector Undertakings shall take necessary steps to develop appropriate vendors by organising Vendor Development Programmes (VDP) or Buyer-Seller Meets focused on developing Micro and Small Enterprises (MSEs) for procurement through GeM Portal. To enhance the participation of MSEs owned by SCs /STs/ Women in Government procurement, Central Government Ministries/ Departments/ CPSEs should conduct Special Vendor Development Programmes/ Buyer-Seller Meets for SC/STs and Women MSEs. 7. Policy Implementation: a) A Review Committee has been constituted under the Chairmanship of the Secretary, Ministry of MSME, to monitor and review the Public Procurement Policy for MSEs. M/o MSME will review and/or modify the composition of the Committee as and when required. This Committee will, inter alia, review the list of 358 items reserved for exclusive purchase from MSEs on a continuous basis, consider requests from Central Government Departments CPSEs for exemption from 25 (twenty-five) per cent target on a case-to-case basis and monitor achievements under the Policy. b) To monitor the progress of procurement by Central Government Ministries/ Departments and CPSEs from MSEs, the Ministry of MSME launched the MSME 'Sambandh'28 Portal on 8th December 2017 for uploading procurement details by all CPSEs on a monthly and an annual basis, which the Ministry regularly monitors. c) To redress the grievances of MSEs related to non-compliance with the policy, a Grievance cell named "CHAMPION Portal" has been set up in the Ministry of MSME. d) A National SC/ST hub (NSSH - <https://scsthub.in/>) scheme was launched in October 2016 to provide handholding support to SC/ST entrepreneurs, and it is being coordinated / implemented by the NSIC under this Ministry. e) Clarifications: The office of the Development Commissioner (Micro, Small & Medium Enterprises) issued an FAQ on the Public Procurement Policy for MSE Order, 2012.

- 1.11.3 Procurement Preference to Make in India (MII policy)** (Rule 153 (iii) of GFR, 2017) 1. Purpose: To encourage 'Make in India' and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, Department of Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry, Government of India, issued Public Procurement (Preference to Make in India), Order 201729. The order is issued pursuant to Rule 153 (iii) of GFR, 2017. The Order is applicable to the procurement of Goods, Works, and Services<sup>30</sup>. For this Order: a) 'L1' means the lowest tender or lowest bid, or the lowest quotation received in a tender, tender process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation. b) 'Local Content' means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent. Explanatory notes for calculation of local content given above i) Imported items sourced locally from resellers/ distributors shall be excluded from calculation of local content. ii) The license fees/ royalties paid/ technical charges paid out of India shall be excluded from local content calculation iii) Procurement/ Supply of repackaged/ refurbished/ rebranded imported products as understood commonly shall be treated as reselling of imported products and shall be excluded from calculation of local content. The definition of repackaged/ refurbished/ rebranded imported products is as follows: 1) 'Refurbishing' means repair or reconditioning of an imported product does not amount to manufacture because no new goods come into existence. 2) 'Repackaging' means repacking of imported goods from bulk pack to smaller packs would not ordinarily amount to

manufacture of a new item. 3) 'Rebranding' means relabelling or renaming or change in symbol or logo/ makes or corporate image of a company/ organization/ firm for an imported product would amount to rebranding.

- v) To ensure that imported items sourced locally from resellers/ distributors are excluded from calculation of local content, procuring entities to obtain from bidders, the cost of such locally-sourced imported items (inclusive of taxes) along with break-up on license/ royalties paid/ technical expertise cost etc. sourced from outside India/ for items sold by bidder as reseller, OEM certificate for country of origin to be submitted. v) For contracts involving supply of multiple items, weighted average of all items to be taken while calculating the local content. c) 'Margin of purchase preference' means the maximum extent to which the price quoted by a "Class-I local supplier" may be above the L1 for the purpose of purchase preference. It has been fixed as 20 (twenty) per cent. d) 'Nodal Ministry' means the Ministry or Department identified pursuant to this order with respect to a particular item of goods or services or works. e) 'Procuring entity' means a Ministry or department or attached or subordinate office of, or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act. f) 'Works' means all works as per Rule 130 of GFR-2017 and will also include 'turnkey works. 1A. Special treatment for items covered under PLI Scheme The manufacturers manufacturing an item under PLI scheme shall be treated as deemed Class II local supplier for that item unless they have minimum local content equal to or higher than that notified for Class-I local supplier for that item, provided the manufacturer has received incentive from the concerned PLI Ministry for the item. The above shall be applicable for the specific time period only, as notified by concerned PLI Ministry. 2. Eligibility of 'Class-I local supplier'/ 'Class-II local supplier'/ 'Non-local suppliers' for different types of procurement a) In procurement of all goods, services, or works in respect to which the Nodal Ministry/ Department has communicated that there is sufficient local capacity and local competition, only a 'Class-I local supplier' shall be eligible to bid, irrespective of purchase value. b) Only 'Class-I local supplier' and 'Class-II local supplier' shall be eligible to bid in procurements undertaken by procuring entities, except when a Global tender enquiry has been issued. In global tender enquiries, 'Non-local suppliers' shall also be eligible to bid along with 'Class-I local suppliers' and 'Class-II local suppliers.' In procurement of all goods, services or works not covered by sub-para 2-a) above, and with estimated value of purchases less than ₹. 200 Crore, in accordance with Rule 161(iv) of GFR, 2017, Global tender enquiry shall not be issued except with the approval of competent authority as designated by Department of Expenditure. c) For the purpose of this Order, works include Engineering, Procurement and Construction (EPC) contracts, and services include System Integrator (SI) contracts. 2A. Mandatory sourcing of items, with sufficient local capacity and competition, from Class-I local suppliers in SI/ EPC/ Turnkey Contracts/ Service Tenders a) The items, notified as having sufficient local capacity and competition, shall mandatory be sourced from Class-I local suppliers in SI/ EPC/ Turnkey Contracts/ Services tenders. This provision will be applicable only for those items which have been notified by the Nodal Ministry as Class-I i.e. having sufficient local capacity and competition, with specific HSN codes.
- b) Notwithstanding above, if in any project, it is considered that it is not practically feasible to source such items from Class I local suppliers, it may take relaxation from such stipulation with the approval of Secretary of the administrative Ministry/ Department concerned or with the approval of the Competent Authority specified by the Administrative Ministry/ Department, on case-specific basis. 3. Purchase Preference: a) Subject to the provisions of the Order and to any specific instructions issued by the Nodal Ministry or in pursuance of the Order, purchase

preference shall be given to 'Class-I local supplier' in procurements undertaken by procuring entities in the manner specified hereunder. b) In the procurements of goods or works, which are covered by para 2-b) above and which are divisible in nature, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier,' as per following procedure: Note: 1. If the procuring entity negotiates with the L1 bidder, who is not a Class-I Local Supplier, the margin of purchase preference (L1+20%) should be calculated based on the original L1 price, not the lower negotiated price, and such eligible Class-I Local Suppliers shall be called to match the new negotiated L1 price as per procedure mentioned above for placement of 50% quantity. 2. Since as per sub-para iii) below, MII order is applicable 'where the bid is evaluated on price alone' – MII purchase preference would not be applicable where evaluation is based inter-alia on non-price criteria, e.g., QCBS or FBS in Services and Works. i) Among all qualified bids, the lowest bid will be termed L1. If L1 is a 'Class-I local supplier', the contract for full quantity will be awarded to L1. ii) If the L1 bid is not a 'Class-I local supplier', 50 (fifty) per cent of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the L1 price for the remaining 50 (fifty) per cent quantity subject to the Class-I local supplier's quoted price falling within the margin of purchase preference (L1+20%) and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the L1 price. In case the lowest eligible 'Class-I local supplier' fails to match the L1 price or accepts less than the offered quantity, the next higher 'Class-I local supplier' within the margin of purchase preference (L1+20%) shall be invited to match the L1 price for the remaining quantity and so on, and the contract shall be awarded accordingly. In case some quantity out of the 50% (for the eligible Class-I Local Suppliers) is still left uncovered, then such balance quantity may also be ordered on the L1 bidder. iii) In the procurements of goods or works, which are covered by para 2-b) above and which are not divisible in nature, and in the procurement of services where the bid is evaluated on price alone, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure: 1) Among all qualified bids, the lowest bid will be termed L1. If L1 is a 'Class-I local supplier', the contract will be awarded to L1. 2) If L1 is not a 'Class-I local supplier', the lowest bidder among the 'Class-I local suppliers' will be invited to match the L1 price subject to the Class-I local supplier's quoted price falling within the margin of purchase preference(L1+20%), and the contract shall be awarded to such 'Class-I local supplier' subject to matching the L1 price. 3) In case the lowest eligible 'Class-I local supplier' fails to match the L1 price, the 'Class-I local supplier' with the next higher bid within the margin of purchase preference (L1+20%) shall be invited to match the L1 price, and so on, and the contract shall be awarded accordingly. In case none of the 'Class-I local suppliers' within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder. 4) "Class-II local supplier" will not get a preference for any procurement undertaken by procuring entities. c) Applicability in tenders where the contract is to be awarded to multiple bidders: In tenders where the contract is awarded to multiple bidders subject to matching of L1 rates or otherwise, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure: i) In case there is sufficient local capacity and competition for the item to be procured, as notified by the nodal Ministry, only Class I local suppliers shall be eligible to bid. As such, the multiple suppliers who would be awarded the contract should be all and only 'Class I Local suppliers.' ii) In other cases, 'Class II local suppliers' and 'Non-local suppliers' may also participate in the tender process along with 'Class I Local suppliers' as per provisions of the Order. iii) If 'Class I Local suppliers' qualify for the award of contract for at least 50 (fifty)

per cent of the tendered quantity in any tender, the contract may be awarded to all the qualified bidders as per award criteria stipulated in the tender documents. iv) However, in case 'Class I Local suppliers' do not qualify for the award of contract for at least 50 (fifty) per cent of the tendered quantity, purchase preference should be given to the 'Class I local supplier' over 'Class II local suppliers'/ 'Non-local suppliers' provided that their quoted rate falls within 20 (twenty) per cent margin of purchase preference of the highest quoted bidder considered for award of contract so as to ensure that the 'Class I Local suppliers' taken in totality are considered for award of contract for at least 50 (fifty) per cent of the tendered quantity. v) Only those 'Class-I local suppliers' would be eligible for purchase preference whose quoted rates fall within 20 (twenty) per cent margin of purchase preference, subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. First, purchase preference must be given to the lowest quoting eligible 'Class-I local supplier.' If the lowest quoting 'Class-I local supplier' does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to the next higher eligible 'Class-I local supplier,' and so on. In case the quantity thus allocated to eligible 'Class-I local suppliers' is short of 50% of the tendered quantity, then this shortfall quantity may be distributed among all other qualified bidders as per award criteria stipulated in the tender documents. vi) To avoid any ambiguity during the bid evaluation process, the procuring entities may stipulate their own tender-specific criteria for the award of contracts amongst different bidders, including the procedure for purchase preference to 'Class-I local supplier' within the broad policy guidelines stipulated in the sub-paras above.

4. Exemption of small purchases: Notwithstanding anything contained in para 2 above, procurements where the estimated value to be procured is less than ₹. 5 lakhs shall be exempt from the Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.

a) Exemption in sourcing of spares and consumables of closed systems: Procurement of spare parts, consumables for closed systems and Maintenance/ Service contracts with Original Equipment Manufacturer/ Original Equipment Supplier/ Original Part Manufacturer shall be exempted from this Order.

5. Minimum local content: The 'local content' requirement to categorize a supplier as a 'Class-I local supplier' is a minimum of 50 (fifty) per cent. For 'Class-II local suppliers,' the 'local content' requirement is a minimum of 20 (twenty) per cent. Nodal Ministry/ Department may prescribe only a higher percentage of the minimum local content requirement to categorize a supplier as a 'Class-I local supplier'/ 'Class-II local supplier.' For the items for which the Nodal Ministry/ Department has not prescribed higher minimum local content notification under the Order, it shall be 50 (fifty) per cent and 20 (twenty) per cent for 'Class-I local supplier'/ 'Class-II local supplier' respectively. It may be noted that local content is not related to the nationality of the firm – a foreign-owned firm may also become a Class-I or Class-II local supplier by adding local value addition.

6. Requirement for declaration in advance: The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be declared in the notice inviting tenders or other forms of procurement solicitation and shall not be varied during a particular procurement transaction.

7. Government E-marketplace: In respect of procurement through the Government Emarketplace (GeM), shall, as far as possible, specifically mark the items that meet the minimum local content while registering the item for display and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.

8. Verification of local content: a) The 'Class-I local supplier'/'

'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate the percentage of local content and provide self-certification that the item offered meets the local content requirement for 'Class-I local supplier'/'Class-II local supplier,' as the case may be. They shall also give details of the location(s) at which the local value addition is made. b) In cases of procurement for a value more than ₹. 10 crores, the 'Class-I local supplier'/'Class-II local supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practising cost accountant or practising chartered accountant (in respect of suppliers other than companies) giving the percentage of local content. c) The bidder shall give self-certification for local content in the quoted item (goods/ works/ services) at the time of tendering. However, at the time of execution of the project, for all contracts above ₹ 10 Crore, the contractor/ supplier shall be required to give local content certification duly certified by cost/ chartered accountant in practice. For cases where it is not possible to provide certification by Cost/ Chartered Accountant at the time of execution of project, the supplier shall be permitted to provide the certificate for local content from Cost/ Chartered Accountant after completion of the contract, within the limit acceptable to the procuring entity. In case the contractor/ supplier does not meet the stipulated local content requirement and the category of the supplier changes from Class-I to Class-II/ Non-local or from Class-II to Non-local, a penalty upto 10% of the contract value may be imposed. However, contract once awarded shall not be terminated on this account. d) Decisions on complaints relating to the implementation of this Order shall be made by the competent authority that is empowered to investigate procurement-related complaints relating to the procuring entity. e) Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor's/ accountant's certificates on a random basis and in the case of complaints. f) Nodal Ministries and procuring entities may prescribe fees for such complaints. g) False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules, for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law. The Department of Expenditure shall issue suitable instructions (please refer to para 3.7 of this manual) for the effective and smooth operation of this process so that: i) The fact and duration of debarment for violation of the Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry /Department or in some other manner; ii) On a periodical basis, such cases are consolidated, and a centralized list or decentralized list of such suppliers with the period of debarment is maintained and displayed on the website(s); iii) With respect to procuring entities other than the one that has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in such a manner that ongoing procurements are not disrupted. iv) A supplier who has been debarred by any procuring entity for violation of the Order shall not be eligible for preference under the Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procuring entities in the manner prescribed above. 9. Specifications in Tenders and other procurement solicitations: a) Every procuring entity shall ensure that the eligibility/ qualification conditions with respect to previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports. b) Procuring entities shall endeavour to see that eligibility/ qualification conditions, including on matters like turnover, production capability, and financial strength, do not result in

unreasonable exclusion of 'Class-I local supplier' / 'Class-II local supplier' who would otherwise be eligible beyond what is essential for ensuring quality or creditworthiness of the supplier. c) Procuring entities shall review all existing eligibility norms and conditions with reference to sub-paragraphs (a) and (b) above. d) Specifying foreign certifications/ unreasonable technical specifications/ brands/ models in the tender document is a restrictive and discriminatory practice against local suppliers. If foreign certification is required to be stipulated because of the nonavailability of Indian Standards and/or for any other reason, the same shall be done only after written approval of the Secretary of the Department concerned or any other Authority having been designated such power by the Secretary of the Department concerned.

10. Reciprocity Clause: a) When a Nodal Ministry/Department identifies that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government due to restrictive tender conditions which have direct or indirect effect of barring Indian companies such as registration in the procuring country, execution of projects of specific value in the procuring country etc., it shall provide such details to all its procuring entities including CMDs/CEOs of PSEs, State Governments and other procurement agencies under their administrative control and GeM for appropriate reciprocal action. b) Entities of countries that the nodal Ministry/Department identifies as not allowing Indian companies to participate in their Government procurement for any item related to that nodal Ministry shall not be allowed to participate in Government procurement in India for all items related to that nodal Ministry/ Department, except for the list of items published by the Ministry/ Department permitting their participation. c) The stipulation in (b) above shall be part of all tenders invited by the Central Government procuring entities stated in (a) above. All purchases on GeM shall also necessarily have the above provisions for items identified by the nodal Ministry/ Department. d) State Governments should be encouraged to incorporate similar provisions in their respective tenders. e) The term 'entity' of a country shall have the same meaning as under the FDI (Foreign Direct Investment) Policy of DPIIT as amended from time to time.

11. Action for non-compliance of the Provisions of the Order: In case restrictive or discriminatory conditions against domestic suppliers are included in tender documents, an inquiry shall be conducted by the Administrative Department undertaking the procurement (including procurement by any entity under its administrative control) to fix responsibility for the same. Thereafter, appropriate action, administrative or otherwise, shall be taken against erring officials of procuring entities under relevant provisions. Intimation on all such actions shall be sent to the Standing Committee.

12. Assessment of supply base by Nodal Ministries: a) "All administrative Ministries/Departments whose procurement exceeds ₹. 1000 Crore per annum shall notify/ update their procurement projections every year, including those of the PSEs, for the next five years on their respective website." b) The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing the higher minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order. c) Increase in minimum local content: The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to the availability of sufficient local competition with adequate quality.

13. Manufacture under license/ technology collaboration agreements with phased indigenization: a) While notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement / transfer of technology agreement for

indigenous manufacture of a product developed abroad with clear phasing of increase in local content. b) In the procurement of all goods, services or works in respect of which there is a substantial quantity of public procurement and for which the nodal ministry has not notified that there is sufficient local capacity and local competition, the concerned nodal ministry shall notify an upper threshold value of procurement beyond which foreign companies shall enter into a joint venture with an Indian company to participate in the tender. Procuring entities, while procuring such items beyond the notified threshold value, shall prescribe in their respective tenders that foreign companies may enter into a joint venture with an Indian company to participate in the tender. The procuring ministries/departments shall also make special provisions to exempt such joint ventures from meeting the stipulated minimum local content requirement, which shall be increased in a phased manner. 14. Powers to grant exemption and to reduce minimum local content: a) The Administrative Department undertaking the procurement (including procurement by any entity under its administrative control), with the approval of their Minister-in-charge, may, by written order, for reasons to be recorded in writing, i) reduce the minimum local content below the prescribed level or ii) reduce the margin of purchase preference below 20 (twenty) per cent or iii) exempt any item or supplying entities from the operation of this Order or any part of the Order. b) The Administrative Department, while seeking exemption under this para, shall certify that such an item(s) has not been notified by Nodal Ministry/ Department concerned under para 3 above. c) A copy of every such order shall be provided to the Standing Committee and concerned Nodal Ministry / Department. The Nodal Ministry / Department concerned will continue to have the power to vary its notification on Minimum Local Content. 15. Directions to Government Companies: With respect to government companies and other procuring entities not governed by the General Financial Rules, the administrative Ministry or Department shall issue policy directions requiring compliance with this Order. 16. Standing Committee: a) A standing committee is hereby constituted with the following membership: i) Secretary, Department for Promotion of Industry, and Internal Trade-Chairman ii) Secretary, Commerce-Member iii) Secretary, Ministry of Electronics, and Information Technology-Member Joint iv) Secretary (Public Procurement), Department of Expenditure-Member Joint v) Secretary (DPIIT)-Member-Convenor b) The Secretary of the Department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issues under its consideration. 17. Functions of the Standing Committee: The Standing Committee shall meet as often as necessary, but not less than once every six months. The Committee a) shall oversee the implementation of this order and the issues arising from it and make recommendations to Nodal Ministries and procuring entities. b) Shall annually assess and periodically monitor compliance with this Order. c) Shall identify Nodal Ministries and the allocation of items among them for the issue of notifications on minimum local content. d) May require the furnishing of details or returns regarding compliance with this Order and related matters. e) May during the annual review or otherwise, it may assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization, or increase in public expenditure and suggest remedial measures. f) May examine cases covered by sub-para 13 above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization. g) May consider any other issue relating to this Order that may arise. 18. Removal of difficulties: Ministries /Departments and the Boards of Directors of Government companies may issue

such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of the Order. 19. Ministries having existing policies: Where any Ministry or Department has its own policy for preference to local content approved by the Cabinet after 1st January 2015, such policies will prevail over the provisions of the Order. All other existing orders on preference to local content shall be reviewed by the Nodal Ministries and revised as needed. 20. Please refer to the FAQs related to the PPP-MII order issued by DPIIT, placed in Annexure 28. 1.11.4 Restrictions/ Prior Registration on Entities from a Class of Countries (Rule 144 (xi), GFR 2017) 1. Requirement of registration: Rule 144 of GFR, 2017, has been amended to include a new sub-para (xi) as follows: "Notwithstanding anything contained in these Rules, Department of Expenditure may, by order in writing, impose restrictions, including prior registration and/ or screening, on procurement from bidders from, or bidders having commercial arrangements with an entity from, a country or countries, or a class of countries, on grounds of defence of India, or matters directly or indirectly related thereto including national security; no procurement shall be made in violation of such restrictions." 2. Detailed provisions in this regard have been notified by the Department of Expenditure's OM No. F.7/10/2021-PPD (1) dated 23.02.2023 are as follows. a) Any bidder from a country that shares a land border with India will be eligible to bid in any procurement, whether of goods, services (including consultancy services and nonconsultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority. The information on Competent Authority is given in sub-para 10 below. b) Any bidder (including an Indian bidder) who has a Specified Transfer of Technology (ToT) arrangement with an entity from a country that shares a land border with India will be eligible to bid in any procurement, whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in subpara 10 below. Please also refer to sub-para 5 below. c) The requirement of registration for cases covered by para (a) above has been applicable since 23.07.2020. The requirement of registration for bidders covered by para (b) above will be applicable for all procurements where tenders are issued/ published after 01.04.2023. d) In tenders issued after 23.07.2020 or 01.04.2023, as the case may be, the requirements for registration of bidders and other relevant provisions of this Order shall be incorporated in the tender conditions. 3. Applicability: Apart from Ministries/Departments, attached and subordinate bodies, notwithstanding anything contained in Rule 1 of the GFR 2017, the Order shall also be applicable: a) to all Autonomous Bodies; b) to public sector banks and public sector financial institutions; c) to all Central Public Sector Enterprises; d) to all procurement in Public Private Partnership projects receiving financial support from the Government or public sector enterprises/ undertakings; e) Union Territories, National Capital Territory of Delhi, and all agencies/ undertakings thereof. f) The Order is not applicable: i) In projects that receive international funding with the approval of the Department of Economic Affairs (DEA), Ministry of Finance, the procurement guidelines applicable to the project shall normally be followed, notwithstanding anything contained in this order and without reference to the Competent Authority. Exceptions to this shall be decided in consultation with DEA. ii) On procurements made by Indian missions and by offices of government agencies/ undertakings located outside India. iii) On bidders (or entities) from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects. Updated lists of countries to which lines of credit have been extended or in which development projects are undertaken are given on the Ministry of External Affairs' website<sup>31</sup>. iv) On procurement of spare parts and other essential

service support like Annual Maintenance Contract (AMC)/ Comprehensive Maintenance Contract (CMC), including consumables for closed systems, from Original Equipment Manufacturers (OEMs) or their authorized agents, shall be exempted from the requirement of registration as mandated under Rule 144(xi) of GFR, 2017 and Public Procurement orders issued in this regard<sup>32</sup>. v) A bidder is permitted to procure raw materials, components, sub-assemblies, etc., from vendors from countries that share a land border with India. Such vendors will not be required to be registered with the Competent Authority, as it is not regarded as "sub-contracting." However, if a bidder proposes to supply finished goods procured directly/ indirectly from vendors from countries sharing a land border with India, such vendors will be required to be registered with the Competent Authority<sup>33</sup>. (Please also refer to Note below sub-para 4-f) below).

4. Definitions: a) "Bidder" for the purpose of the Order (including the term 'bidder', 'consultant' 'vendor' or 'service provider' in certain contexts) means any person, firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process. b) "Tender" for the purpose of the Order will include other forms of procurement, except where the context requires otherwise. c) "Transfer of Technology" means dissemination and transfer of all forms of commercially usable knowledge, such as transfer of know-how, skills, technical expertise, designs, processes and procedures, and trade secrets, which enables the acquirer of such technology to perform activities using the transferred technology independently. (Matters of interpretation of this term shall be referred to the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade, and the interpretation of the Committee shall be final.) d) "Specified Transfer of Technology" means a transfer of technology in the sectors and/ or technologies specified in sub-para 5 below, occurring on or after 23.07.2020. e) "Bidder (or entity) from a country which shares a land border with India" for the purpose of the Order means: i) An entity incorporated, established, or registered in such a country; or ii) A subsidiary of an entity incorporated, established, or registered in such a country or iii) An entity substantially controlled through entities incorporated, established, or registered in such a country or iv) An entity whose beneficial owner is situated in such a country or v) An Indian (or other) agent of such an entity; or vi) A natural person who is a citizen of such a country; or vii) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above f) "Agent" for the purpose of the Order is a person employed to do any act for another or to represent another in dealings with third persons. Note 1. A person who procures and supplies finished goods from an entity from a country that shares a land border with India will, regardless of the nature of his legal or commercial relationship with the producer of the goods, be deemed to be an Agent for the purpose of this Order. 2. However, a bidder who only procures raw material, components, etc., from an entity from a country that shares a land border with India and then manufactures or converts them into other goods will not be treated as an Agent. g) The beneficial owner for the purposes of point e(iv) will be as follows: i) In the case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together or through one or more juridical person(s), has a controlling ownership interest or who exercises control through other means. Explanation: - 1) "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company; 2) "Control" shall include the right to appoint the majority of the directors or to control the management or policy decisions,

including by virtue of their shareholding or management rights or shareholders agreements or voting agreements; ii) In the case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together or through one or more juridical persons, has ownership of entitlement to more than fifteen per cent of capital or profits of the partnership; iii) In the case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together or through one or more juridical persons, has ownership of or entitlement to more than fifteen per cent of the property or capital or profits of such association or body of individuals; iv) Where no natural person is identified under (4) (a) or (4) (b) or (4) (c) above, the beneficial owner is the relevant natural person who holds the position of senior managing official; v) In the case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen per cent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership. vi) To determine nationality while assessing the beneficial ownership of the bidder, the nationality mentioned in the beneficiary owner's passport should be considered. In case of the possibility of dual citizenship, nationality on all the passports should be considered through a suitable declaration. If nationality in any of the passports of the person whose beneficial ownership is being assessed is recorded to be from a country sharing a land border with India, the provisions contained under this Order shall apply. Hong Kong and Macau are to be considered as part of China for the purpose of this Order.

5. Sensitive Sectors/ Technologies (relevant only for the provisions on ToT arrangements; please refer to sub-para 2-b) above): a) Certain sectors and technologies have been identified as sensitive from the national security point of view. The sectors listed in Schedule I to this Order are considered Category-I sensitive sectors. The sectors listed in Schedule II to this Order are considered Category-II sensitive sectors. The technologies listed in Schedule III are considered sensitive technologies.

## **2.5 General Principles of Contract**

2.5.1 The elements and principles of contract law and the meaning and import of various legal terms used in connection with the contracts are available in the Indian Contract Act, 1872 read with the Sale of Goods Act, 1930. Contract may be defined as an agreement if made with free consent of parties competent to contract, for a lawful consideration and with a lawful object. During the tenure of the contract, every transaction is governed by the provisions of the contract and therefore it is necessary that the contract is framed with adequate care.

### **2.5.2 Contract Definition:**

The proposal or bid or offer made by the supplier when accepted is a promise. A promise and every set of promises forming the consideration for each other is an agreement. An agreement if made with free consent of parties competent to contract for a lawful consideration and with a lawful object is a contract.

### **2.5.3 Proposal or Offer:**

When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of the other to such act or abstinence, he is said to make a proposal or offer. In a sale or purchase by tender, the tender signed by the bidder is the proposal. The invitation to tender and instructions to bidders do not constitute a proposal.

### **2.5.4 Acceptance of the Proposal:**

When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal when accepted becomes a promise.

**2.5.5 What agreements are contracts:**

An agreement is a contract enforceable by law when the following are satisfied.

- (a) Competency of the parties
- (b) Freedom of consent of both parties
- (c) Lawfulness of consideration
- (d) Lawfulness of object

**2.6.6 Competency of Parties:**

Under law, any person who has attained majority and is of sound mind or not debarred by law to which he is subject, may enter into contracts. It, therefore, follows that minor, insolvent person and person of unsound mind cannot enter into contracts.

**2.6.7 Parties to the Contract:**

Categories of persons and bodies who are parties to the contract may be broadly sub-divided under the following heads:-

- (a) **Contracts with Individuals:** Individuals tender either in their own name or in the name and style of their business. If the tender is signed by any person other than the concerned individual, the authority of the person signing the tender on behalf of another must be verified and a proper power of attorney authorising such person shall be insisted on. In case, a tender is submitted in a business name and if it is a concern of an individual, the constitution of the business and the capacity of the individual must appear on the face of the contract and the tender signed by the individual himself as proprietor or by his duly authorized attorney.
- (b) **Contracts with Partnership:** A partnership is an association of two or more individuals formed for the purpose of doing business jointly under a business name. It is also called a firm. It shall be noted that a partnership is not a legal entity by itself, apart from the individuals constituting it. A partner is the implied authority to bind the firm in a contract coming in the purview of the usual business of the firm. The implied authority of a partner, however, does not extend to enter into arbitration agreement on behalf of the firm. While entering into a contract with partnership firm, care shall be taken to verify the existence of consent of all the partners to the arbitration agreement.
- (c) **Contracts with Limited Companies:** Company is association of individuals registered under Companies Act in which the liability of the members comprising the association is limited to the extent of the shares held by them in such companies. The company, after its incorporation or registration, is an artificial legal person which has an existence quite distinct and separate from the members of shareholders comprising the same. A company is not empowered to enter into a contract for purposes, not covered by its memorandum of association. Any such agreement in excess of power entered into the company is void and cannot be

enforced. Therefore, in cases of doubt, the company must be asked to produce its memorandum for verification or the position may be verified by an inspection of the memorandum from the office of the Registrar of Companies before entering into a contract. Normally, any one of the Directors of the company is empowered to present the company. Where bids are signed by person other than Directors or authorised Managing Agents, it may be necessary to examine if the person signing the tender is authorised by the company to enter into contracts on its behalf. Board Resolution for Authorized person of Limited Company is required

- (d) **Corporation other than Limited Companies:** Association of individuals incorporated under statutes such as Trade Union Act, Cooperative Societies Act and Societies Registration Act are also artificial persons in the eye of law and is entitled to enter into such contract as is authorised by their memorandum of association. If any contract has to be entered into with any one or such corporation or association, the capacity of such association to enter into contract shall be verified and also the authority of the person coming forward to represent the said Associations.

#### 2.6.8 **Consent of both Parties:**

Two or more persons are said to consent when they agree upon the same thing in the same sense. When two persons dealing with each other have their minds directed to different objects or attach different meanings to the language which they use, there is no agreement. The misunderstanding which is incompatible with agreement, may occur in the following cases: -

- (a) When the misunderstanding relates to the identity of the other party to the agreement;
- (b) When it relates to the nature or terms of the transactions;
- (c) When it related to the subject matter of the agreement.

#### 2.6.9 **Free consent of both Parties:**

- 2.6.9.1 The consent is said to be free, when it is not caused by coercion, undue influence, fraud, mis-representation or mistake. Consent is said to be so caused when it would not have been given but for the existence of coercion, undue influence, fraud, misrepresentation or mistake. When consent to an agreement is caused by coercion, undue influence, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was caused.

A party to a contract, whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been if the representations made had been true.

- 2.6.9.2 In case consent to an agreement has been given under a mistake, the position is slightly different. When both the parties to an agreement are under a mistake as to a matter essential to the agreement, the agreement is not voidable but void. When the mistake is unilateral on the part of one party only, the agreement is not void.

- 2.6.9.3 Distinction has also to be drawn between a mistake of fact and a mistake of law. A contract is not void because it was caused by a mistake as to any law in force in India, but a mistake as to law not in force in India has the same effect as a mistake of fact.

**2.6.10 Consideration:**

Consideration is something which is advantageous to the promisor or which is onerous or disadvantageous to the promisee. Inadequacy of consideration is, however, not a ground avoiding the contract. But an act, forbearance or promise which is contemplation of law has no value, is no consideration. Likewise, an act or a promise, which is illegal or impossible, has no value.

**2.6.11 Lawfulness of object:**

The consideration or object of an agreement is lawful, unless it is forbidden by law or is of such a nature that if permitted, it would defeat the provisions of any law, or is fraudulent or involves or implies injury to the fraudulent property of another or the court regards it as immoral or opposed to public policy. In each of these cases, the consideration or object of an agreement is said to be unlawful.

**2.6.12 Communication of an Offer or Proposal:**

The communication of a proposal is complete when it comes to the knowledge of the person to whom it is made. A time is generally provided in the tender forms for submission of the tender. Purchaser is not bound to consider a tender, which is received beyond that time.

**2.6.13 Communication of Acceptance:**

A date is invariably fixed in tender forms up to which bidders are open for acceptance. A proposal or offer stands revoked by the lapse of time prescribed in such offer for its acceptance. If, therefore, in case, it is not possible to decide a tender within the period of validity of the offer as originally made, the consent of the bidders shall be obtained to keep the offer open for further period or periods.

For contracts placed through GeM platform medium of communication is generally through GeM platform. However, if there is any problem in communication through GeM platform, the communication of Acceptance can be sent through email/Post/Fax. Whereas, contracts placed other than GeM platform, if any, communication of Acceptance will be through email/Post/ Fax only.

The medium of communication in government contracts is generally by post and the acceptance is, therefore, complete as soon as it is posted. So that there might be no possibility of a dispute regarding the date of communication of acceptance, it shall be sent to the correct address by some authentic fool proof mode like registered post acknowledgement due, etc.

**2.6.14 Acceptance to be identical with Proposal:**

If the terms of the tender or the tender, as revised, and modified, are not accepted or if the terms of the offer and the acceptance are not the same, the acceptance remains a mere counter offer and there is no concluded contract. It shall, therefore, be ensured that the terms incorporated in the acceptance are not at variance with the offer or the tender and that none of the terms of the tender are left out. In case, uncertain terms are used by the bidders, clarifications shall be obtained before such bidders are considered for acceptance. If it is considered that a counter offer shall be made, such counter offer shall be carefully drafted, as a contract is to

take effect on acceptance thereof. If the subject matter of the contract is impossible of fulfilment or is in itself in violation of law such contract is void.

#### 2.6.15 **Withdrawal of an Offer or Proposal:**

A bidding firm, who is the proposer, may withdraw its offer at any time before its acceptance, even though the firm might have offered to keep the offer open for a specified period. It is equally open to the bidder to revise or modify his offer before its acceptance. Such withdrawal, revision or modification must reach the accepting authority before the date and time of opening of tender. No legal obligations arise out of such withdrawal or revision or modification of the offer as a simple offer is without a consideration. Where, however, a bidder agrees to keep his offer open for a specified period for a consideration, such offers cannot be withdrawn before the expiry of the specified date. This would be so where earnest money is deposited / bid security declaration has been submitted by the bidder in consideration of his being supplied the subsidiary contract and withdrawal of offer by the bidder before the specified period would entitle the purchaser to forfeit the earnest money.

#### 2.6.16 **Withdrawal of Acceptance:**

An acceptance can be withdrawn before such acceptance comes to the knowledge of the bidder. A revocation of acceptance may be issued through e-mail, which reaches the bidder before the letter of acceptance, will be a valid revocation.

#### 2.6.17 **Signing of Contracts :**

The contract, may be signed by DO/GO of concerned purchasing section of YIL/ Units under YIL. The specimen signature of such officer is to be sent to all concerned, including the paying and inspecting authorities. As for the contractor, the person signing the contract is deemed to have been authorized by the supplier.

#### 2.6.18 **Changes in terms of a concluded Contract:**

No variation in the terms of a concluded contract can be made without the consent of the parties. While granting extensions or making any other variation, the consent of the contractor must be taken. While extensions shall be granted on an application of the contractor, the letter and spirit of the application shall be kept in view in fixing a time for delivery.

#### 2.6.19 **Discharge of Contracts:**

A contract is discharged or the parties are normally freed from the obligation of a contract by due performance of the terms of the contract. A contract may also be discharged: -

- (a) **By mutual agreement:** If neither party has performed the contract, no consideration is required for the release. If a party has performed a part of the contract and has undergone expenses in arranging to fulfill the contract, it is necessary for the parties to agree to a reasonable value of the work done as consideration for the value.
- (b) **By breach:** In case, a party to a contract breaks some stipulation in the contract which goes to the root of transaction, or destroys the foundation of the contract or

prevents substantial performance of the contract, it discharges the innocent party to proceed further with the performance and entitles him to a right of action for damages and to enforce the remedies for such breach as provided in the contract itself. A breach of contract may, however, be waived.

- (c) **By refusal of a party to perform:** On a promisor's refusal to perform the contract or repudiation thereof even before the arrival of the time for performance, the promisee may at his option treat the repudiation as an immediate breach putting an end to the contract for the future. In such a case, the promisee has a right of immediate action for damages.
- (d) **In a contract where there are reciprocal promises:** If one party to the contract prevents the other party from performing the contract, the contract may be put to an end at the instance of the party so prevented and the contract is there by discharged.

#### 2.6.20 **Stamping of Contracts:**

1. Under entry 5 of Schedule I of the Indian Stamp Act, an agreement or memorandum of agreement for or relating to the sale of goods or merchandise exclusively is exempt from payment of stamp duty. (A note or memorandum sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal is not so exempt from stamp duty.)

2. The Stamp Act provides that no Stamp Duty shall be chargeable in respect of any instrument executed by or on behalf of or in favour of the Government in cases where, but for such exemption, the Government would be liable to pay the duty chargeable in respect of such instrument. (Cases in which the Government would be liable are set out in Section 29 of the Act)

#### 2.7 **Authority for Execution of Contracts:**

Authority for Execution of Contracts for Ordnance factories/ other units working under the aegis of YIL will be HOD or on behalf of Head of Units duly authorised by HOD/DFP.

## CHAPTER-3

**FORMULATION & APPROVAL OF DEMANDS****3.1 Introduction:**

- a. The procurement of P&M is aimed at creation of long term asset and hence, has to be meticulously planned and effectively implemented to achieve the objectives of time, cost and performance. Each investment proposal for procurement of Plant and Machinery shall be made by raising Demands on case to case basis except for Government sanctioned projects. Format of Demand is enclosed in the Appendices.
- b. Initiation of procurement action for any Plant and Machinery shall invariably be the outcome of ongoing review of requirement of new machines based on the perspective production load and existing machine capacity.
- c. All investment decisions should necessarily be based on a realistic assessment of production load vis-à-vis known demand from the user / services on a medium term (5 to 10 years) timescale.
- d. While planning the proposals, PERT/CPM or a Bar Chart, listing all the important milestones/activities involved with realistic time frame for each shall be arrived at. Civil works and services required for timely erection and commission of the proposed machinery shall be planned with due consideration to the approximate lead time of the procurement of P&M so as to keep the site in readiness, well in advance, for immediate installation of P&M. Once the competent authority approves the proposal, this becomes the basis for monitoring

**3.1A Distinctive nature of procurement**

Capital goods are machinery and plants (M&P), which create new fixed assets/ utility/ functionality or benefits for the organisation and have a long and useful life. This also refers to IT procurements of IT Systems (comprising one or more Hardware, Networking, tailor-made and customized Software, Installation/ Commissioning, Training, AMC/ CMC, Cloud Services, and other services).

Distinctive features of procurement of Capital Goods are:

1. Since the cost is generally high, there are detailed procedures for approval of technical, administrative, and budgetary provisions – before an indent is generated. Unlike consumable items (which are procured if a non-specific budgetary provision is there), Capital Goods are procured after an item-specific Budgetary provision is included in the budget. Thus, the acquisition of Capital Goods is also an Investment decision and may require some form of investment justification. Some of the higher-value Capital Goods may be accounted for in the Capital Block of the Organization. However, these features may not apply to Capital goods of smaller values;
2. There are also alternatives to outright purchasing/ owning such equipment, like hiring/ hire purchase/ leasing or acquiring the functionality as a service. For example, instead of buying a staff car, a monthly service/ hiring contract can be entered into to provide vehicles as per requirements. The car can also be wet leased (including maintenance), and a service contract for drivers/ cleaners can be entered into separately. This can be especially advantageous in equipment that undergo obsolescence quickly – e.g., IT equipment.
3. The procurement involves elements of Works and Services like Installation, Commissioning, Training, prolonged trials, Warranty, After-sales services like post warranty Maintenance and assured availability of spares. All such elements have

costs that may be quoted explicitly or implicitly. A suitable warranty clause should indicate the period of warranty and service levels as well as penalties for delays in the restoration of defects. Clauses for including essential initial spares for two years' maintenance to be supplied along with equipment may be provided. If necessary, an appropriate number of years (say three to five or more years, depending on the lifespan of the equipment) AMC may be included in the procurement detailing its conditions;

4. The cost of operations, maintenance, and disposal of the equipment over its life cycle may far outweigh the initial procurement cost over the life cycle of the capital equipment. Hence, Total Cost of Ownership (TCO) becomes an important consideration – which can be addressed in Public Procurement by way of appropriate Description, specification, and Contract conditions like the inclusion of the cost of supply of initial essential spares and Net Present Value (as per NPV technique, refer para 8.5 below) of Annual Maintenance Contracts (AMC) for a specified number of years within the estimated cost and also the evaluation criteria of procurement contract;

5. In case the Plant and Equipment (or an IT System) consists of several machines/ components/ systems that work in tandem or if it includes services/ works to be done by a third party, an all-encompassing Turnkey contract may be a better alternative,

6. Because of the complexity of specification evaluation, the technical suitability of offers in the procurement of capital goods involves complex issues about acceptance of alternatives, deviations, and compliance with various particulars of specification. Acceptance or otherwise of alternatives should be made explicit. A statement of deviation, including the detailed justification for the deviations from each clause of specification, should be requested from the bidder in the tender documents. A schedule of Guaranteed Particulars of specification indicating the values of each parameter may be included in the Specification, where the bidder can quote the offered value of the Parameters. In complex cases, a Pre-bid conference may help in reducing disputes and complexity at the time of evaluation;

7. Experience, capacity, and financial strength of a supplier are important determinants of quality and after-sales support for capital goods; such procurements are a fit for prequalification bidding

### **3.2 Capacity planning for P&M:**

- a. The number and capacity of P&M shall be decided on the basis of requirement of the product/material to be produced/ processed, including rejection/wastage/ proof, for the end products and peak load expected in the medium term (5-10years).
- b. Capacity is calculated considering the cycle time stipulations, wherever applicable, and taking into account machine efficiency of 80% and human efficiency of 80%, i.e. overall 64% efficiency.
- c. Normal working of machines is taken as two 8-hour shifts per day. Saturday is taken as 4 3/4 hrs. The total working hours of a machine per year is taken as 4414 hrs. Basis of calculation:  $[365-52(\text{Sat})-52(\text{Sun})-16(\text{GH})] \times 2 \times 8 + 52 \text{Sat} \times 2 \times 4.75 = 245 \times 2 \times 8 + 52 \times 2 \times 4.75 = 3920 + 494 = 4414$  hours.
- d. Example: Suppose the final capacity required for end product is 75 Million Rounds per year and 10% is taken as rejection/proof wastage. Then, the capacity required is  $75/0.9 = 83.33$  Million/annum. Assuming that the machine produces 250 components/ minute i.e. 15,000 per hour, the production from one machine in a year =  $15000 \times 4414 \times 0.8 \times 0.8 =$

Therefore, the number of machines required will be  $83.33/42.374 = 1.966$  i.e. 2 (two) Nos.

- e. Normal working of plants is taken as 22 days/month (one day weekly off and one day for cleaning/maintenance per week) and considering 2 months in a year for annual maintenance shutdown i.e. total 220 days per annum. Example: Suppose the quantity of product required is 500 MT/annum and about 10% is process wastage/rejection. Then, the plant capacity to be purchased shall be specified as  $500/(0.9 \times 220 \times 0.8 \times 0.8) = 3.946$  MT/day i.e. 4 MT/day.
- f. Normally, plants are run continuously i.e. three shifts / day. Some explosive plants are not run in night shift for safety reasons; normal working for such plants may be taken as one 8-hour shift or two 8-hour shifts (as applicable) per day. Therefore, in addition to capacity/day, the number of shifts/day shall also be specified in the tender as applicable for the plant.
- g. Chemical process plants (e.g. Nitro-Glycerine or Sulphuric Acid Concentration plants) may be purchased even for suitably larger size because of following practical advantages:
- h. Safety: In normal times, production can be achieved in a short time with less manpower. This allows safety in handling of explosive as workers need not hurry to finish work.
- i. Economy: Cost does not increase proportionately with increase in capacity. The 'thumb rule of 6/10' says that if capacity is increased by 'x' times, then the increase in cost is equal to POWER (x, 0.6), i.e. 'x raised to the power 6/10'. For example, cost is 1.5 times for double capacity, cost is 1.9 times for triple capacity and cost is around 2.3 times if capacity is increased four times.

### 3.3 Projection of manpower for sanction in new projects:

Projection of additional manpower to be judiciously worked out.

### 3.4 Heads of Procurement of Plant & Machineries:

- a. Procurement of Plant and Machineries in the Ordnance Factories and other units under YANTRA INDIA LIMITED (YIL) will be initiated under two heads viz. Renewal & Replacement Capex(RR) and New Capital Capex(NC). The machines under CAPEX(RR) are required to be renewed and replaced against the old capacities of the factories, whereas, the Plant and Machineries under CAPEX(NC) are meant for creating new capacities or augment them or improve productivity and quality of existing production lines **including new Projects**. The procurement of Plant & Machinery under Capex(RR) & Capex(NC). Heads is aimed at accelerating modernization of Ordnance Factories under YANTRA INDIA LIMITED (YIL), so as to keep pace with the fast changing product mix and induction of new productive technologies.
- b. YIL/units /PFC will approve CAPEX(RR) Plans by First Quarter of the financial year. New Capital projections are based on the long-term project plan or for investments of isolated nature, the specific requirement of the units etc. Format of CAPEX(RR)/CAPEX(NC) Demand is enclosed in the Appendix 'B'. However, under special circumstances, PFC may be convened as per requirement.
- c. Code Heads:

| RR         |                                | NC         |                                                     |
|------------|--------------------------------|------------|-----------------------------------------------------|
| Class Code | Nomenclature                   | Class Code | Nomenclature                                        |
| 813/01     | Renewals & Replacements of P&M | 922/31     | Renewals & Replacements of P&M through Capex Budget |
| 813/02     | Erection and Commissioning     | 922/32     | Custom Duty                                         |
| 813/03     | Custom Duty                    | 922/33     | Freight Charges                                     |
| 813/04     | Freight Charges                | 922/34     | Deduct – Refund of Advance of CAPEX(RR) of P&M      |
|            |                                | 922/35     | Deduct – Payment of commission Charges to M/s MSTC  |
|            |                                | 922/36     | Erection and Commissioning                          |

UCC- As per list of ledger issued by YIL

### 3.5 Depreciation norms:

Plant & Machineries procured in the factories are depreciated at specified rates to recover the investments made for their procurement using the Straight Line Method. In this method, depreciation is charged uniformly over the life of an asset. A machine may become due for replacement, when its residual book value becomes zero or when it is categorized as 'beyond economical repair', on the basis of assessment of machine condition and due recommendation of a Technical Committee. The life of a Plant and Machinery will also be determined by the consideration whether the machine is a Tool room machine or production machine for engineering or chemical/explosive process plant. Machine which is proposed for replacement based on expected completion of its life, it is prudent that the replacement action of such machines are initiated at least 1 year in advance, keeping in view the lead time required for procurement of P&M. Demand of such machine shall be vetted by F&A on the basis of BER/ assessment report. Assessment report by board of officers consisting of user, maintenance and finance member duly approved by HOD shall be submitted along with the demand. On receipt of replacement, the machine for which replacement actions were taken is to be disposed off, if required.

- a. For The depreciation norms: Clause 1.5 of accounting policy issued by YIL HQ shall be referred.

### 3.6 Perspective Planning:

In accordance with the Five Year Plan period, each units shall formulate its Perspective Plan for the next five years, on the basis of projections from users, in respect of end product factories. The Perspective Plan of the units shall be in agreement with the Perspective Plan of respective group of factories of YIL and in accordance with the guidelines issued by YIL from time to time.

### 3.7 CAPEX(RR) Plan and PFC approval:

- (a) Based on Perspective Plan and need for modernization, each units shall prepare its annual Renewal and Replacement Capex (R) Plan as per the prescribed format. Competent authority for approval of Demand of P&M shall be governed as per delegated financial powers issued by YIL.
- i) Recommendation of Demand by PFC/Units: Demands with estimated value as per delegated financial powers issued by YIL shall be scrutinized and recommended by PFC/Fy headed by ED in association with Head of Finance and senior most officer of User and senior most officer of Engg. Office who are member of TPC-I.
  - ii) Approval of Demand by PFC/YIL: PFC/ Units shall scrutinize the CAPEX(RR) Plan, before forwarding its recommendation to YIL. It shall consist of CAPEX(RR) Demands for each P&M, along with related documents for approval except mentioned at Para-i above. The same will be examined by the PFC/YIL, headed by Direction/Operation. Further, PFC recommendations will be examined by the Committee of Directors (COD) headed by the CMD/YIL. Furthermore, COD recommendation will be forwarded to BoD/YIL for approval. The P&M demanded under CAPEX(RR) need not be on exact like-to-like basis and shall have modern improved features and/or modified capacity to suit future requirements. The following points should be kept in view, while finalizing the CAPEX(RR) plan:
    - i. List of P&M available with the units, their original cost and procurement year.
    - ii. Philosophy/concepts relating to investment for replacement.
    - iii. Introduction of latest technology through CAPEX(RR) scheme due to change in product mix
    - iv. Sustained and futuristic requirement of users
    - v. Outsourcing and cost benefit analysis
    - vi. Up-gradation of technology
    - vii. Improvement in productivity and quality
    - viii. Saving in material and manpower cost
    - ix. Flexibility
    - x. Availability of Building to install the proposed P&M, requirement of various services.

**Note:** For cases valuing above ₹ 50 crore Financial appraisal including sensitivity analysis from an external agency to be ensured while sending demand/DPR.

- (b) For cases where procurement has to be done by YIL HQ: Based on Perspective Plan and need for modernization, YIL HQ shall prepare its annual Renewal and Replacement Capex (R) Plan as per the prescribed format. Competent authority for approval of Demand of P&M shall be governed as per delegated financial powers issued by YIL.

Recommendation of Demand by PFC YIL HQ: Demands with estimated value as per delegated financial powers issued by YIL shall be scrutinized and recommended by PFC/YILHQ headed by Director Operations in association Finance, User and M&P (Modernisation & Procurement ) division member.

- (c) Budgetary Estimation: for Budgetary Estimation of demand following guidelines to be adopted.
- i. Estimate containing element-wise price of entire scope of supply as regards to basic machine, accessories, toolings, spares, taxes, duties, E&C charges, training charges, cost of foundation/civil works, transportation, GST (Including SGST, CGST and IGST separately) etc.
  - ii. For equipment/craft which are uniquely custom-built to buyer's specifications, the best way to get a fair assessment of costs is by obtaining budgetary quotes from potential parties. Ideally, there should be three quotes. However, there is need to have a time schedule for receipt of quotes to ensure some timeframe for this activity.
    - a. An attempt should be made to obtain as many budgetary quotes as possible from reputed/potential firms and a time of 21 (twenty-one) days be indicated therefore. In the event of receipt of less than three budgetary quotes, two extensions of up to 10 (ten) days each may be considered; and
    - b. In the event of non-availability of three quotes within the above extended period, the estimates should be prepared on the basis of the number of budgetary quote(s) received, which may even be one; and where more than one budgetary quote is received, the estimate should be framed on an average of the quotes which will reduce variations and fluctuations.

It may be noted that budgetary quotes are not exact estimates, as the bidder who expects to be short-listed may quote high rates, and the bidder who does not expect to be shortlisted may quote abnormally low prices to queer the pitch for others.

- (d) Each demand under CAPEX(RR) plan to be submitted to YIL for approval shall be accompanied by the following documents/information:
- i. Budgetary Estimation as elaborated in para (c).
  - ii. Details of items to be produced, with annual capacity.
  - iii. Time cycle for each component/end product after discussions with machine tool supplier
  - iv. Based on outturn quantity and rate of production, number of such machines required to be clearly calculated / ascertained.
  - v. Condemnation reports (CR) declaring machines 'Beyond Economical Repair (BER)'
  - vi. PFC YIL/FY's recommendation giving mode of tendering and prospective list of suppliers.
    - a. Fy/PFC will recommend and approve all the salient tender conditions for tender publishing through GeM/CPPP/GTE/LPC as per Annexure-AC
  - vii. Demand in the prescribed format duly vetted by units 's F&A as per latest YIL Financial Delegation.
  - viii. Cost benefit analysis, if cost of machine between ₹.50 lakh – ₹. 2.0 Cr. / IRR appraisal if cost of machine exceeds ₹. 2.0 Cr., duly vetted by F&A.
- (e) The units shall submit the Annual Replacement Plan as per instruction issued by YIL HQ, in Proforma A & B (given in the Appendices.)

- (i) Proforma A: It shall consist of realistic assessment of previous approved plans stating inter-alia the cash flow materialised as well as cash flow envisaged in the subsequent years.
- (ii) Proforma B: It shall contain P&Ms for replacement, with description, registration numbers and estimated cost. It shall contain only those machines, which have been recommended as BER by Technical Board of Examination and approved by ED.

Note: After approval by PFC/ YIL, changes by factories are not acceptable.

- (f) Against approved CAPEX(RR) plan of units, ED is authorised for purchase of P&M within their delegated financial powers. For purchase of machines (approved by PFC/YIL) beyond the delegated powers of ED, units will float Tender Enquiry and forward its TEC recommendation to YIL. Based on TEC/ YIL approval, units will open the price bids and forward its TPC recommendation to YIL for approval of YIL /MOD, as the case maybe.
- (h) All high value spares of specific Plant & Machinery beyond the amount of ₹ 25 lakhs (Twenty five lakhs), procured against LP may be capitalized in the same financial year and booked against the present book value of the plant & machines.
  - (i) Demand notes posted during current financial year only shall be capitalized.
  - (ii) Since the items to be transferred out of stores stock, a credit for the capitalized amount shall be taken by the Fy under appropriate code head. Fy shall ensure that the book value & life are updated against the respective P&M in the Machine Block Register in consultation with the concerned F&A.
- (i) Approval of the competent authority needs to be obtained for initiating GTE valuing less than ₹ 200 Crore in line with Government guidelines. However for details Clause may be referred in relevant chapter.

### **3.8 Procurement of P&M under New Capital:**

Plant and Machineries under CAPEX(NC) are procured under the following conditions-

- (a) Against sanctioned project
- (b) Normal CAPEX(NC) to meet requirement towards-
  - (i) Creation of additional capacity in the units to cater for sustained increase in production
  - (ii) Creation of balancing capacities for new store
  - (iii) Meeting shortfall in the existing capacity
  - (iv) Meeting of statutory obligations,
  - (v) Improvement in existing production line in terms of Productivity, Reliability or Product Quality.
  - (vi) Capacity augmentation for revised authorization etc.
  - (vii) Creation of New services facility, such as AC plant. Airline/streamline etc. as per production requirement.
  - (viii) Creation of new quality Equipment/Machine.
- (c) All CAPEX(NC) demands in the prescribed format (enclosed in the Appendices) duly vetted by F&A GM/Fin for demand having estimated value more than ₹. 1.0 Cr] will be forwarded to YIL, keeping in view the points as mentioned for initiation of demands against Renewal & Replacement. Such CAPEX(NC) demands shall also have enclosures of documents as mentioned under Renewal & Replacement

procedure (except condemnation report). On receipt of YIL approval, units shall follow the procedure in Para 3.7 (e) above.

- (d) As far as possible Fy./other units under YIL will forward the CAPEX(NC) requirement along with CAPEX(RR) plan. The contents of para-3.7 (a) i-ii shall be applicable.

### **3.9 Financial appraisal of Capital Investment:**

- a. A capital investment proposal will require financial appraisal which would involve the following sequence of steps:-
- (i) Estimation of the initial capital investment and the timing of cash outflow.
  - (ii) Estimation of the production level at the time of full production.
  - (iii) Estimation of future cash out-flows considering various production factors.
  - (iv) Estimation of future in-flows based on the estimated volume of production & prices, etc.
  - (v) Working out the net in-flows.
  - (vi) Proposal Evaluation, based on accepted financial evaluation techniques like IRR etc.
- b. Procedure for financial appraisal is dealt in a separate chapter of this manual.

### **3.10 Projectisation of high value procurements:**

Proposals for capital investment valuing ₹ 50 Cr or above shall ideally be done as projects. Even if it is not practicable to prepare a detailed Project Report for such individual CAPEX(RR) Proposals, these shall incorporate realistic estimated costs (with full details of all cost elements) and PDCs with activity milestones, based on which YIL shall accord the sanction. YIL shall monitor such approved projects. YIL shall examine the case of cost overrun beyond 10% of the original sanctioned cost and time overrun beyond two years, for the reason leading to such circumstances.

### **3.11 Reconditioning of P&M:**

For reconditioning /refurbishing of old Plant and Machinery, the demand may be prepared in line with the existing CAPEX(RR) procurement norms, which may be forwarded for approval of PFC/YIL. The following procedure should be followed in this regard:

- a. While BQ is obtained, the concerned firm shall be asked to provide the realistic enhanced life of the machines after reconditioning.
- b. units shall assess the cost of reconditioning and shall ascertain that it does not exceed 40% of the present cost of the new machines of similar nature and shall be supported with Cost Benefit Analysis with maximum return period on investment of 05 years.
- c. While the demand is prepared, units shall make detailed specification for reconditioning along with realistic estimated cost supported by budgetary quotation from OEM/reputed firms dealing with reconditioning.
- d. Justification for reconditioning shall be recorded.
- e. After reconditioning, the cost of reconditioning shall be added in the residual book value of the machine and enhanced life of the machines shall be reassessed and recorded in the machine ledger. Depreciation will be calculated afresh on the new book value arrived at.

## CHAPTER-4

## FRAMING OF SPECIFICATION

**4.1 Introduction:** One of the most critical activities in the procurement of P&M is framing of specification. Correct specification enables timely finalization of procurement case. The specification aims at meeting the actual and essential needs of the user because “over- specification” will unnecessarily increase the cost and may stifle competition. The specifications shall be broad based for wider competition.

**4.2 Basic Guidelines:**

- a. Specifications should aim at:
  - i. State of the art technology
  - ii. efficiency in consumption of materials,
  - iii. optimum fuel/power consumption,
  - iv. use of environmental-friendly materials,
  - v. reduced noise and emission levels,
  - vi. low maintenance cost etc.
  - vii. Lean equipment
  - viii. Operation friendly with consultation of Stake Holders.
  - ix. Meeting the applicable mandatory and statutory regulations,
  - x. Acceptance criteria for Inspection during PDI and final acceptance. (during PDI all technical parameters as per TE condition to be ascertained)
  - xi. Non-inclusion of restrictive clause like bidder specific features etc. such as make, model etc.  
 Except in the case of proprietary purchase from a selected single source, reference to trademark, brand/ trade names, catalogue numbers, or other details that limit any materials or items to the specific manufacturer(s) should be avoided as far as possible. Where unavoidable, such item descriptions should always be followed by the words “or substantially equivalent.
  - xii. Non-inclusion of vague / un-measurable / conflicting quality parameters / inspection terms
  - xiii. Buyer’s requirement on output quality, process capability, productivity, lower rejection, acceptance criteria for PDI and Final acceptance test.
  - xiv. Judicious inclusion of optimum quantity of tools, fixtures, spares.
  - xv. Accessories in-line with commonly used in Industry
  - xvi. Software should be of latest version as on date of tendering / commissioning.
  - xvii. Shall mandatorily cover Guarantee / Warranty details
  - xviii. Shall incorporate mandatory training requirement
  - xix. Shall clearly specify technical and other supporting documentation required for technical bid evaluation.
  - xx. Inclusion of CMC/AMC as per requirement.
- b. Wherever Indian Standards exists for the required machines, the same shall be adopted. Preference shall be given to procure the machines, which carry BIS (Bureau of Indian Standards) mark.

Normally, these standards should be based on national technical regulations or recognised national standards (Bureau of Indian Standards - BIS) or building codes, wherever such standards exist. Preference should be given to procure the goods which carry the BIS mark. In the absence of national standards, TS may be based on the relevant International standards. Provided that an indenting authority may, for reasons to be recorded in writing, base the TS on equivalent international standards even in cases where BIS standards exist. For any deviations from Indian standards or for any additional parameters for better performance, specific reasons for deviations/modifications should be duly recorded with the approval of the CA. Where the technical parameters are only marginally different, Indian standards may be specified, and the Departmental specifications could cover only such additional details as packing, marking, inspection, and so on, as are specially required for a particular end use;

- c. For special purpose machines, deviations from Indian Standards are allowed and additional parameters may be stipulated for better performance. In addition, special requirements may be specified for packing, marking, inspection etc. as are specially required for the particular end use.
- d. In cases, where Indian Standards do not exist or, alternatively, decision has been taken to source from the foreign markets also, International Standards (like ISO, EN, ANSI, etc.) may be adopted. Where no widely known standards exist, the specifications shall be drawn in a broad-based manner to obtain competitive bids from different sources.
- e. Except in case of proprietary purchase from a selected single source, reference to brand names, catalogue numbers or other details that limit any materials or items to specific manufacturer(s) should be avoided as far as possible. Where unavoidable, such item descriptions should always be followed by the words "or substantially equivalent"
- f. The specification and the technical details shall be expressed in unambiguous terms. Wherever necessary, the specification shall be supplemented with drawings for additional clarity etc. This shall inter-alia indicate the various inputs and required outputs, design criteria, cycle time, efficiency, accuracy, quality aspects, trial duration, guarantees, warranties etc.

At the same time, care should be taken to make the specifications generic in nature to provide equitable opportunities to the prospective bidders

- g. In place of specific values, suitable range shall be specified for design related parameters like size, power consumption for main and auxiliary motors, pressure, spindle power, spindle speed, etc.

### **4.3 How to frame Specification:**

- a. User section in consultation with the related maintenance sections will frame technical specification, duly approved by Group Officer/Controlling Officer of User

section. Engg. Office shall frame the general, commercial & other terms and conditions.

- b. In case of Special/Critical/Chemical and Metallurgical process Plants of high value, factory units is required to constitute a multifunctional Technical Committee comprising officials of user, maintenance and safety sections for finalisation of specification.
- c. The design criteria of big turnkey plant shall be specified to take into account the necessity for in-built redundancy depending on criticality of operation, so that normal production is not affected due to major breakdowns or serious accidents (like explosion in case of ammunition/ explosive plants). For example, it may be specified that: The design of the plant should be such that (i) there is 50% redundancy in any operation having only a single equipment, i.e. capacity output per day shall be achieved in that operation in less than 12 hours, and (ii) there is 33% redundancy in operations having more than one equipment, i.e. capacity output per day shall be achieved in such operations in less than 16 hours. Otherwise, the number of connected standby machines for each stage or one standby line for the critical stages of the plant may be specified.
- d. The capacity of vessels for storage of input, intermediate and output materials shall be sufficient so as to enable production, even if there is interruption in receipt/issue of materials for one month.
- e. Statutory requirements like pollution control limits and safety restrictions shall be part of technical specifications. They shall be mentioned explicitly to avoid any confusion or controversy later.
- f. In order to formulate a **broad based specification** to generate adequate competition, the factory units (User section) shall first prepare brief general specification indicating the nomenclature, capacity including any in-built redundancy & standby required, inputs to be used, utilities available in factory units, special requirements (on productivity, quality, effluent treatment / pollution control, safety, automation, etc.) and seek budgetary quotations (BQ).
- g. Thereafter, on the basis of budgetary offers obtained and/or exhaustive interactions held with the prospective suppliers, factory units shall firm up detailed specification and approximate estimated cost taking average of the BQ.
- h. The draft specification may be shared with prospective suppliers for feedback and necessary correction, before raising of demand for the machine.
- i. In some cases where factory units does not have adequate knowledge about the technology/process e.g. for new machine or big complex plant, factory units shall first float advertisements for Expression of Interest (EOI) or Request for Information (RFI) to get information about the capability of prospective suppliers and their machine /plant and also to shortlist suppliers on the basis of pre-qualification criteria. On the basis of information received about the latest machines or plants available in the market, the specifications shall be finalized. Tender TE shall be uploaded on GeM . Where factory units feels there are special reasons for

floating tender outside GeM, it may record its detailed justification and seek prior approval for relaxation from PFC.

- j. If required, team of officers may be deputed to foreign countries to ascertain likely suppliers and the availability of modern technology machines or plants.
- k. While formulating the specifications, it is necessary to indicate clearly what are the Standard or Essential items and the Total Scope of Supply. This will facilitate equitable competition and also the decision making process at the time of evaluation.
- l. Factories shall incorporate suitable provisions to equip the P&M with Industry 4.0 and AI enabled/ ready systems.
- m. While formulating the specifications, it is necessary to implement following:
  - Specification shall not facilitate the TOT of the buyer to the sellers.
  - Specification shall clearly indicate the general guideline (No mandatory) and essential guideline in scope of work.
  - Minimum Qty for essential spares and requirement of Manufactured recommended list of spares for number of years for warranty period.

#### **4.4 Outlines of a Specification:**

Keeping the above requirements in view, the following parameters are required to be clearly defined, while framing specification of P&M.

- (i) Clear technical requirements:
  - (a) Broad based criteria, mentioning the points where no deviation is permitted, with asterisk.
  - (b) Specifications shall mention the end product requirement taking into account the flexibility required for future options, especially for tooled up machines.
- (ii) The bidder shall be asked to indicate the approximate cycle time for the end product to assess the rated output of the machine.
- (iii) Responsibilities of both the purchaser and the seller shall be defined.
- (iv) Availability of water, air, steam, power, other services and their quality shall be indicated in the tender specification. If any specified quality of above items is not meeting the requirement of the bidders, bidders shall include the necessary accessories along with the machine.
- (v) Battery limits: This will include supply of water at the inlet to the machine at a specified point, steam supply at a pre-specified point, power at a point required – normally at the control panel, vent/exhaust piping, supply of air of required quality at a pre defined point.
- (vi) Documentation: List of all Documents to be provided by the supplier along with the quotation, and also with the supply of machine, shall be specified clearly.
- (vii) Especially, for turn-key Project, suitable clause must be incorporated in the specification that the firm must complete the civil works and services in synchronous with P&M activities.
- (viii) Pre-despatch Inspection criteria must be laid down in the tender specification.

- (a) Criteria of acceptance, such as machine geometrical accuracy, process capability, component accuracy and rated output etc. need to be defined. For purpose of accuracy, repeatability and process capability, relevant national/international standard required for the product shall be indicated. Process capability shall not be over-specified.
  - (b) Trials of machine including supply of trial components and their positioning etc shall be stipulated in terms of quantity, quality (dimensions, hardness and finish condition) and timeframe.
  - (c) Requirements of stage inspection of machine during assembly at the firm's premises, if any, may be specified.
  - (d) Requirements of training for purpose of maintenance during final assembly, if any, may be specified.
- 
- (ix) For tooled up machine, cost of tooling constitutes substantial investment of recurring nature. Therefore, the bidder shall be asked to specify tool life in terms of machining of number of components and approx. tool cost per component. Tool requirement during trials and tool drawings may be asked for.
  - (x) Erection responsibility and site conditions shall be spelt out. In case, erection is consignee's responsibility, it is preferable to ask for foundation drawings within predefined period after the placement of S.O.
  - (xi) If felt necessary, the supplier's responsibility for the supply of tools and tackles during erection and commissioning may be specified.
  - (xii) Commissioning & Acceptance Trial: Acceptance criteria indicating period for trial, quality and quantity of output, machine efficiency and how and when these tests would be carried out shall be clearly indicated. The factors which will be considered for practical demonstration of the machine efficiency shall be clearly specified.
  - (xiii) Commissioning responsibilities shall be spelt out.
  - (xiv) Responsibility for the supply of spares, cutting tools and consumables during commissioning shall be spelt out.
  - (xv) Requirement of Essential Spare parts for the plant under purchase to be clearly mentioned.
  - (xvi) Specialised training requirements for the purchaser's personnel shall be outlined.

#### **4.4A Pre-Dispatch Inspection:**

a) A pre-dispatch inspection may be conducted either during various stages of the production process (which is known as stage inspection) or on the production of the finished products but before the dispatch of the goods from the supplier's premises. Stage inspection may be used for highly technical goods whose quality of the manufacturing process is likely to have a considerable effect on the final quality and durability of the goods. Even after pre-dispatch inspections, these materials should be inspected again upon receipt as a matter of abundant precaution.

b) Inspection of the materials before dispatch shall be carried out by the inspection agency nominated in the contract or by its representative at the premises of the supplier in accordance with the inspection procedure laid down and incorporated in the purchase order.

c) The supplier should bear the testing charges for samples, and this should be made clear at the enquiry stage itself to avoid claims later/or affect his position in the comparative statement of offers. Any special

testing involving significant financial implications shall be settled prior to placement of the order, and such costs should form part of the evaluation.

d) In the case of offshore supplies, the pre-dispatch inspection clause shall be incorporated in the purchase order wherever required:

e) The procuring entity may depute its representative or a third-party inspection agency to the supplier's manufacturing premises to carry out/witness inspection and testing, performance testing at its discretion;

f) Alternatively, the Procuring Entity shall retain an option to waive the above and accept the material based on the supplier's internal test report, guarantee and fitment certificate. In this regard, the written approval of the HoD of the Indenting Department should be obtained, and the reasons for it should be recorded.

g) Whenever the inspection is carried out at the supplier's manufacturing premises, an inspection on receipt of goods at Procuring Entity shall also be carried out by an officer of the Indenting Department or a third-party inspection agency, as the case may be.

h) It has been brought to the notice of the Department of Expenditure that the contracts signed with suppliers by some of the Ministries/ Departments have clauses of preinspection at the firm's premises, where there is a provision that the suppliers or the vendors will pay for the travel, stay, hospitality and other expenses of the Inspecting officials. This is not in keeping with the need to safeguard the independence of the inspecting teams. Such provisions in contracts need to be discouraged so that Inspections are not compromised. Necessary steps may be taken to avoid such provisions in the contracts with suppliers/ vendors strictly.

#### **4.5 Specimen Terms for Technical Specifications:**

Note: The following specimen is for guidance purpose only, the actual specification may be derived by the Factory Units/User as per actual requirement.

a. **SCOPE OF CONTRACT:**

(a) Scope of contract shall be:

- (i) Supply of equipment as specified, with spares as desired.
- (ii) Loading/unloading of P&M.
- (iii) Erection and commissioning of the equipment as specified.
- (iv) Detailed documentation and training of personnel, in operation and maintenance of the equipment as specified.

(b) To fulfil the contract terms the vendor will have to subject the equipment to tests and extend warranty/after sales service as specified.

(c) To ensure completeness of the equipment the vendor shall include in his scope of supply all auxiliary items like pipings, interconnecting cables, initial filling of oils and lubricants and such other items which will be necessary for running of the machine for 3 months but are not included in this specification.

b. **TECHNICAL DETAILS OF THE P&M/EQUIPMENT (to be stipulated by Factory Units):**

- i. Clear Technical parameters/accuracies of the P&M/equipment.
- ii. Measurable / Quantifiable Capabilities of the P&M/equipment required.

- iii. Description of process/Drawings of job to be performed on the P&M/equipment.
- iv. Special design features required by the user.
- v. Accessories and tooling-up required.
- vi. Maintenance/Diagnostic facilities.
- vii. Guarantee and Warranty Period
- viii. Obligation to Spare parts for specified years
- ix. After sales service on payment basis.

c. DESIGN PARAMETERS FOR DURABILITY AND ACCURACY.

- i. The P&M/equipment required shall be designed for continuous heavy-duty operations.
- ii. The P&M/equipment shall be designed for high precision work. Design features should be such as to sustain the accuracy over long period (at least 10 years) of continuous working.
- iii. The design shall incorporate adequate factors of safety as per applicable codes of practice and regulations.
- iv. The vendor while quoting for a P&M/equipment shall ensure that the typical applications projected for tooling-up does not fall in the extreme end of range of application of the machines from considerations of accuracy, power, transmission, tool thrust etc. There shall be sufficient reserve for future applications with more demand on these factors.
- v. All electrical motors, power contactors shall be designed (as per best and latest engineering practices) rated higher than duty requirements. Motors shall be of totally enclosed fan cooled with class B or E type insulation and shall have a nominal voltage rating of 415V. Motors above 0.5 HP shall have 3 phase design.
- vi. All above ground cables in the least shall be PVC insulated and PVC sheathed, all underground cabling shall be PC sheathed, single wire armoured and overall PVC sheathed. All control cables shall be of minimum 2.5 mm<sup>2</sup> section copper conductor. All power cables shall be suitable for 100% additional current over reputed cable manufactures rating recommendations at 40°C to compensate for derating due to various factors prevailing in site.
- vii. All electrical motors up to 7.5 HP shall be provided with direct on line starters. Beyond 7.5 HP, reduced voltage starter to limit the starting current to 1.73 times the full load current, shall be provided. For L.T. Motors beyond 300 HP, the starting current shall be limited to 1.2 times the said current.
- viii. Motors beyond 400 HP shall be designed only on H.T. on 6.6 KV/11 KV. Confirmation on this is to be obtained from the purchaser.
- ix. Two earth terminals shall be provided on machine. All the equipments shall be rigidly connected to or carrying 3-phase supply, readily identifiable with red-paint mark. On single phase equipment, one earth terminal may be provided.
- x. In the hydraulic system of the machine, arrangement shall be provided for natural or refrigerated cooling of the hydraulic fluid to maintain the desired temperature. The oil temperature shall not exceed 25<sup>0</sup> C above for 24 hours of running. If required, cooler shall be provided. Water cooler shall be provided. However water coolant heat exchangers shall not be used.
- xi. All solenoid operated valves shall be operated by hand for maintenance checks.

- xii. Hydraulic equipment and piping shall be accessible and mounted in such a position that adjustment or maintenance to mechanical and electrical equipment is possible.
- xiii. Suitable means shall be provided to remove suction strainers without draining the hydraulic tank.
- xiv. Piping shall be so arranged that pressure may be tested at accessible built in checking position which shall be indicated on circuit diagram.

d. CNC SYSTEM:

The system offered shall be a commercially proven latest model of reputed manufacturer. Supplier shall take into consideration offering of additional features required if any, required for the control system to obtain optimum utilization.

System shall work continuously for 22 hours giving satisfactory units performance in working conditions indicated elsewhere in these specifications.

System shall be a microprocessor CNC with continuous path control with integrated programmable controller, for the specified machine, drives, resolution, tool changing system for different tool configuration, pallet changes, various compensations, special setting devices etc.

Control logic shall be distributed multi microprocessor system of latest commercially proven version.

System shall be a modular construction of software-each function as a discrete module assembled as a complete software.

All operator manual control shall be through PC interface for total interlock.

System shall have built in air conditioner or heat exchanger, which shall be floor mounted or side mounted type, not top mounting type. The system without any of the above alternative is not acceptable.

Control cabinet should be dust proof.

All electrical and electronic components should be tropicalized.

The control system offered shall be suitably situated for convenient operation and can be:

- Free standing cabinet.
- Machine mounted cabinet.
- Desirable primary control system tapings of transformer shall be single phase 240V- 230V-220-200V.
- The supplier shall also quote for a frequency stabilizer with digital frequency display with all connections and interfaces.
- CRT diagnostic display shall be provided to pin point the defect in machine function as well as the system function in specific sequences. (This shall not form the regular diagnostic system offered along with the control).
- Spindle drive and feed drives shall be from reputed manufacturers only.
- If the equipment is required to be housed in an air conditioned room or any control panel has to be kept in an air conditioned room, the same shall be brought out in the offer against the TE.

- Pertaining to above, the supplier shall furnish details of air conditioning load, temperature, relative humidity, size of enclosure etc..
- Any requirements for spot lighting on the equipment shall form part of the supply.
- As soon as any of the control panels is opened, the light inside the panel must get switched on automatically.
- If special lighting is required, the same shall be indicated in the offer giving details of illumination level etc.

e. LUBRICATION SYSTEM

As far as possible lubrication system to deliver lubricating oil to all parts of the machine requiring lubrication shall be automatic along with the following arrangement.

Lubrication system should automatically switch on with switching on of the machine.

Machine should start only if the system has adequate lubricant pressure.

If pressure drops during operation, a warning light signal shall operate. If this signal is unattended for a short spell of time, the machine shall stop automatically.

Lubrication system should be total with coverage to all points needing lubrication.

There shall be rigorous filtering media to remove all traces of metallic or other dust and making the recirculating oil completely fit for use.

Wherever manual lubrication is retained as inescapable, a lubrication chart fixed on the machine body shall clearly indicate the same. These charts shall furnish the following information about lubrication.

- Points of application.
- Service intervals.
- Type of lubricants.
- Quantity per filling.
- Viscosity.
- Important cautions if any.

f. ENVIRONMENTAL/STATUTORY AND SITE CONDITIONS

*(Factory Units may modify the figures to suit its location.)*

(a) TROPICALISATION.

The equipment shall be suitable for installation at a place where the climatic conditions change as follows:-

|             | SUMMER | WINTER | MONSOON |
|-------------|--------|--------|---------|
| MAX. TEMP.  | 50°C   | 24°C   | 40°C    |
| MIN. TEMP.  | 30°C   | 0°C    | 25°C    |
| R. HUMIDITY | 18%    | 50%    | 98%     |

In addition to above, the atmosphere in summer is very dusty.

- (b) All the functions of the equipment, its hydraulic system, electrical system and control system, shall be tropicalised to work trouble free and with full efficiency under above conditions, continuously for 20 hours a day.
- (c) The equipment design shall take care of increase in temperature over ambient due to heat generated by the equipment offered.
- (d) Performance tests will cover working in the above environment as detailed separately.

g. PROTECTION

- i. Necessary suitable safety and interlocking devices shall be incorporated in the equipment to prevent any accident or damage to the individual components/assembly of the equipment, personnel and materials arising out of abnormal working conditions, leakage of high pressure fluid, electrical contact, high temperature, explosion etc.
- ii. Guards shall be provided around the moving parts and in front of the working area for protection of the operator. The guards shall run on rollers so that the working area is readily accessible. The guards shall be of double skin construction with viewing window (s), made from reinforced glass.
- iii. All electrical and electronic equipments shall be housed in totally sealed enclosures/panels.
- iv. All electrical panels shall have interlocking devices to ensure that panels doors can be opened only after switching off the incoming supply.
- v. All incoming and outgoing cables from the control panel shall be connected to the control through dust proof openings fitted with glands/ferrules to prevent ingress of dust and insects.
- vi. All equipments/parts shall be suitably protected against damages due to corrosion, rusting etc., in the prevailing condition at site.
- vii. The basic equipments shall be finally painted in Apple Green colour as per shade No. 281 of IS: 5 - 1978 for ready mixed paint.
- viii. The electrical equipments shall be painted as follows:-
  - 415 volts AC machines/Panels-Brilliant Green (Shade No. 221 of IS : 5-1978).
  - 240 volts AC equipments -Light Orange (Shade No 557 of IS :5-1978).
  - 110 lts AC equipments-Light Admiralty Gray (Shade No. 697 of IS:5-1978).
- ix. The electronic/CNC control system and peripherals can be supplied in the standard colour of the manufacturer.

h. POWER SUPPLY

- The power supply available in the site is 415 (with  $\pm 10\%$  of fluctuation), 50 Hz., AC 3 phase, transient high voltages are expected.

- If the voltage fluctuation as above is considered harmful for any part of the system, the vendor shall provide a suitable motor generator set or isolation transformer for transient free stable supply.
- For any other voltage requirement, the vendor shall install inbuilt transformers in the control panel.
- Where the total connected load exceeds 400 KVA, the supply would be normally HT (11 KV OR 6.6 KVA as available with voltage variation of  $\pm 9\%$ ). It will be made available at a single point through a suitable H.T. cable with AC conductors. Further distribution including H.T. Breaker, ACB panels etc. will form part of vendor's supply. Vendor may refer to the particular technical modifications for details.

i. WATER SUPPLY

i. Normally water is available up to maximum 6 meters head.

ii. Maximum temperature of water :35°C.

iii. A typical analysis of water available is given below:

|                                                      |        |
|------------------------------------------------------|--------|
| (a) PH Value                                         | :7.2   |
| (b) Turbidity as $\text{mg/l}$                       | :1.9   |
| (c) Total Hardness as $\text{CaCO}_3 \text{ mg/l}$   | : 70.0 |
| (d) Total Dissolved Solids $\text{mg/l}$             | : 280  |
| (e) Total Alkalinity as $\text{CaCO}_3 \text{ mg/l}$ | : 280  |
| (f) Sulphate as $\text{SO}_4 \text{ mg/l}$           | : -    |
| (g) Chlorides as $\text{CL mg/l}$                    | : 11.2 |
| (h) Magnesium as $\text{Mg}^{++} \text{ mg/l}$       | : 4.86 |

j. COMPRESSED AIR

- Compressed air is available up to a maximum pressure of 5  $\text{Kg/cm}^2$ .
- Some amount of oil, moisture and dirt will be present in the air supply.
- Any requirements of water Filter /oil trap or drier shall be part of the offer.
- Specific quantity requirement of compressed air shall be brought out in the offer.

Wherever air at very high pressure is required, such compressors shall form part of supply.

k. STEAM

- Steam, if required, shall normally be provided from captive electric Boiler with pressure normally up to 3.4 $\text{Kg/cm}^2$ .
- Confirmation on supply of captive boiler shall be obtained from the Technical specifications.

l. AIRCONDITIONING

- For Ventilation and cooling of control panels, built-in-air conditioners shall be provided wherever necessary, for proper functioning of the P&M.

- If the P&M is required to be housed in an air-conditioned room or any control panel has to be kept in an air-conditioned room, the same shall be brought out in the offer against the tender enquiry.

m. ILLUMINATION

- Pertaining to above, the vendor shall furnish details of air-conditioning load, temperature, relative humidity, size of enclosure etc..
- Any requirement for spot lighting on the P&M shall form part of the supply.
- Special lighting, if required, shall be indicated in the offer, giving details of illumination level etc.

n. POLLUTION

- International norms prescribed for pollution level of any effluents from the equipment as well as noise/air pollution shall be strictly adhered to.
- Any purification and other gadgets to meet international norms shall form part of the supply. The discharge/effluent analysis shall be informed to the purchaser.
- The pollution level prescribed for discharge water shall be obtained from local authorities.

o. DOCUMENTATION

- The entire documentation shall be in English.
- The P&M supplier shall supply all documents(soft & hard copies) in quadruplicate and reproducible negative of circuit diagrams.
- The schedule of supply of documents shall be as under:-
  - (i) 2 Sets of all documents to reach the purchaser at least 3 months prior to the training of purchaser's personnel or 2 months prior to the delivery of the P&M, whichever is earlier.
  - (ii) Dimensioned drawing for foundation/erection shall reach the customer at least 2 months prior to the delivery of the P&M or as separately asked for by purchaser.
  - (iii) 2 sets of all documents including erection drawings along with the equipment package.
- The list of documents required to be supplied by the vendor for maintenance/operation is given in para 4.6. The vendor shall supply all information/documentation asked for by the purchaser, which in the opinion of purchaser are necessary for erection, commissioning, operation and maintenance of the equipment. Withholding of information may make the offer liable for rejection.
- The nature of documents to be supplied for electronic maintenance shall be of such details so as to enable chip level maintenance in all PCB's by the purchaser's personnel. Documentation suitable for mere card level maintenance is unacceptable.
- Component identification in the component list/specifications shall be in terms of International Generic Numbers in addition to manufacturer's

part No. Components of proprietary nature however shall be so indicated.

- The purchaser after scrutiny of the documents duly received and on finding the documents as adequate will issue a certificate to that effect within six weeks of receipt of the documents. This certificate will be a pre-requisite for release of pre-delivery inspection certificate.
- In the event of the documents found not up to the mark on receipt/examination by the works engineers, the contract will be terminated without any compensation to the vendor. This will however be without any prejudice to the rights of the purchaser for compensation owing to failure of the vendor to perform.
- LIST OF DOCUMENTS TO BE SUPPLIED:-Unless otherwise agreed, the following documents shall be supplied.
  - (1) List of P.C.Board.
  - (2) Circuit diagrams for all P.C.Boards.
  - (3) Detailed description of working of all P.C.Boards.
  - (4) Components list/components specification.
  - (5) Inter connection details of P.C.Board.
  - (6) Maintenance manuals (Mechanical, Electrical and Electronics).
  - (7) Cable assembly details for all the cables including connector details.
  - (8) Electrical wiring diagram.
  - (9) Circuit diagrams and working of power supplies inside the control system.
  - (10) Circuit diagrams and detailed working of spindle drive and feed drive.
  - (11) Test points and signal waveform.
  - (12) Trouble shooting techniques.
  - (13) Detailed maintenance manual and maintenance instructions on all peripherals like CRT, paper tape reader, tape punch etc.
  - (14) Detailed interface details including the machine magnetic documents.
  - (15) Programmable machine interface details.
  - (16) Detailed description of the measuring systems used.
  - (17) Diagnostics manual with instructions to use in different diagnostic tests.
  - (18) Programming manual.
  - (19) Operation manual.
  - (20) Installation/commissioning procedures/documents.
  - (21) Hydraulic system details/manual.
  - (22) Refrigeration system details/manuals.
  - (23) Lubrication charts.
  - (24) Spare parts manuals.
  - (25) Certificates.
  - (26) Specification of all types of greases, oils, lubricants etc., required to be used in the equipment indicating International/Indian source of supply of these items.
  - (27) Manufacturing drawing and material specification of all Tooling items.
  - (28) Instructions on care & storage of equipment prior to taking over by vendor for erection.

p. TRAINING OF PERSONNEL

- It will be necessary to impart training to six persons belonging to the Purchaser's organization in the disciplines of:-
  1. Programming and operation.
  2. Electrical and electronic maintenance.
  3. Fluidics and Mechanical maintenance.
- The duration of such training shall be, as agreed to by purchaser, at the machine manufacturer's works followed by at the control system manufacturer's works for four weeks each.
- The vendor shall arrange this training at no additional charge. However, the Purchaser shall bear the boarding, lodging and travelling expenses of the persons sent for training.
- In addition, during erection and commissioning of the P&M at Purchaser's works, P&M supplier shall impart training to Purchaser's personnel in operation and maintenance of the equipment, onsite.
- In addition, during erection and commissioning of the P&M at Purchaser's works, P&M supplier shall impart training to Purchaser's personnel in operation and maintenance of the equipment, onsite.
- All OFs are required to judiciously decide on the requirement of training on case-to-case basis and incorporate the training clause in the tendered specification accordingly. In addition, OFs are also required to judiciously decide the number of persons and duration for PDI also, has financial implications.

#### **4.6 Development of indigenous substitute of POL (Petroleum Oil Lubricant) used:**

A stipulation shall be made in the contract that P&M supplier inform the purchaser about full details and specification of all POL items and suggest likely Indian substitutes or special features of the POL used.

#### **4.7 Procurement of Furnace:**

To achieve the objective of obtaining the best results and erection of furnaces in the minimum time, furnace will be procured on the following basis:

- (a) The supply of furnace, irrespective of capacity or category of the furnace, shall be on turn-key basis. The idea is to have supply and erection done through the single agency only to avoid dual responsibility. The furnace supplier shall undertake the work relating to erection and commissioning including any civil works on foundation etc.
- (b) Factory Units shall confirm that facilities like space needed to erect and utility like oil, air, water, power etc. required at the time of erection had already been arranged at site and will be available before the receipt of the material at site. This will ensure that erection is taken up immediately and the firms get their full payment after handing over and do not ask for a cut-off date for final payment.

#### **4.8 Documents /details to be submitted by the Bidder with Technical Bid in case of procurement of Complex/integrated plants are appended below for guidance.:**

- (a) Process description for the offered plant as a whole.
- (b) Special features and advantage of the offered plant.
- (c) Process flow diagrams.
- (d) Requirement of Pilot plant to establish quality of product, new version of product, to meet emergent requirement during major shutdown/breakdown.

- (e) Layout of all buildings along with major activities in each building. Each building shall be numbered for easy reference
- (f) Building wise layout of all major equipments and instruments.
- (g) Line plan drawing of all individual buildings to be designed and supplied by the vendor showing dimension, wall thickness and roof structure, details of road with illumination details, etc.
- (h) List of major equipments, service requirements, controls and indicative list of equipments. Each of the above shall be numbered.
- (i) The cycle time of processing at each stage / operation. Bidder shall clearly indicate the redundancy in capacity and the availability of standby equipments like pumps etc. at each stage/operation.
- (j) List of all major instruments along with brief description of their utilization and effectiveness in process and process control. This list shall be enumerated process-wise as far as possible so as to facilitate a comparison with the layout of the plant and utilities showing general arrangement of the plant, equipment and also the periodicity desired for calibration.
- (k) List of spares with part no. and quantity used in entire plant.
- (l) Safety features process wise and plant as a whole.
- (m) Requirement of manpower for operating the plant as a whole per shift and per day. Requirement of operating, maintenance and supervisory personnel to be mentioned separately.
- (n) Descriptive flow diagram showing the links between the above numbered plant/ equipment etc. as well as the instrument lay out.
- (o) Quantitative flow diagram describing consumption of raw material and also for utility items separately.
- (p) Indicative consumption of raw material and utilities i.e. steam, water, electricity, etc for processing one Metric Ton of output.
- (q) Average requirement of steam, cooling water and process water
- (r) Installed electric power load; average and maximum demand of power separately for ancillary facilities for generation of utilities like compressed air, instrument air, chilled water/ brine etc. for the plant.
- (s) Pollution control measures indicating the composition and quantities of effluents and waste per MT output from the plant along with scheme for treatment and disposal including air pollutants to keep generated pollutions within the permissible limits by the State Pollution Control Board (which is to be stated in the specification)
- (t) List of specific exclusion from scope of supply.

## CHAPTER-5

**DEALING WITH SUPPLIERS****5.1 Eligible and Qualified Supplier**

5.1.1 Contract shall be placed on a supplier who is eligible to receive the contract, and is also capable, i.e. qualified in all respects to 'deliver the plant/machine'. The supplier is required to fulfil and follow all applicable rules, regulations and conditions to transact business with the Organization. The supplier shall be technically competent and financially sound to deliver the required P&M. Hence, the supplier shall fulfil the following two basic criteria to receive a contract:

- i. Eligibility Criteria
- ii. Qualification Criteria

5.1.2 The supplier with whom government/PSU transactions have been banned or suspended due to any reason including corrupt and fraudulent practices adopted by them will not be eligible to receive government contract.

5.1.3 A consultant, engaged to prepare a project report, is not eligible to quote against the tender enquiry subsequently floated for purchase of P&M for that project.

**5.2 Categories for Suppliers**

The different categories of suppliers are:

- (a) Manufacturers, who supply indigenous items.
- (b) Authorised Agents/ Distributors of such manufacturers, who desire to market their production only through their agents.
- (c) Foreign manufacturer with / without their accredited agents in India.
- (d) Stockiest of imported spares or other specified items.
- (e) Supplier of imported goods having regular arrangement with foreign manufacturers.
- (f) Consortium /Collaboration/Joint ventures.

**5.3 Eligibility Criteria**

- a) Indian firm (having prerequisite experience of manufacturing and supplying similar plant & machinery) can bid.

OR

- a) Indian firm (machine/plant manufacturing entity or a system integrator of defence equipment) can bid in this tender in collaboration/consortium/Joint Venture with a foreign firm (having prerequisite experience of supplying similar plant & machinery).

Note: The collaboration/consortium/Joint Venture is not applicable between Indian firms.

In case of collaboration for bidding, a copy of collaboration agreement or MOU is to be submitted, clearly defining the responsibility for the scope of work with reference to NIT/TE and subsequent liabilities of the contract.

OR

- a) Cases where the Indian OEM participates only through its authorised Vendors: Indian authorized vendor/dealer authorized by Indian OEM (having prerequisite experience of supplying similar plant & machinery) can bid.
- b) Cases where the Foreign OEM participates only through its authorised Vendors: Indian authorized vendor/dealer must be machine/plant manufacturing entity with experience of manufacturing and supplying plant and machinery and can only be allowed to bid in consortium/collaboration/JV with their foreign OEM (having prerequisite experience of supplying similar plant & machinery) to comply MII order 2017.

For cases of quality control/lab equipment and R&D P&M:

Cases where the Indian OEM/Foreign OEM participates only through its authorised Vendor/Dealer: Indian authorized vendor/dealer by Indian OEM/Foreign OEM can bid provided that the OEM should meet the prerequisite experience of supplying similar plant & machinery.

The bidder must comply Make in India (MII) order 2017 and its subsequent amendment. The above tender conditions has been framed to ascertain the compliance of MII policy

Payment will only be made in Indian Rupees to prime bidder/lead partner (Indian firms). Since the above clause has been framed to comply MII policy hence, any necessary import clearance should be arranged by the Indian counterpart and he should arrange inspection/ training in India and also provide after sale services.

## **5.4 Qualification of Suppliers**

**5.4.1. Qualification criteria:** The qualification criteria are generally part of the tender documents along with detailed technical and commercial specifications for evaluating responsiveness of tenders. They comprise of both technical and financial parameters. Some documents asked from suppliers to examine the qualification criteria are given below:

- i. In this regard the tenderer shall submit a detailed statement of similar plants/ machines built by him and the tenderer must have supplied similar plants/ machines in the past (i.e. maximum 05 to 15 years and bidder must be presently in the business of manufacturing of similar plants/ machines). Bidder has to submit name and full address of the customers with order No., date of supply and performance report thereof.

In case of GeM, Due to constraint in GEM Website, Experience of 03 years and 80% past performance has been mentioned in bid document. Hence, bidder has to submit Experience and related documents along with performance report from customers of last 5 to 15 years as per this clause.

- Factory Units will provide definition of similar plant and machinery.
- Factory Units has to decide number of years of experience between 05 to 15 years.
- In case of consortium/collaboration at least one member of the consortium/collaboration must comply the technical capacity.
- In case of Joint Venture(JV): Either JV firm or at least one partner of the JV must comply the technical capacity.
- Bidder/tenderer/Vendor must be a machine/plant manufacturing entity and not a trading company.

ii. **Bidder Turn Over Criteria & Net Worth:**

**Turnover:** The minimum average annual financial turnover should be Rs.....[ 30% of the estimated cost] of the bidder during the last three years, ending on 31st March of the previous financial year, should be as indicated in the bid document. Documentary evidence in the form of certified Audited Balance Sheets of relevant periods or a certificate from the Chartered Accountant / Cost Accountant indicating the turnover details for the relevant period shall be uploaded with the bid. In case the date of constitution / incorporation of the bidder are less than 3 year old, the average turnover in respect of the completed financial years after the date of constitution shall be taken into account for this criteria.

**Net worth** (applicable for cases valuing more than 50 crores): The net worth of the Bidder firm (manufacturer or principal of authorised representative) should not be negative on ending 31st March of the previous financial year and also ii) should have not eroded by more than 30%(thirty percent) in the last three years, ending 31st March of the previous financial year.

In case of consortium/collaboration: In case of consortium/collaboration at least one member of the consortium/collaboration must comply the financial capacity

In case the Consortium Member relies on its Holding Company for any one of the above-mentioned Financial Parameters, then reliance must be placed on the Holding Company for meeting all the financial criteria

In case of Joint Venture(JV): For newly formed JV (less than 5 years old) at least one member of the JV must comply the Financial capacity. For JV (more than or equal to 5 years old), JV firm should meet the financial criteria.

In case the JV partner relies on its Holding Company for any one of the above-mentioned Financial Parameters, then reliance must be placed on the Holding Company for meeting all the financial criteria.

Note: In case of Indian Bidders/ companies (manufacturer or principal of authorised representative) who have been restructured by Banks in India, under the statutory guidelines, they would be deemed to have qualified the Financial standing criteria considering the institutional financial backing available to them

- iii. For Startups (whether MSEs or otherwise), prior experience and turnover requirement **may be relaxed** subject to meeting of quality and technical specification in accordance with relevant provisions of GFR 2017 (or revised time to time) as per Ministry of Micro, Small and Medium Enterprises Policy Circular No. 1(2)(1)/2016-MA dated 10th March 2016 and Ministry of Finance, Dept. of Expenditure O.M No. F.20/2/2014-PPD(Pt) dated 25th July 2016. Also as per MoF, Deptt. of Expenditure O.M. No. F.20/2/2014-PPD(Pt) dated 20th

September 2016, the criteria of prior experience / turnover may not be relaxed for Startups, for procurement of items related to public safety, health, critical security operations and equipments etc., where vendors with prior experience are preferred and adequate justification is available.

For general purpose machine with estimated cost less than or equal to 20 lakhs (for each machine) relaxation to Startup and MSEs may be given. Whereas in case of estimated cost more than 20 lakhs as well as while purchasing SPMs no relaxation may be given. The quantum, of relaxation of experience and turnover may be decided while PFC.

**5.4.2 Pre-qualification:** For cases involving high cost and of complex integrated special nature of Chemical/Metallurgical Process plant which are not frequently procured by Ordnance Factories under YANTRA INDIA LIMITED (YIL), the pre-qualification evaluation through Request for Information (RFI) or EOI on Open/Global level is recommended. The pre-qualification of vendors means initial screening and short-listing of suppliers before issue of formal tender documents, through certain technical and financial criteria. This enables identification of financially sound suppliers with proven performance of supplying specific plant & machinery with latest technology and proven design. This also enables the purchaser to issue TE containing sensitive documents to only selected firms. A Committee of Officers consisting of Finance Member shall finalise the pre-qualification criteria with detailed justification. The relevant level of TPC will decide the final short listing of the vendors for issue of Tender Enquiry consequent upon pre-qualification Global/Open Tender Enquiry.

## **5.5 Identification & Enrolment of Suppliers:**

- (i) Consolidated database to be maintained for vendors centrally, and same can be referred by all YIL group of factories.

Vendors are generally identified through available data of likely/past suppliers, information in internet, advertisements and publishing of EOI.

- (ii) Vendors are enrolled in the e-procurement portal. Vendors need to have valid Class III digital signature certificate (DSC) from a licensed certifying agency in India. In addition to providing company information like name, address, email address, CEO/Proprietor, turnover for last 3 years, etc, vendors are required to submit following documents for enrolment.
  - a. Balance Sheet (Last 3 years)
  - b. PAN Card
  - c. List of Machines & Vintages
  - d. Manufacturing Facilities & Locations

## **5.6 Debarring of Firms for a unit/YIL**

- a. General principles of debarment of has been comprehensively provided in Para 3.7 of DoE Manual 2024.
- b. Debarring for a Unit: A factory units may debar a firm from participating in its tenders for a period of two years. However, this debarring will be valid for the

particular factory units only. For this purpose, a show cause notice is given to the firm indicating actions proposed and the grounds thereof and on receipt of the reply, appropriate order is passed.

- e- Debarring for entire YIL: For debarring the firm from doing any business with other units under YIL, the Executive Director of the concerned factory units will approach Operation Division of YIL with complete justification. YIL, in turn, shall take suitable decision on black listing/debarring of the firm from doing business pan- YIL organisation. A firm is liable to be debarred for following reasons:
- i. makes any false declaration to the purchaser.
  - ii. supplies goods of inferior quality or uninspected goods.
  - iii. renders services (including after sales services and maintenance services) of inferior quality than the contracted ones.
  - iv. fails to execute a contract or fails to execute it satisfactorily.
  - v. is declared bankrupt or insolvent.
  - vi. adopts unethical business practices, not acceptable to the purchaser, e.g. engages in cartel formation or quoting pool rates leading to "Appreciable Adverse Effect on Competition" (AAEC) as identified under the Competition Act, 2002 or deliberately attempts to pass inferior goods or short quantities or attempts to influence authorities who are engaged in decision making.
  - vii. any other ground which, in the opinion of the purchaser, is not in public interest.
  - viii. If he has been convicted of an offence
    - a. under the Prevention of Corruption Act, 1988; or
    - b. the Bhartiya Nyaya Sanhita 2023 or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract. In this regard suitable undertaking to be obtained from the bidders during TE stage.
  - ix. In case of non-fulfilment of partial or full contractual/tender obligations action will be initiated as per terms and condition of tender. In case of debarment, the Debarment shall be automatically extended to all its allied firms. In case of joint venture/consortium/Collaboration is debarred all partners will also stand debarred for the period specified in Debarment Order.

## 5.7 Grounds for Banning of Business Dealings

The grounds on which banning may be ordered are: -

- i. If security considerations including question of loyalty to the State so warrant.
- ii. If the proprietor of the firm, its employee, partner or representative is convicted by a court of law following prosecution for offences involving moral turpitude in relation to the business dealings.
- iii. If there is strong justification for believing that the proprietor or employee or representative of the firm has been guilty of malpractice such as bribery, corruption, fraud, substitution of tenders, interpolation, mis-representation, evasion or habitual default in payment of any tax levied by law; etc.
- iv. If the firm continuously refuses to return purchaser dues without showing adequate cause and the purchaser is satisfied that this is not due to reasonable dispute which would attract proceeding in arbitration or court of law.

- v. If the firm employs a government servant, who has been dismissed or removed on account of corruption or employs a non-official convicted for an offence involving corruption or abetment of such an offence, in a position where he could corrupt government servants.
- vi. If it is found on a later day that any of the declaration submitted by firm during bidding stage was found to be not true / not fulfilled as promised.

### **5.8 Engagement of Indian collaborator by foreign suppliers: (for cases more than 200 crore)**

- (a) For machines of imported nature, Indian bidders are permitted to offer against Indian Rupee payment only. If foreign plant supplier insists that purchases can be made through their Indian counterpart/collaborator (not agent), purchase can be made against Indian Rupee payment, but the tenderer shall arrange the import clearance and the Indian collaborator shall arrange inspection/training in India and provide after sales service.
- (b) For machines of imported nature, where Indian subsidiary/India office is submitting the bid on behalf of OEM and where the PDI is possible only in OEM premises, bids shall be in foreign currency, the order shall be placed on Foreign OEM directly and payment shall be to OEM directly. The firm will provide specific confirmation that quoted price does not include payment of Agency Commission to any third party. (For cases more than 200 Crores)

Against such offer, if statutory requirement demands clearance from concerned Government, the Tenderer shall confirm in their offer that they shall arrange export licence in that respect. End User certificate if requested by Bidder / Seller then buyer will provide the same.

- (c) For machines of imported nature involving payment in foreign exchange shall be quoted by foreign manufacturer directly or authorized Indian agents, on FOB/CIF price basis. The firm will provide specific confirmation that Agency Commission will be as per Clause No. 9.8.ii.

Against such offer, if statutory requirement demands clearance from concerned Government, the Tenderer shall confirm in their offer that they shall arrange export licence in that respect.

- (d) In case, OEM of foreign origin quotes against tender with Indian Collaborator/Partner, OEM shall be the prime bidder, being the technology provider. The sole responsibility of execution of contract and after sales service/technical support of its P&M shall be with OEM. OEM shall furnish the copy of the collaboration agreement or MOU between the OEM and its Indian Partner/Collaborator. The MOU must have provisions defining the following:
  - (i) Technical design & process guarantee responsibility of OEM and Indian partner.
  - (ii) Distribution of work / responsibility between OEM and Indian partner for the scope of supplies specified in the TE.
  - (iii) Responsibility of after sales service/technical support:- Supply & service from Indian partner shall be quoted in INR and payment shall be made after confirmation from the prime bidder.

## **5.9 Engagement of Indian collaborator by foreign suppliers: (for cases less than 200 crore)**

Indian firm (machine/plant manufacturing entity or a system integrator of defence equipment) can bid in this tender in collaboration/consortium/Joint Venture with a foreign firm (having prerequisite experience of supplying similar plant & machinery)

In case of collaboration for bidding, a copy of collaboration agreement or MOU is to be submitted, clearly defining the responsibility for the scope of work with reference to NIT/TE and subsequent liabilities of the contract.

Cases where the Foreign OEM participates only through its authorised Vendors: Indian authorized vendor/dealer must be machine/plant manufacturing entity with experience of manufacturing and supplying plant and machinery and can only be allowed to bid in consortium/collaboration/JV with their foreign OEM (having prerequisite experience of supplying similar plant & machinery) to comply MII order 2017.

For cases of quality control/lab equipment and R&D P&M:

Cases where the Indian OEM/Foreign OEM participates only through its authorised Vendors: Indian authorized vendor/dealer authorized by Indian OEM/Foreign OEM (having prerequisite experience of supplying similar plant & machinery) can bid.

The bidder must comply Make in India (MII) order 2017 and its subsequent amendment. The above tender conditions have been framed to ascertain the compliance of MII policy

Payment will only be made in Indian Rupees to prime bidder/lead partner (Indian firms). Since the above clause has been framed to comply MII policy hence, any necessary import clearance should be arranged by the Indian counterpart and he should arrange inspection/ training in India and also provide after sale services.

### **5.9A Code of Integrity for Public Procurement:**

Procuring authorities, as well as bidders, suppliers, contractors, and consultants, should observe the highest standard of ethics and should:

- a) not indulge in the following prohibited practices, either directly or indirectly, at any stage during the procurement process or the execution of resultant contracts:
  - i) "Corrupt practice": making offers, solicitation or acceptance of a bribe, rewards or gifts or any material benefit, either directly or indirectly, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process or contract execution;
  - ii) "Fraudulent practice": any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained, or an obligation avoided. This includes making false declarations or providing false information for participation in a procurement process or to secure a contract or in the execution of the contract;
  - iii) "Anti-competitive practice": any collusion, bid rigging or anti-competitive arrangement, or any other practice coming under the purview of The Competition Act, 2002, between two or more bidders, with or without the knowledge of the procuring entity, that may impair the transparency, fairness, and the progress of the procurement process or to

establish bid prices at artificial, non-competitive levels; iv) “Coercive practice”: any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the procurement process or affect the execution of a contract; v) “Conflict of interest” (COI): any personal, financial, or business relationship between the bidder and any personnel of the procuring entity who are directly or indirectly related to the procurement or execution process of the contract, which can affect the decision of the procuring entity directly or indirectly. vi) “Undue Advantage”: improper use of information obtained by the bidder from the procuring entity with an intent to gain an unfair advantage in the procurement process or for personal gain. This also includes if the bidder (or his allied firm<sup>43</sup>) provided services for the need assessment/ procurement planning of the tender process in which he is participating; vii) “Obstructive practice”: materially impede the procuring entity’s investigation of a procurement process either by deliberately destroying, falsifying, altering; or by concealing evidence material; or by making false statements or by threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to such investigation or from pursuing the investigation; or by impeding the procuring entity’s rights of audit or access to information;

## **5.10 Penal provisions**

Penal provisions shall be included in all contracts with foreign suppliers to safeguard against presence of intermediaries. The following clauses are to be included in the Tender Enquiry:

- i. Penalty for use of undue influences
- ii. Agents/Agency Commission
- iii. Access to book of Accounts
- iv. Conduction of Arbitration Proceedings in India under the Arbitration and Conciliation Act 1996

### **5.10.1 Clause on Penalty for use of undue influence:**

The seller undertakes that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees, brokerage or inducement to any person in servicing of the Buyer or otherwise in procuring the Contract or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the Contract or any other Contract with the organization for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the organization. Any breach of the aforesaid undertaking by the seller or any one employed by him or acting on his behalf (whether with or without the knowledge of the seller) or the commission of any offence by the seller or anyone employed by him or acting on his behalf, as defined in Bhartiya Nyaya Sanhita 2023 or the Prevention of Corruption Act, 1947 or any other Act enacted for the prevention of corruptions shall entitle the Buyer to cancel the contract and all or any other contracts with the seller and recover from the seller the amount of any loss arising from such cancellation. A decision of the Buyer or his nominee to the effect that a breach of the undertaking has been committed shall be final and binding on the seller. Giving or offering of any gift, bribe or inducement or any attempt to any such act on behalf of the seller towards any officer/employee of the Buyer or to any other person in a position to influence

the decision of the Buyer, directly or indirectly or any attempt to influence in any officer/employee of the Buyer for showing any favour in relation to this or any other contract, shall render the seller to such liability/penalty as the buyer may deem proper, including but not limited to termination of the contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the Buyer.

#### **5.10.2 Clause on Agents/Agency commission:**

The Guidelines for Agents/Agency commission are mentioned at Clause No. 9.8.ii.

#### **5.10.3 Clause on Access to the books of accounts:**

In case it is found to the satisfaction of the Buyer that the Seller has engaged an Agent or paid commission or influenced any person to obtain the contract as described in clauses relating to Agents/agency commission and penalty for use of undue influence, the seller, on a specific request of the buyer shall provide necessary information/inspection of the relevant financial document/information.

#### **5.11 The CVC on the subject of consideration of Indian agents has recently decided that in all cases of procurement, the following guidelines may be followed:**

- (a) In a tender, either the Indian agent on behalf of the Principal/OEM or Principal/OEM itself can bid, but both cannot bid simultaneously for the same item/product in the same tender.
- (b) If an agent submits bid on behalf of the Principal/OEM, the same agent shall not submit a bid on behalf of another Principal/OEM in the same tender for the same item/product.

#### **5.12 Providing a level playing field between Indian industry vis-à-vis foreign supplier**

Special aspects of evaluation of the financial offer in GTE tenders are:

##### **i) Currency of Tender**

In GTE tenders, the price in the quotation could be in US Dollar or Euro or Pound Sterling or Yen or in currencies under the RBI's notified basket of currencies, in addition to the Indian Rupees, except for expenditure incurred in India (including agency commission if any) which should be stated in Indian Rupees. All offers are to be converted to Indian Rupees based on the "Bill currency selling" exchange rate on the date of tender opening (Techno-commercial offer) from a source as specified in the tender document.

##### **ii) Currency of Payment**

The tender documents are to specify the currency (currencies) in which the tenders are to be priced. For domestic bidding, regardless of whether the bidder is foreign or Indian, the currency of the bid and payment should be entirely in Indian Rupees. In GTE (Global Tender Enquiry), foreign bidders have the flexibility to quote prices and receive payments in either Indian Rupees or freely convertible currencies such as US Dollars, Euros, Pound Sterling, Yen, other relevant currencies<sup>104</sup>, or a combination thereof. However, prices for goods

works, or services (including Agency Commission) performed or sourced in India must be quoted and paid for in Indian Rupees. Indian bidders are required to quote in INR only. During the evaluation, all offers are to be converted to Indian Rupees based on the "Bill currency selling" exchange rate on the deadline of bid submission, quoted by a source as specified (if not specified, authorised exchange bankers approved by RBI) in the tender document.

iii) Evaluation of Offers

As per Government policy, Ministries/Departments/Public Sector Undertakings (PSUs) should ensure imports on FOB/FAS basis failing which a No Objection Certificate (NOC) should be obtained from the Ministry of Surface Transport (Chartering Wing). The foreign bidders are normally asked, in the bid documents, to quote both on FAS/FOB basis and also on Cost and Freight (CFR)/CIF basis duly indicating the break-up of prices for freight, insurance, and so on, with purchasers reserving the right to order on either basis.

They should also to indicate the custom tariff number and custom duty applicable in India. In the case of FAS/FOB offers, the freight and insurance shall be (after ascertaining, if not quoted) added to make up the CIF cost. To arrive at the Free On Rail (FOR) cost, one per cent shall be added over and above CIF as port handling charges, custom duty, countervailing duty and surcharges, as applicable on the date of opening of the tender, as well as clearing agency charges, inland freight and Octroi/ entry tax, as assessed, may be added to make it a FOR/Free On Truck (FOT) destination. The FOR/FOT destination price for domestic offers may be calculated as in OTE tenders. For bids with Letter of Credit (LC) payment, the likely LC charges (as ascertained from Procuring Entity's bankers) should also be loaded.

In case both Indian and foreign bidders have quoted in the tender, the comparison of the offers would be done on the basis of FOR/FOT destination including all applicable taxes and duties (on the principle of the total outgo from Procuring Entity's pockets). In case there are no domestic bidders, a comparison of offers can be made on the basis of CIF/landed costs since the rest of costs would be same for all bidders.

In addition, it has also been decided that the payment condition shall be similar for domestic private suppliers, defence PSUs and the foreign suppliers.

### **5.13 Training:**

The Tender/contract shall explicitly provide for training of the operators, engineers and other technical persons for acquainting themselves and gaining proficiency in the use of the equipment. It helps in absorption of technology and spreading the knowledge gained during training to operatives at different levels.

### **5.14 Guarantee and Warranty of Supplies:**

**(a) Guarantee:**

The supplier shall guarantee:

- (i) Satisfaction of technical and other parameters mentioned in the specification, and contract.
- (ii) Quality and strength of materials used in the manufacture of the equipment considering the applicable codes of practice and regulation.

- (iii) Adequate factors of safety for all parts of the equipment to withstand the mechanical and/or electrical stresses developed therein under specified operating conditions.
- (iv) Performing data furnished/specified for the equipment shall be actually obtainable when the equipment is installed and tested at site.

**(b) Warranty:**

- (i) The supplier shall warranty that the equipment will be in accordance with the specification/contract suitable in design and workmanship for conditions envisaged in the specifications.
- (ii) The supplier shall give warranty that the machine/plant/equipment will be free from defects in design, material and workmanship.
- (iii) Supplier's obligations under the warranty shall involve repair, rectification and making good at site any defect, imperfection or fault attributable to defective design, material or workmanship.
- (iv) If the Plant/machine is found to have a defect that can be assumed to be present also in some other portion of the Plant/machine, the Supplier shall investigate whether such further defect is present, and shall make good any further defects found.
- (v) Inspection by purchaser's representatives at various stages would not relieve the supplier of his obligations under the warranty.
- (vi) Warranty period in general unless specified in technical specification for any particular P&M will be for twelve months after commissioning and final acceptance of the machine. But this will not be beyond 18 (eighteen) months from the date of delivery for indigenous equipment or 21 months from date of delivery for imported equipments, in case of delay in final acceptance for causes not attributable to the vendor. This is also called Defect Liability period or Defect Correction period.
- (vii) The supplier shall be asked to furnish PBG / Warranty Bond (Bank Guarantee) for 5% (as per GOI directive from time to time) of contract price valid for two months after warranty period, as security for its warranty obligations, before release of final payment. The format for Warranty Bond is given in the Appendices.
- (viii) The suppliers generally do not accept liability of the defects caused by circumstances for which they are not responsible, such as improper or insufficient maintenance, incorrect operation, improper operating conditions not in accordance with the Contract, repairs carried out improperly by the purchaser, or normal wear and tear. Hence, factories shall be careful in this regard.

**(c) General conditions of Warranty:**

Unless special Warranty/Guarantee clause has been stipulated in the invitation to tender or any of its Annexure, the following Warranty shall form part of the TE and contract placed on the successful tenderer:

- The contractor/seller hereby warrants that the plant/equipment sold/supplied to the purchaser under this contract shall be of the best quality and workmanship and new

in all respects and shall be strictly in accordance with the specifications and particulars mentioned in the said contract.

- The contractor/seller further warrants that the plant/equipment would continue to conform to the specified description and quality and would be free from any non-conformity with the requirements of the contract (hereafter referred to as a 'defect') due to faulty design, materials or workmanship, for a period called 'warranty period' or 'defects liability period' as defined below:
  - 12 (twelve) months from the date of commissioning and final acceptance of the plant/equipment at the purchaser's site, in case of turn-key supply contracts, or
  - 12 (twelve) months from commissioning and final acceptance of the plant/equipment at the purchaser's site or 18 (eighteen) months from the date of delivery for indigenous equipment or 21 months from date of delivery for imported equipments, whichever is earlier, in case of other contracts.
- If the commissioning/acceptance of the plant/equipment is delayed due to fault of contractor/seller, the warranty period will automatically get correspondingly extended further for the delayed period.
- Notwithstanding the fact that the purchaser (or his representative) may have inspected and/or approved the plant/equipment, if any defect is discovered in the plant/equipment during the aforesaid warranty period and the decision of the purchaser in that behalf shall be final and binding on the contractor/seller, the purchaser shall be entitled to call upon the contractor/seller to rectify such defect.
- The purchaser shall notify the defects to the contractor/seller in writing without undue delay after the defects are noticed, and in any event not later than thirty (30) days after the expiry of the warranty period.
- Upon receipt of notice from the purchaser about any defect that occurs during the warranty period, the contractor/seller shall respond immediately and make good the defect within a reasonable period, or such specific period as may be allowed by the purchaser at the request of the contractor/seller, without any charges and costs to the purchaser.
- If the plant/equipment is found to have a defect that can be assumed to be present also in some other portion of the plant/equipment, the seller/contractor shall investigate whether such further defect is present, and shall make good any further defects found.
- If a defect appears, requiring immediate action due to the risk of resultant damage, and if the contractor/seller cannot make immediately good the defect, the purchaser is entitled to apply all necessary measures to prevent or limit damage.
- This warranty is not applicable if the defect is attributable to normal wear and tear or incorrect operation or negligence or willful damage on the part of the purchaser.
- Parts replaced or repaired under the above provisions shall be subject to the same warranty from the contractor/seller, and under the same conditions as apply for the rest of the plant/equipment, for a period of one (1) year after such replacement or repair has been effected. The warranty period for the rest of the plant/equipment shall be extended only by the time during which it was out of operation as a result

of defects covered by the above provisions. Nothing contained in this clause shall however extend the warranty period by a period beyond two (2) years after the commissioning and acceptance of the plant/equipment.

- Defective parts which have been replaced shall be made available to the seller/contractor without cost. However, the seller/contractor shall be responsible for lifting the defective parts and transporting the same at his cost from purchaser's place within mutually agreed time period.
- In case of failure on the part of the contractor to fulfill any warranty obligations, the contractor/seller shall pay to the purchaser such compensation, as may arise from the breach of the warranty here in contained."
- Bidder's own warranty terms with lot of restrictions on warranty claim, reporting period and not adhering to YIL warranty terms is not acceptable.

#### **5.15 Integrity Pact (IP):**

- (a) "Pre Contract Integrity Pact' would be signed between the Factory Units and the bidders for all procurement of P&M over ₹ 1 Crores. The Integrity Pact would be a binding agreement between YIL / Factory Units and bidders for specific contracts in which the government promises that it will not accept bribes during the procurement process and bidders promise that they will not offer bribes.
- (b) The validity of this Integrity Pact shall be from date of its signing and will remain valid up to the validity of the PBG or the complete conclusion of contractual obligations to complete satisfaction of both the bidders and the buyer, whichever is later.

Should one or several provisions of this Pact turn out to invalid; the remainder of this Pact remains valid. In this case the parties will strive to come to an agreement to their original intentions.

- (c) Integrity Pact clause and format should be included in the Bid Documents. Each page of such Integrity pact proforma would be duly signed by Purchaser's competent signatory. All pages of the Integrity Pact are to be returned by the bidder (along with the technical bid) duly signed by the same signatory who signed the bid, i.e. who is duly authorized to sign the bid and to make binding commitments on behalf of his company. Any bid not accompanied by Integrity Pact duly signed by the bidder shall be considered to be a non-responsive bid and shall be rejected straightway.

.....

The purchase of P&M shall follow a procurement programme of the purchaser to ensure that the equipment fulfils the objective for which it was purchased. GFR stipulates that all purchases shall be made in accordance with the existing norms and guidelines of the Government. The procurement guidelines in the GFR, GeM and the legal provisions make it incumbent upon the purchaser to ensure a transparent and fair compliance with the laid down procedures. Hence, the purchaser shall necessarily follow the guidelines while safeguarding the interests of YANTRA INDIA LIMITED (YIL).

It is stipulated therein that every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy, transparency in matters relating to public procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement.

**6.1 Types of Contracts:** Contracts are classified into following three types depending on the item being purchased and accordingly attract different types of taxation.

| Type              | Items purchased                                                                            | Tax |
|-------------------|--------------------------------------------------------------------------------------------|-----|
| Goods contract    | Materials, machines, tools, spares, etc.                                                   | GST |
| Services contract | Training, supervision of erection and commissioning, inspection, project consultancy, etc. | GST |
| Works contract    | Civil works, electrical works, instrumentation, pipings, etc.                              | GST |

For above three types of contracts, Ministry of Finance, DOE has published separate manuals (on 1-06-2022/22-7-2024) which can be used as reference documents in all Ministries and Departments.

Procurements of plant & machinery in all OFs/Units under YIL fall under the category of goods contracts. They also generally involve services like training and supervision of erection & commissioning. Big turn-key projects like procurement of chemical plants also involve civil and erection works.

**6.2 Combination of items:** Procurement shall be done in such a way as to attract fair and healthy competition. Tender enquiry shall be done for only machines of the same or related specialty. For example, 'Transformers' and 'CNC lathe machines' are two different categories of machines having different sets of suppliers; combining these two machines in one TE shall be avoided as suppliers will either not quote at all or forge alliances to participate in the TE, thus distorting the competition. Thus, separate contracts are concluded for different machines/plants. For projects requiring civil works of considerable magnitude along with supply and installation of equipment, separate contracts are normally awarded for civil works and P&M. When a large, complex contract is to be undertaken for which synchronization of civil works and procurement of P&M is likely to be difficult, a turnkey (design, supply, install) contract shall be considered.

### 6.3 Bidding Procedures:

The bidding procedures applicable for procurement of P&M are mentioned as below:

- (i) **Single-Stage, Two-Part Bidding Procedure (Two Bid System):** This is the normal procedure and is applied for most of the Plant & Machineries. Complete technical specifications are prepared in advance. Bidders are asked to submit two sealed bids simultaneously, i.e. in two parts as under:-
  - (a) **Technical bid (or Techno-commercial bid)** consisting of all technical details, un-priced copy of price bid along with commercial terms and conditions.
  - (b) **Price bid** indicating item-wise price / as per Price bid template given in Procurement portal for the items mentioned in the technical bid.

In case of two bid system, initially, only the technical bid is opened on the date and at the time specified in the bidding documents. In case of manual TE, the price bid remains sealed and is held in custody by the factory units. Whereas, in case TE issued through **e-procurement system (Electronic mode like GeM/CPPP)** the case will be dealt as per usual procedure where price bid shall be opened after the decision of relevant TEC. The objective is to evaluate the technical bids without referring to price. Bids that do not meet qualification criteria or do not conform to the specified requirements may be rejected as non-responsive / deficient bids. Only the price bids of the techno-commercially accepted bidders are opened in public / through online e-procurement portal on the date and at the time intimated to them in advance. The price bids of the techno-commercially accepted bidders are evaluated on their merits. Following approval by the Competent Financial Authority or TPC, the contract is awarded to the bidder who submitted the lowest evaluated substantially responsive bid.

- (ii) **Two-Stage Bidding Procedure:** This procedure allows for finalization of specifications and/or screening of potential suppliers in the first stage and issue of formal tender documents in the second stage. The basic objective is to avoid awarding a contract to unqualified bidders based on superficial evaluation and to limit the number of bidders to a manageable size. This is performed in two ways as given below.
  - (a) **EOI before TE (EOI+TE):** Expression of Interest (EOI) bids may be invited in the following situations: a) It is not feasible for the procuring entity to formulate detailed specifications or identify specific characteristics for the subject matter of procurement without receiving inputs regarding its technical aspects from bidders; b) The character of the subject matter of procurement is subject to rapid technological advances, market fluctuations or both; c) The procuring entity seeks to enter into a contract for research, experiment, study, or development, except where the contract includes the production of requirements in quantities sufficient to establish their commercial viability or to recover research and development costs or d) The bidder is expected to carry out a detailed survey or investigation and undertake a comprehensive assessment of risks, costs and obligations associated with the particular procurement. (Rule 164 of GFR 2017)
  - (b) In the first stage, a notice shall be issued calling for Expression of Interest (EOI) / Request for Information (RFI) from leading experienced and knowledgeable manufacturers/ suppliers in the relevant field through open advertisement. The broad objectives, constraints, pre-qualification criteria for

short-listing of vendors, application format, etc shall be published while calling for EOI. The firms shall be asked to send applications in stipulated format on or before a stipulated date & time, along with their detailed technical proposals that will be considered by the purchaser in finalizing tender specifications. On receipt of the applications, technical discussions/presentations may be held with the short-listed manufacturers/suppliers, who are prima facie considered technically and financially capable. At this stage, expert bodies like DRDO Units/Universities/Institutes and other stake holders may also be involved who can add value to the decision making on the various technical aspects and evaluation criteria. Based on the discussions and presentations, for which proper records should be kept, broad based specifications shall be finalised to provide equitable opportunity to the prospective bidders. In the second stage, techno-commercial bids are called from the short-listed firms as per the usual two bid tendering system. If EOI does not contain PQ criteria, then after finalisation of specifications, TE is to be published in the GeM/internet/e-procurement system, as per usual procedure.

- (c) **PQ before TE (PQ+TE):** This is applied to the cases where technical specifications have been finalized, but involves documents of classified / secret / sensitive nature like plant/factory units layouts and proprietary/licensed technology and design details. Pre- qualification (PQ) of the bidders is done in the first stage of the tender. The NIT shall include the particulars of the tender along with the complete pre-qualification requirements and would follow all the procedures of publicity that are normally followed for open tenders including publicity on the GeM/web site/ e-procurement system. In the second stage, the complete tender documents are issued to the pre-qualified vendors for submitting their techno-commercial and price bids. The pre-qualification criteria shall have both technical and financial criteria commensurate with the requirements of the particular procurement. They shall be made neither very stringent nor very lax to restrict/facilitate the entry of bidders. It is also necessary to make well defined PQ criteria, for example if not clearly stating the cut off dates regarding work experience, which may result in stalling the process of finalising the contract. Meaning of "similar plant/equipment/work" should be clearly defined.
- (iii) **Two-Stage, Two-Part Bidding Procedure:** As per this procedure, the bidders are requested to submit offer in two sealed bids simultaneously, one containing the technical proposal and the other the price proposal. Initially, only the technical proposals are opened on the date and at the time specified in the bidding documents. The price proposals remain sealed and are held in custody by the Purchaser. The technical proposals are evaluated. If amendments or changes are required in specification/scope, they are discussed with the bidders. All the bidders are then advised in writing of the changes required. The objective is to ensure that all technical proposals conform to the same acceptable technical standard and meet the desired technical requirements. Bids of bidders who are unable or not prepared to amend their technical bids to conform to the final technical standard required by the Purchaser shall be rejected, with approval of appropriate TPC, as deficient bids. In the second stage, the bidders are invited to submit revised technical proposals and supplementary price proposals. The supplementary price proposal must only contain changes in price resulting from changes in the technical proposals. Supplementary price proposal that contain changes other than those discussed during technical evaluation may result in rejection of the bids. The original and supplementary price proposals, and the revised technical proposals are opened in public on the date and time intimated to the bidders. They are evaluated. Following the approval of CFA /

appropriate TPC, the contract is awarded to the bidder who submitted the lowest evaluated substantially responsive bid. This bidding procedure is suitable for procurements for large/complex plants and machines where alternative technical proposals are possible. This is an alternative to EOI+TE procedure and is useful when the likely suppliers do not reveal full technical details of available equipments during BQ or EOI stage.(RISKY)

#### **6.4 Modes of Procurement:**

The following are standard methods of obtaining tenders.

- (i) Single Tender Enquiry (STE)
- (ii) Limited Tender Enquiry (LTE)
- (iii) Open Tender Enquiry (OTE) through GEM/CPPP/GTE.

#### **6.5 Single Tender Enquiry (STE):**

Normally, Single Tender Enquiry shall not be resorted to for procurement of Plant & Machinery procurement from a single source may be resorted to in the following circumstances:-

- (i) It is in the knowledge of the factory units that only a particular firm is the manufacturer of the required goods i.e. there is only single known source (SKS).
- (ii) In a case of emergency, the required goods are necessarily to be purchased from a particular source, and the reason for such decision shall be recorded and approval of competent authority obtained.
- (iii) For standardisation of machinery or spare parts to be compatible to the existing sets of equipment (on the advice of a competent technical expert and approved by the competent authority), the required item is to be purchased only from a selected firm.

Single known source (SKS) certificate or Proprietary Article Certificate (PAC) in the prescribed format shall be provided by competent authority as per latest Delegation of Financial power before procuring the P&M on STE. Prescribed format for PAC or SKS Certificate is given in the Appendices.

#### **6.6 Limited Tender Enquiry:**

- a. This method may be adopted when the estimated value of the P&M to be procured is up to ₹ 50 lakhs . The number of suppliers in LTE shall be more than three. In case of LTE, it shall be certified that the demand is urgent and any additional expenditure involved by not procuring through advertised tender enquiry is justified in view of urgency. It shall also be put on record the nature of the urgency and reason why the procurement could not be anticipated. It shall also be recorded in writing that it will not be in public interest to procure the P&M through advertised tender enquiry. Further, the sources of supply are definitely known and possibility of fresh source(s) beyond those being tapped is remote.

LTE is a restricted competition procurement, where a preselected panel of vendors (on the list of registered suppliers for the subject matter of procurement) are directly approached for bidding for goods and services not available on the GeM portal. Bids from uninvited bidders are treated as unsolicited and are not entertained except in exceptional circumstances.

The limited tender enquiries are sent to all likely sources. They will include:  
Registered Suppliers based on database of past supplier, comnet database for plus new DPSUs of erstwhile OFB, past registered supplier, Suppliers qualified in TEC but not issued SO, participated for similar machine.

- a. Once Limited Tender Enquiry is issued, it is implied that rejection of any offer on the ground of unknown/un-satisfactory units performance/on the plea of unsatisfactory units capacity verification of the firm is not in order. It is expected that, the firm, based on whose BQ and specification, factory units has firmed up the specification and estimated cost is included in the list of short listed vendors for issue of LTE.

## **6.7 Advertised Tender Enquiry (ATE):**

6.7.1 Subject to exceptions for which STE and LTE may be issued, invitation to tenders by advertisement (in the form of a Tender Notice or NIT) shall be used for procurement of P&M of estimated value of minimum Rupees fifty lakh.

6.7.2 There are different forms of ATE:

### **6.7.2.1(i) Procurement through GeM:**

Government e-Market place (GeM) is a National Public Procurement Portal launched to facilitate end- to-end online procurement of common use Goods & Services required by Central and State Government Departments/Organizations/PSUs in a transparent and efficient manner.

The GeM public procurement Platform supports following modes of tender:

- a. Direct Purchase
- b. L1 Comparison Purchase
- c. Bidding Process
- d. Custom Bid (for category of items which are not available in GeM)  
Limits for above mode of tender will be as notified by GeM from time to time

Procurement through GeM Portal : Whenever the procurement action is done through GeM portal, the guidelines / terms & conditions of GeM portal issued and amended from time to time, will be applicable.

- (ii) **Open Tender Enquiry through CPPP** : Plant and Machinery shall be procured generally through GeM, however competent authority (i.e. relevant PFC as per DFP of YIL) may decide to buy through other mode of e-procurement(such as CPPP)/ paper tender after following the relevant instructions in the matter as notified by GoI from time to time.

### **(iii) Global Tender Enquiry:**

GTE is similar to OTE but, through appropriate advertising and provision for payment in Foreign Currencies (if required) through it is aimed at inviting the participation of inter alia foreign firms. The point of balance between Value for Money and cost/ complexity of procedure is further aggravated as compared to OTE. Development of local industry also needs to be kept in mind. Hence, it may be viable only in following situations:

- i) Where Goods of required specifications/quality are not available within the country and alternatives available in the country are not suitable for the purpose;
- ii) Non-existence of a local branch of the global principal of the manufacturer/vendors/ contractors;
- iii) Requirement for compliance to specific international standards in technical specifications; and
- iv) Absence of a sufficient number of competent domestic bidders likely to comply with the required technical specifications, and in case of suspected cartel formation among indigenous bidders. (Rule 161 of GFR 2017)

In order to promote Make in India, Government has laid down certain norms and procedures for procurement through GTE.

For procurement through GTE the latest guidelines of Department of Expenditure updated/amended from time to time to be followed.

**The preferred mode of tender shall be “procurement through GeM”**

## **6.8 Preparation and uploading of Tender Enquiries**

- (a) The Tender Enquiry (TE) is the most important document in the procurement process and shall be prepared with due care. This shall include the following:
  - i. Clear instructions to the bidders.
  - ii. Full and clear specifications and scope of requirement.
  - iii. Standard and Special terms and conditions.
  - iv. Evaluation criteria, for both technical bids and price bids, including purchaser’s option to load the offered prices suitably to accommodate minor deviations in commercial clauses (special conditions of contract).
  - v. Format for submission of Bids including documents/securities like EMD, PBG EPBG (any electronic form), Advance Bank Guarantee, Warranty Bond, Pre-Contract Integrity Pact and IPBG, if applicable.
- (b) Validity of offers: Normally, the tender documents shall include minimum validity of six (6) months for General Purpose/SPM/Standalone Machines and minimum twelve (12) months for all Chemical and Metallurgical process plants and Integrated system with multiple Plant & Machines to avoid repeated reference to bidders for validity extensions. A bid that is valid for a shorter period shall be rejected as nonresponsive. In case the day up to which the bids are to remain valid falls on or is subsequently declared a holiday/ closed day for the Procuring Entity, the bid validity shall automatically be deemed to be extended upto the next working day. The validity period should not be unreasonably long as keeping the tender unconditionally valid for acceptance for a longer period entails the risk of getting higher prices from the bidders.

## **6.9 Standard and Special Conditions of Contract to be stipulated in TE :-**

- (a) A contract is a legal document. It must be governed by terms and conditions to protect the interest of both the parties to the contract. So, every purchase officer is not only thoroughly familiar with each conditions of a contract, but that he is also able to take appropriate and timely action to safeguard the rights and honour of the Purchaser. It is also desirable that the conditions of a contract are practical, fair and

just for both the Purchaser and the Supplier. The conditions of contract become binding for both parties on signing/acceptance of the mutually agreed contract.

- (b) Format for TE including the standard and special conditions of contract has been detailed in the Appendices for guidance.
- (c) The standard conditions of contract (also called 'general conditions of contract') are generally applicable to all contracts and have legal implication. Therefore, neither any deviation from the text of these clauses nor any deletion of these clauses is allowed. In case a deviation from these clauses has to be considered/allowed due to insistence of the Seller due to special circumstances of the case, then decision is to be taken by appropriate TEC / CFA after obtaining legal advice, if required.
- (d) The special conditions are supplementary conditions applicable to the specific TE. The special conditions listed in the Format for TE comprise of several commercial clauses, which may or may not be relevant for the particular procurement case. Hence, a conscious decision is to be taken while framing tender specifications to incorporate the relevant clauses from this list.
- (e) In addition, there may be need to stipulate conditions like stage inspection, acceptance trials, installation, commissioning and pre-defined stages of payment for supplies/works/services. Such conditions shall be decided while processing the sanction of demand and shall be mentioned in the TE.
- (f) Deviations may be accepted to the commercial clauses having impact on the price, provided it is possible to apply suitable loading on the offered prices for equitable comparison of the tenders. Such loading criteria should be decided before opening of the price bids.

#### **6.10 Exchange rate variation**

Exchange Rate Variation: Exchange rate variation shall be admissible to all contracts placed on Indian manufacturers for supply of P&M having substantial import content, determined at the time of submission of bid itself.

- a. Parameters to be kept in view while invoking ERV clause.
- b. In case of a contract involving substantial import content(s) and having a long delivery period (exceeding one year from the date of contract), an appropriate Foreign Exchange Variation clause may be formulated by the procuring entity in consultation with its Associated/ integrated Finance, as needed, and incorporated in the tender enquiry document. In that clause, the tenderers are to be asked to indicate import content(s) and the currency(ies) used for calculating the value of import content(s) in their total quoted price, which (that is, the total quoted price) will be in Indian Rupees.
- c. To work out the variation due to changes (if any) in the exchange rate(s), the base date for this purpose will be the due date of opening of tenders/seven days prior to the due date of opening of tenders (Factory Units Unit is to decide and adopt a suitable date). ERV clause in the contract shall specify that ERV is to be computed w.r.t exchange rate as prevalent on the date of bill of lading by the manufacturer. The applicable exchange rates as above will be according to the TT selling rates of exchange as quoted by authorised exchange bankers approved by RBI on the dates in question.
- d. Any increase or decrease in the customs duty by reason of the variation in the rate of exchange in terms of the contract will be to the buyer's account. In

case the delivery period is revised/extended, ERV will not be admissible, if this is due to the supplier's default; however, ERV benefits arising out of downward trends should be passed on to Procuring Entity. The procuring entity may formulate an appropriate ERV clause on similar lines as above in consultation with their Finance Wing.

- e. ERV clause shall not be applicable in following conditions.
  - i. The delivery period is less than one year; or
  - ii. The rate of exchange variation is within the band of (+/-) 2.5%
- f. Paying authority shall undertake a pre-audit of the documents before payment.
- g. The firm shall submit following documents in support of claim on account of ERV along with the bill-
  - a) Copies of import orders and relevant invoice
  - b) A bill of ERV claims enclosing worksheet
  - c) Banker's certificate/debit advice for foreign exchange paid.

#### **6.11 Pre-Bid Conference :**

In case of turn-key contract or contract of special nature for purchase of sophisticated and costly equipment, a suitable provision shall be kept in the tender enquiry document for a pre-bid conference for clarifying issues and clearing doubts, if any, about the specification and other allied technical details of the plant, equipment and machinery projected in the tender enquiry document. Representations, if any, received during the pre-bid conference shall be critically examined. The objective shall be to allow a level playing field as wide as possible. The date, time and place of pre-bid conference shall be indicated in the tender enquiry document for information of the interested bidders. This date shall be sufficiently ahead of tender opening date. Any amendment shall be duly notified to all bidders who shown interest in case of GeM/e-procurement.

#### **6.12 Format of Tender**

- i. The tenderers shall be asked to furnish their quotations as per the prescribed format and also as per the instructions incorporated in the tender documents. Bids received by cable or facsimile or in the form of scanned copies shall be ignored and rejected.
- ii. Where the price has components like price of the machines, costs for installation & commission, operators' training etc., the bidders shall be asked to furnish the cost break- up, indicating the applicable prices and taxes for each such component along with the overall price. The payment schedule & terms will be linked to this cost break-up. In case of e-procurement, Price bid template as given in web portal is only applicable and no other information needs to be obtained.
- iii. In case of manual tender / e-procurement, the bidders are required to furnish clause by clause compliance of tender specifications in a specified format, as shown below, along with their technical bids. Failure to submit this compliance statement would make their offers liable for rejection.

|                          |                                   |                                 |                                |
|--------------------------|-----------------------------------|---------------------------------|--------------------------------|
| Para of Tender Enquiry & | Specification of machines offered | Compliance to TE specification, | Non-compliance, deviation from |
|--------------------------|-----------------------------------|---------------------------------|--------------------------------|

|                         |  |            |                                      |
|-------------------------|--|------------|--------------------------------------|
| required specification. |  | Yes or No. | Tender specification to be indicated |
|                         |  |            |                                      |

In case of e-procurement, clause by clause Compliance as given by bidders in web portal only shall be applicable and no other additional data / information needs to be submitted by bidders.

### **6.13 Extension of Tender Opening Date:**

- i. Sometimes, situations may arise necessitating modification of the tender documents already uploaded through GeM/ e-procurement or TEs issued for manual tender. Also, a bidder may point out some genuine mistakes necessitating amendment in the tender documents. In such situations, it is necessary to amend/modify the tender documents suitably prior to the date of submission of bids in GeM/e-procurement portal and a corrigendum shall be issued. [Amendment to tender documents /Technical specification excluding opening date is not possible at present in GeM]. In GeM portal corrigendum in tender documents and also extension of tender opening date can be issued after obtaining approval of competent Financial authority.(as per DFP)
- ii. When the amendment/modification changes the requirement significantly and /or when there is not much time left for the tenderers to respond to such amendments, and prepare revised tender, the time and date of submission of tenders shall be extended suitably, along with suitable changes in the corresponding time-frames for receipt of tender, tender validity period etc and validity period of the corresponding EMD/bid security.
- iii. Depending on the situation, such an amendment may also need fresh publication in procurement GeM/e-procurement Portal adopting the same procedure as for publication of the original tender enquiry.
- iv. Any requests for postponement of date of tender opening from the suppliers will be decided on their merits by CFA and case-to-case basis. Accordingly, all agencies including the firms which had already submitted the offer along with other prospective supplier shall be informed through website.

### **6.14 Amendments / Modifications to BID by Tenderers:**

In case of Manual Tender, the tenderer, after submitting its tender, is permitted to submit alterations/modifications to its tender so long as such alterations/modifications are received duly sealed and marked like original tender, upto the date & time of receipt of tender. Any amendment/modification received after the prescribed date & time of receipt of tenders shall not be considered.

In case of E-procurement / GeM Bidding only online modification through relevant web portal shall be allowed and no manual re-submission / revision is allowed. Withdrawal/ amendment/ modification/ alteration/ impairment/ derogation of a bid, in any respect, by its bidders between the deadline for submission of bids and the expiration of the period of bid validity, his bid security/ EMD shall be forfeited

besides imposition of any other punitive remedy available to the procuring entity.

#### **6.15 Scrutiny of the technical bids:**

After opening of technical bid, E.O./ Procurement office shall prepare technical comparative statement of tenders (Technical CST) and forward it to User section. User section in consultation with the related maintenance sections will scrutinize the technical part of the bid and forward the recommendation to E.O., duly approved by Group Officer/Controlling Officer of User section. E.O. shall scrutinize the general, commercial & other terms and conditions. This shall be carried out in a definite time frame.

- a. Technical parameters like similar / specific plant and machinery, work experience required, Performance reports, shall be a part of Technical specification only and shall not be included as a routine in other than technical terms and conditions.
- b. After incorporating clarifications, if any, sought from the bidders in the respective technical CST, the recommendations of user section is obtained- EO will put up to appropriate level of TEC for deliberations and decision. After approval of the appropriate level of TEC, factory units will open the price bid as per laid down procedure of online procurement portal-

**6.16** All technical evaluation shall be done in a time bound manner, so as to complete the procurement case within the original validity. Beyond the validity of offer, further extension of validity may be asked from the firm, but in no case, revision of bids having financial repercussions shall be entertained.

#### **6.17 Price bid opening:**

On the due date of price bids opening, only the price bids of bidders whose offers have been considered techno-commercially acceptable will be opened. Price bids of techno-commercially unacceptable offers will not be opened.

Decision on placement of order shall be taken by the relevant TEC/TPC at YIL/ Factory Units or other units under YIL by following the latest delegation of financial power.

#### **6.18 e-procurement:**

e-procurement to be done through CPPP portal of NIC with latest guidelines available on the website of CPPP.

#### **6.19 Purchase through Local Purchase Committee (LPC):**

The competent authority (PFC) may purchase P&M through LPC, up to the value as per DFP of YIL, on each occasion on the recommendations of a duly constituted Local Purchase Committee consisting of three members of an appropriate level (from User, QC and Finance) as decided by the **ED**. The committee will survey the market (such as physical market survey/internet/e-mail survey etc.) to ascertain the reasonableness of rate, quality and specifications; and identify the appropriate supplier. Before recommending placement of the purchase order, the members of the committee will jointly record a certificate as under: "Certified that we, members of the purchase committee are jointly and individually, satisfied that the goods/services recommended for purchase are of the requisite specification and quality, priced at the prevailing market rate and the supplier recommended is

reliable and competent to supply the goods /services in question, and it is not debarred by Department of Commerce or Ministry of Defence or DDP or YIL/OFs."

## **6.20 Electronic Reverse Auction (eRA)**

1. Electronic Reverse Auction (eRA, a type of auction classified as a dynamic procurement mode) is an online real-time purchasing technique used to select a successful bid. eRA is an iterative process with automatic evaluation of bids, where bidders can offer successively more favourable bids to displace the lowest bid at any given moment within the duration of the eRA. The starting price, minimum bid decrement, duration of the auction, and the maximum number of automatic extensions are announced before the start of the online reverse auction. If a new lower bid is received within the last few minutes (pre-announced, say five minutes) of closing time, the closing time may get automatically extended by a few minutes (pre-announced, say ten minutes) for others to respond. A maximum number of such extensions may be pre-announced (say 50). The most favourable bid at the end of the stipulated/extended time is declared as successful. It has, however, to be ensured that the entire process is conducted transparently and fairly.

2. Electronic reverse auctions can be a powerful tool for procuring goods and services, but they also come with potential risks and drawbacks. Here are some reasons why caution is advised:

a) **Quality and Supplier Relationships:** In an electronic reverse auction, the focus is on price, and suppliers may be forced to cut corners to win bids, affecting the overall quality of the product or service. Additionally, aggressive bidding can strain supplier relationships, leading to long-term negative effects.

b) **Value for Money:** While reverse auctions can drive down immediate costs, they may not optimise value for money. Factors like total cost of ownership, lifecycle costs, innovation, reliability, sustainability, and strategic alignment may get overlooked.

c) **Lack of Technology Development:** Suppliers may hesitate to invest in innovation or process improvements if they are constantly pressured to lower prices. This can hinder long-term competitiveness and limit the introduction of new technologies or ideas in hitech goods and services.

d) **Risk of Supplier Dropouts:** Aggressive bidding can lead to suppliers dropping out of the market segment, reducing competition. If critical suppliers exit, it can disrupt the supply chain and impact availability.

3. Thus, while electronic reverse auctions can drive cost savings, they should be used judiciously, considering the broader implications beyond price alone. Therefore, eRA should not be used indiscriminately or as a default mode of procurement. A procuring entity may choose procurement of goods that are amenable to procurement by this mode of procurement as per the following guidelines:

a) A reverse auction would be appropriate where: i) Items are commodities, Commercially-off-the-shelf items; ii) it is feasible to formulate a detailed description of the subject matter of the procurement; iii) there is a competitive market of bidders (say more than five) anticipated to be qualified to participate in the electronic reverse auction so that effective competition is ensured; iv) the criteria to be used by the procuring entity in determining the successful bid are quantifiable and can be expressed in monetary terms;

b) Where caution is needed in using Reverse Auction: i) In the case of repetitive/regularly procured items, future procurements may be affected, as there may not be the same type of price reduction in future procurements as in the first Reverse Auction.

Procuring entities may face a situation of not being able to justify the higher rates received subsequently or ii) Where it is proposed to issue parallel orders by splitting the total order quantity among more than one supplier, a reverse auction may be avoided. However, in such a case, if the reverse auction is resorted to, then there should be adequate suppliers available, i.e., if the quantity is to split into N parts, then suppliers available should be at least N+3.

c) Reverse Auction would not be appropriate for: i) The requirement is not of high enough value to generate competitive pressures on bidders. ii) Items of strategic/ critical/ vital/ high technical complex nature, items that are in short supply in the market, or iii) Where the QCBS system of selection is used (wherever permissible in case of Consultancy, Non-consultancy Services or Works); or iv) Where FBS (Fixed Budget Based Selection) system of selection is used in Consultancy Services wherein the only parameter for evaluation is quality/ technical criteria or v) In Engineered products having complexity in design; or vi) EPC contracts and complex Works contracts, or vii) Items where there are only a few suppliers.

#### 4. Terms and conditions:

a) Subject to more detailed guidelines in the category-specific manual or organisational variations, the procedure for electronic reverse auction shall include the following:

i) In stand-alone eRA, the procuring entity shall solicit bids through an invitation to the electronic reverse auction to be published or communicated in accordance with provisions like e-procurement. The invitation shall, in addition to the information as specified in e-procurement, include details relating to: 1) Access to and registration for the auction; 2) Opening and closing of the auction; 3) Norms for the conduct of the auction; 4) Any other information that may be relevant to the method of procurement.

ii) If the consideration of quality requires competition only among qualified bidders, eRA may be preceded by a stage of PQB (on the same platform as eRA) to shortlist qualified bidders, who would only be allowed to participate in the eRA process that follows.

iii) Procuring Entities may combine a full two envelope eProcurement process with Reverse Auction (Tender cum e-Reverse Auction). Then, after an eProcurement process, the e-Reverse Auction process is mandatorily conducted taking the L1 price as the benchmark (upper limit), after the financial bid opening (declaration of L-1 landed price/ s), provided the number of valid bidders is not less than a stipulated number (3 if not specified).

iv) In such a combined procedure, unless otherwise stipulated, the following procedure shall be followed for elimination/ shortlisting of bidders (from among those qualified in the preceding eProcurement process) eligible to participate in eReverse Auction: 1) The bids disallowed from participating in the Reverse Auction(e-eRA) shall be the highest bidder(s) in the tabulation of prices in the financial bid. If the highest bidders quote the same rate, the Price Offer received last, as per the time log of the Portal, shall be removed first, on the principle of last in, first out by the system. 2) If the number of valid bidders is less than the minimum stipulated number (or 3 if not specified), a Reverse auction shall not be conducted, and the financial bids from the eProcurement process shall be evaluated and finalised. In the case of 4 to 6 valid bidders, the lowest three (3) bidders shall be allowed to participate in the reverse auction. In the case of more than 6 valid bidders, only 50% of the bidders (rounded up to the next integer) shall be allowed to participate. 3) However, if MSE bidders or Class-I Local suppliers under the Make in India policy do not meet the above criteria but their prices in financial bids are within the policy's margin of preference, they shall be allowed to participate. Such bidders would be over and above the shortlist mentioned above. b) E-Reverse Auction Process: If the Portal e-RAP process is different from the one described below for the combined

procedure (sub-para e) and f) above), the portal provisions shall prevail. i) There shall be no participation fees for the e-Reverse auction. ii) Where pre-qualification precedes the eRA, an electronic invitation shall be issued, giving sufficient notice period to the successful bidders, so that they can formulate pricing strategies. The starting price shall be decided by the Procuring Entity. iii) In case of combined procedure (sub-para e) and f) above), upon opening the financial bids, a reverse auction platform shall be created. The reverse auction shall start within the specified period (two hours if not specified) of the bid. Unless modified by the procuring Entity, the L-1 landed price in the financial bid (as per the calculation schema based on the Tender Document evaluation criteria) shall be the start bid price on which the auction shall be initiated. iv) The Procuring Entity shall specify the decrement value before starting the eReverse Auction (or, if not specified, 0.5% of the start bid price rounded off to the next unit, tens, hundreds, thousands, etc., with a minimum of ₹. 1). The reduction in bids shall have to be made as per decrement value or in multiple thereof. A bid decrement that is too small may prolong the auction, and a decrement that is too large may restrict competition. v) An initial period of the reverse auction shall be as stipulated (or two hours if not specified). All times and periods are as per the server time stamp. In case a

reduction in price is recorded in the stipulated last-minute-bidding-period (five minutes, if not so specified) before the auction closing time, there shall be auto extensions of time by a specified auto-extension period (ten minutes if not specified). The Maximum number of auto extensions shall be as stipulated (or 50 if not stipulated). The last-minute-bidding period should not be so small that unscrupulous bidders may catch others off guard, preventing competitive responses. The auto-extension period should be sufficient to allow bidders to consider their next move. The number of auto-extensions should not be too large to prolong the auction, leading to bidder fatigue. vi) In case of service disruption at the service provider's end during the reverse auction, the reverse auction process shall start all over again, with the last recorded lowest price of prematurely ended e-RAP as the 'Start bid' price. The prices quoted in the prematurely ended e-RAP shall be binding on all the bidders for consideration if the restarted process does not trigger within the stipulated time (or by 5.00 pm on the same day, if not stipulated). Disruption and restarting of e-RAP shall be intimated to all the bidders through system/ SMS/ e-mail through the eprocurement portal. vii) Bidders must submit only the landed price in the reverse auction, and only the itemwise L-1 price shall be displayed without disclosing the number of bids and names of the bidders. The landed price would not be the same for two bidders, even if any bidder makes such an attempt. While evaluating the bids, the exchange rate captured by the e-procurement system shall be considered for converting foreign currency into Indian Rupees. viii) After the auction's closing time, the bid history showing all the last valid bids offered, along with the names of the bidders, shall be published. All bidders shall have the facility to see and get a print of the same for their records. ix) All electronic bids submitted during the reverse auction process shall be legally binding on the bidder. Only the chronologically last bid submitted by Bidder until the end of the auction shall be considered the valid financial bid of Bidder, and consideration of the same for entering into a contract by the Procuring Entity shall be binding on the bidder. x) In case of combined procedure, If a bidder does not submit his bid in the Reverse Auction, the price quoted in the financial bid in the preceding eProcurement shall be considered the valid price of that bidder. The status of the Bidder (L-1, L-2, etc.) shall be evaluated considering either the bid price submitted in the Reverse auction, or the Price quoted in the financial bid, whichever is lower. xi) Purchase Preference: Short-listed (MSE or Class-I Local suppliers), eligible for any purchase preference policy as per the Tender Document, shall get an opportunity to match the L-1 prices concluded after the reverse auction if their final prices in the Reverse Auction fall within the permitted percentage. xii) There shall not be any negotiation after the e-reverse auction process is closed. xiii) The successful L-1 bidder, after the reverse auction, must upload within a stipulated period (within 2 working days, if not specified) the breakup of

Landed Prices in the shortfall documents, at which the contract shall be awarded. While giving the breakup, the Bidder shall include the same taxes and duties as quoted while submitting the financial bid. If the L-1 bidder fails to submit the breakup of the landed price within the stipulated period, the Procuring Entity shall place an order

based on the breakup of the financial bid submitted by the Bidder, and the same shall be binding on the bidder. xiv) The Procuring Entity shall monitor whether there is improper use of the reverse auction, including, for example, evidence of predatory pricing, collusion, interference with the proper operation of the technology, etc. Bidders (including their subsidiaries) found to have engaged in collusive activities or other improper practices will be treated in accordance with para 7.6.8 below. (Rule 167 of GFR 2017)

## CHAPTER-7

**EARNEST MONEY & PERFORMANCE SECURITY****7.1 Earnest Money Deposit (EMD) or Bid Security**

To safe guard against a bidder's with drawing or altering its/ his bid during the bid validity period in the case of advertised (OTE and GTE tenders) or limited tender enquiry Bid Security [also known as Earnest Money Deposit (EMD)] is to be obtained from the bidders along with their bids except Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) or are registered with the Central Purchase Organisation or the concerned Ministry of Department or Startups as recognized by Department for Promotion of Industry and Internal Trade (DPIIT). The bidders should be asked to furnish bid security along with their bids. Amount of bid security should ordinarily range between **2% to 5%** of the estimated value of the goods to be procured and shall be decided by CFA to ensure healthy competition in the tender.

The amount of bid security, rounded off to the nearest thousands of Rupees, as determined by the Procuring Entity, is to be indicated in the bidding documents. The bid security may be obtained in the form of Insurance Surety Bonds, account payee demand draft, fixed deposit receipt, or banker's cheque or Bank Guarantee from any of the Commercial Banks or payment online in an acceptable form, safeguarding the purchaser's interest in all respects. In case the bid security is more than a threshold (Rupees five lakh) and in case of foreign bidders in GTE tenders it may be in the form of a bank guarantee (in equivalent Foreign Exchange amount, in case of GTE) issued/confirmed from any of the scheduled commercial bank in India in an acceptable form, and so on. The bid security is normally to remain valid for a period of 45( forty-five) days beyond the final bid validity period. In exceptional cases, in place of a Bid security, Procuring Entities after seeking approval of the competent authority may consider asking Bidders to sign a Bid securing declaration accepting that if they withdraw or modify their Bids during the period of validity, or if they are awarded the contract and they fail to sign the contract, or to submit a performance security before the deadline defined in the request for bids/request for proposals document, they will be suspended for the period of time specified in the request for bids/request for proposals document from being eligible to submit Bids/Proposals for contracts with the procuring entity.

A bidder's bid security will be forfeited if the bidder withdraws or amends its/his tender or impairs or derogates from the tender in any respect within the period of validity of the tender or if the successful bidder fails to furnish the required performance security within the specified period.

Bid securities of the unsuccessful bidders should be returned to them at the earliest after expiry of the final bid validity period and latest by the 30th day after the award of the contract. Bid security should be refunded to the successful bidder on receipt of a performance security. However, in case of two packet or two stage bidding, Bid securities of unsuccessful bidders during first stage i.e. technical evaluation etc. should be returned within 30 days of declaration of result of first stage i.e. technical evaluation etc.

**7.2 Performance Security:**

To ensure due performance of the contract, performance security [or Performance Bank Guarantee (PBG) or Security Deposit (SD)] is to be obtained from the successful bidder awarded the contract. Unlike contracts of Works and Plants, in case of contracts for goods, the need for the Performance Security depends on the market

conditions and commercial practice for the particular kind of goods. Performance security should be for an amount of five (5) to ten (10) per cent of the value of the contract as specified in the bid documents. Firm to submit fresh Warranty Bank Guaranty for warranty coverage @ 10% of the contract value and should be valid till 60 days beyond warranty period. In such cases, the performance guarantee (i.e. @ 5%) is to be returned only after satisfactory units delivery/ commissioning and receipt of such a warranty bank guarantee."

Unlike, procurement of Works, in procurement of Goods, the concept of taking part of Performance Guarantee as money retained from first or progressive bills of the supplier is not acceptable. Submission of Performance Security is not necessary for a contract value upto. Rupees 25 (Five) lakh

Procuring Entity may exempt the following entities (on their specific requests or otherwise) from submission of Performance Security: a) Govt. Ministries, Departments, Attached and Subordinate Offices, Autonomous bodies, b) OEM in whose favour PAC, in tenders issued against PAC. Performance Security is to be furnished by a specified date (generally 14(fourteen) days after notification of the award) and it should remain valid for a period of 60 (sixty) days beyond the date of completion of all contractual obligations of the supplier, including warranty obligations.

### **7.3 The forms of Performance Security acceptable are as follows:**

Performance security may be furnished in the form of an Insurance Surety Bond, account payee demand draft from a commercial bank, fixed deposit receipt from a commercial bank, bank guarantee (including e-bank guarantee) issued/confirmed from any of the scheduled commercial banks in India, or online payment in an acceptable form, safeguarding the purchaser's interest in all respects. In the case of GTE tenders, the performance security should be in the same currency as the contract and must conform to the Uniform Rules for Demand Guarantees (URDG 758) – an international convention regulating international securities

**Note:** Bank Guarantee, wherever applicable as per the Manual, should be mandatorily through SFMS mode.

### **7.4 Failure to submit or maintain Performance Security Deposit:**

- i. Failure to submit Performance Security Deposit may entail cancellation of contract. They may even be labeled as unreliable and no tender shall be issued for one year from the due date of submission of performance security. However, a request for extension of date of submission of performance security may be considered on the merits of each case by CFA . Unless the firm submits the security deposit, factory units shall not carry out any kind of inspection/PDI.
- ii. If a contract has been completed within due date and within the period of validity of Bank Guarantee submitted as performance security, payment shall not be held up because the BG has not been revalidated within the period preceding submission of bills.
- iii. The Contractor must maintain the Performance Security of the required amount in a specified format during the currency of the Contract. In the event of any amendment issued to the contract, the contractor shall furnish suitably amended value and validity of the Performance Security in terms of the amended contract within twenty-eight days of the issue of the amendment.
- iv. If the contractor during the currency of the Contract fails to maintain the requisite Performance Security, it shall be lawful for the Procuring Entity at its discretion to either terminate the Contract for breach of contract and avail any or all contractual remedies or without terminating the Contract, recover from the contractor the

amount of such security deposit by deducting the amount from the pending bills of the contractor under the contract or any other contract with the Procuring Entity or the Government or any person contracting through the Procuring Organisation or otherwise.

#### **7.5 Refund / Forfeiture of Performance Security:**

- i. The performance security should be refunded to the contractor without interest after he duly performs and completes the contract in all respects but not later than 60(sixty) days of completion of all such obligations, including the warranty under the contract. No claim shall lie against the Procuring Entity regarding interest on cash deposits or Government Securities or depreciation thereof. The senior officers(GO/CO of procurement group) should monitor the return of Bid/ Performance Securities, and delays should be avoided. If feasible, the details of these securities may be listed in the e-Procurement Portal/ website of the Procuring entity to make the process transparent and visible
- ii. Performance security shall be forfeited(full performance security should be forfeited, even if the Contractor has partially executed the work) and credited to the Purchaser's account in the event of a breach of contract by the supplier, in terms of the relevant contract. Bank guarantees may also be invoked in case of specific breach and strictly in terms of the agreement. The decision shall be taken by the relevant TPC. In case of delay in getting the guaranteed money, which might enable a firm to obtain legal measure to prevent such encashment, request may be made to Central Office of the Bank to investigate and fix responsibility. Administrative decision may be taken to debar acceptance of BG from such banks and from such firms. If the machine fails to perform at the level proved at the time of commissioning, due to any major problem and the problem is attributed to the bad workmanship of the supplier, the supplier shall rectify the problem and restore to its original level. The warranty period and validity of warranty bond shall be extended by period of breakdown.

#### **7.6 Verification of the Bank Guarantees**

The BG shall be issued through SFMS facility and shall be verified through SFMS. At the time of issuance of the BG, in order to avail BG verification through SFMS facility, the issuing Bank shall put the IFSC code of beneficiary bank.

#### **7.7 Safe Custody and Monitoring of Bank Guarantees & Other Instruments**

Engineering Office for unit /M&P Division (under Operations) for YILHQ shall ensure safe custody and monitoring of EMDs, Performance Securities and other Instruments. The dealing staff shall put up position to superiors for timely action. Monitoring shall be done on monthly basis for review of all Bank Guarantees and other instruments expiring after 3 months, along with a review of the progress of the corresponding contracts. Extension of Bank Guarantees and other instruments, where warranted, shall be sought immediately and implemented within their validity period.

## CHAPTER-8

## EVALUATION OF TENDERS

**8.1** Evaluation of bidders is one of the most significant areas of Purchase Management. The entire process of tender evaluation and placement of contract must be transparent. All the aspects, which are to be taken into account for evaluating the bidders, including the method to be adopted for evaluation of bidders and the techniques for determining the lowest evaluated responsive tender for placement of contract are to be incorporated in the tender enquiry document, in clear and comprehensive manner without any ambiguity and or confusing stipulations therein, so that the interested vendors can formulate their competitive offers in a meaningful manner and participate in the tendering process with confidence.

**8.2** All the bidders shall be evaluated strictly based on the terms & conditions incorporated in the tender enquiry documents (based on which offers have been received) and the terms, condition etc. stipulated by the bidders in their bid. No new condition shall be brought in while evaluating the bidders. Similarly, no tender enquiry condition (specially the significant/essential ones) shall be over looked while evaluating the bidders. It shall be ensured that no tenderer gets undue advantage at the cost of other bidders and or at the cost of YIL. The evaluation of bidders is done in different phases

**8.3 Preparation of Technical CST (for E-procurement cases / GeM Public procurement Platform):**

After opening of technical bids, Procurement agency shall download the online Spot Comparative Statement of Tenders (Spot CST) which will have compliance / deviations as uploaded by bidders on each tender term / specifications with input from. The clause-wise compliance statement submitted by the firms shall be considered for filling the Technical CST, but entries shall be verified from the original Bids by the Procurement agency and the same shall be updated in Final Technical CST which should be signed by User section of respective Fy. after due perusal. It shall be recorded in a tabular form indicating compliance vis-à-vis the tender specifications. It shall contain the following details among other things:

- (i) Whether the tender is unsigned in case of manual tender if any and digital signature in case of e-proc portal.
- (ii) The tenderer is not eligible as per qualification criteria.
- (iii) Validity of offer
- (iv) EMD details/EMD declaration/MSME certificate (UAM) or any other document in support of EMD or its exemption.
- (v) Special technical features
- (vi) Scope & cost of supply viz. the basic machine, accessories, spares etc.
- (vii) If price quoted is ex-works or at destination.
- (viii) If freight is charged extra
- (ix) If packing and forwarding charges are extra
- (x) If erection and commissioning charges are extra
- (xi) Payment terms
- (xii) Applicable Taxes/ GST and duties etc.

- (xiii) Pre-despatch inspection terms compliance by the firms
- (xiv) Final acceptance terms as compliance by the firms
- (xv) Warranty and Guarantee compliance by the firms
- (xvi) Delivery schedule quoted including erection & commissioning period.
- (xvii) For estimated cost above ₹ **1 crores**, the duly signed agreement of Integrity Pact in the specified format, attached with the TE.
- (xviii) Acceptance of the Arbitration clause.
- (xix) The tender validity is shorter than the required period.
- (xx) Required EMD / Bid security Declaration/MSME or any other valid document in support of EMD exemption has not been provided.
- (xxi) Whether the tenderer has agreed to give the required performance security.
- (xxii) Whether the tenderer has quoted for machine manufactured by a different firm without the required authority letter from the proposed manufacturer.
- (xxiii) Whether the tenderer has quoted for the entire requirement as specified in that schedule. (Example: It has been stipulated that the tenderer will supply the equipment, install and commission it and also train the purchaser's operators for operating the equipment. The tenderer has however, quoted only for supply of the equipment).

The Technical **Spot** CSTs are prepared before seeking clarification or confirming acceptability of offers. After receipt of all clarifications from the firms, it shall be **duly updated by** Procurement agency **after scrutiny of documents**, to complete the Technical CST. The columns shall not be left blank, or entries contradictory to the final technical recommendations in absence of proper updation. A clause-wise compliance statement, submitted by the firm, to indicate conformance with technical specifications must also be considered for filling technical CST. All corrections and over writings must be initialled.

- a. In case of procurement of plant & machinery of imported origin, following additional information is submitted by the foreign firms and the same shall be verified:
  - i) Penalty for use of undue influence
  - ii) Agent/Agency Commission.
  - iii) Access to the Books of Accounts
  - iv) Latest provisions of Conduct of Arbitration proceedings in India under the Arbitration & Conciliation Act (Amendment), 2021.
- b. The above are only indicative and all details are required to be compiled with a view to assist proper decision taking in the TEC at Factory Units or YIL level as the case may be.

#### **8.4 Preliminary examination of Technical Bids:**

- a) Procurement agency shall send one set of all the bids along with Spot Technical CST immediately to user section/concerned YIL Units/YIL HQ. for scrutiny. The Technical Scrutiny Committee (TSC) consisting of GO/DO of User section of Procurement agency and Mechanical, Electrical and Electronics Maintenance sections (wherever applicable) shall scrutinize the technical bids with respect to the technical specifications of tender enquiry and shall submit the detailed scrutiny report back to the Procurement agency.

- b) Simultaneously, Procurement agency shall scrutinise the offers with respect to all tender clauses i.e. both commercial and technical parts. After receiving the comments of concerned TSC, Procurement agency shall seek clarifications, as considered necessary, on complete techno-commercial specifications from the Bidders. After receiving replies from the Bidders, Procurement agency shall forward the clarification received / supporting documents to concerned TSC for review. Upon receipt of scrutiny report, Procurement agency shall update the Technical CST. Concerned TSC shall sign the updated Technical CST. Thereafter, concerned user section at factory units/YIL shall immediately send recommendation under signature of its Group Officer/Controlling Officer (whosoever is member/user of the YIL Units/ YIL HQ TEC for the case) to Procurement agency.
- c) The compliance of TE conditions is assessed at the TEC stage. Estimated cost of the demand decides TEC level. The scope of supply is freezed at TEC stage and no change is permitted after opening of price bid.

### **8.5 Technical Evaluation Committee (TEC) meeting at units/YIL:**

- a) Procurement agency or EO shall circulate a brief of the case for TEC meeting in the prescribed format (Appendix Q) indicating major/minor deviations and the recommendations of concerned TSC/ User section among all concerned members well before the TEC meeting is held.
- b) The respective TEC at factory units/units/YIL level is empowered to scrutinize and approve technical selection of firms for P&M under delegated financial powers of competent authorities as mentioned in latest DFP. There is no need to constitute any other committee for technical evaluation, preliminary evaluation, etc. Minutes of the TEC are prepared authorizing the Procurement agency to open the price bids of technically acceptable offers.
- e) TEC shall see whether the offers are technically suitable and whether the tenderers have agreed to the main / essential conditions incorporated in the tender enquiry, for example, terms of payment, liquidated damages clause, warranty clause, dispute resolution mechanism or arbitration clause, applicable law, and latest govt policy, and any other important condition having significant bearing on the cost/utility/performance of the required P&M.
- d) The aim of TEC will be to firm up the desirable criteria, optional offers, tooling required, etc and freeze all techno-commercial clauses, so that all the offers are on equal footing before Price Bids are opened. Deviations may be accepted to the commercial clauses having impact on the price, provided it is possible to apply suitable loading on the offered prices for equitable comparison of the tenders. Such loading criteria shall be decided by TEC before opening of the price bids. If TEC decides that further clarifications / confirmations are required to be obtained from the firms for proper evaluation of the offers, the same are obtained and suitable decision is taken by TEC thereafter.

**8.6 Minor Informality/Irregularity/Non-Conformity:** Some minor informality and/or irregularity and/or non-conformity may be found in some bids. These may be waived provided the same does not constitute any material deviation from the

tendered specifications or have financial impact and, also, does not prejudice or affect the ranking order of the tenderers. Wherever necessary, observation on such 'minor' issues may be conveyed to the tenderer by e-mail/ GeM platform etc. asking the tenderer to respond by a specified date also mentioning therein that if the tenderer does not confirm Procurement agency view or does not respond at all by that specified date, its tender will be liable to be rejected. Depending on the outcome, such bidders are to be ignored or considered further. Details of all the bidders, which have been declared unresponsive and ignored as per above analysis, and also the ground for their becoming unresponsive are to be accurately recorded in the TEC minutes.

#### **8.7 Disagreement with Finance Member of relevant TPC:**

In case of disagreement with Finance Member, the ED/GM/Controlling Officer as the Competent Financial Authority (CFA) can overrule the Finance Member after recording reasons for doing so clearly. His decision would be final. Same shall be intimated to the next higher CFA as well as to next higher finance officer.

#### **8.8 Opening of Price Bids and Evaluation by TPC:**

- a. After approval of relevant TEC of procurement agency, price bids of only the technically and commercially acceptable offers are opened. It shall be ensured that the price bids of offers which are technically rejected need not be opened. The bidders, whose price bids are to be opened, are to be duly informed about opening of their price bids through email/GeM platform.
- b. Cost of lowest acceptable offer after opening of price bid decides the level of TPC at Fy./YIL level. If this cost involves sanction of additional fund, relevant delegation of financial power shall be exercised as per the latest Delegation of Financial Power of YIL before finalization of the contract.
- c. The ranking statement shall be prepared on equitable basis giving basic cost of machine, accessories, tooling, essential items, essential spares, packing and forwarding charges, erection and commissioning costs, training cost, taxes and duties, freight, payment terms, terms of pre-despatch inspection, criteria for performance and acceptance, validity of offers, warranty and guarantee conditions etc.
- d. For ranking of offers, price of complete scope of supply as detailed in technical specifications on FOR/DAP basis including taxes & duties and excluding the price of Manufacturer Recommended List of Spares (MRLS) or buy back offers shall be considered where only Indian bidders are competing.
- e. In case both Indian and foreign bidders have quoted in the tender, the comparison of the offers would be done on the basis of FOR/FOT destination including all applicable taxes and duties (on the principle of the total outgo from Procuring Entity's pockets). In case there are no domestic bidders, a comparison of offers can be made on the basis of CIF/landed costs since the rest of costs would be same for all bidders.
- f. The cost of MRLS with levies and duties thereon may be written separately in the same tabulated format for all firms. The total financial implications may also be worked out.

- g. The cost of buy back offer (if applicable) with levies and duties thereon may be written separately in the same tabulated format for all firms. The total financial implications may also be worked out.
- h. In GTE tenders, the price in the quotation could be in US Dollar or Euro or Pound Sterling or Yen or in currencies under the RBI's notified basket of currencies, in addition to the Indian Rupees, except for expenditure incurred in India (including agency commission if any) which should be stated in Indian Rupees. All offers are to be converted to Indian Rupees based on the "Bill currency selling" exchange rate on the date of tender opening (Techno-commercial offer) from a source as specified in the tender document.
- i. TPC selects the lowest offer among the technically suitable offers for placement of supply order in the form of minutes of meeting confirming the reasonability of the cost.

Note : Pl. refer latest DFP wherein as per latest Delegation of financial power full power has been granted to ED/Fy for P&M. Units shall only approach YIL for additional fund only (if required).

**8.9 Non-conformities between the figures and words of the Quoted Prices –**  
Sometimes, non-conformities/errors are also observed between the quoted prices in figures and that in words. The same is to be taken care of as indicated below:

- a. If, in the price structure quoted for the required goods, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly, unless in the opinion of the purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price corrected accordingly.
- b. If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- c. If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

If there is such discrepancy in an offer, the same is to be conveyed to the tenderer with target date on the above lines and if the tenderer does not agree to the observation of the purchaser, the tender is liable to be ignored.

**8.10 Reasonability of price:**

- a. The reasonableness of the prices quoted by the lowest technically acceptable tenderer shall be ascertained based on, Last Paid Rate or Budgetary Quotation based on which the demand estimated cost was assessed, or latest order placed on some reputed firms for similar plant & machinery.
- b. Before placing the contract on the lowest evaluated responsive tender (L1), it shall be ensured that the price to be paid is reasonable. In order to achieve this task a benchmark committee comprising member of User and Local Finance & Accounts may be constituted for ascertaining the reasonableness of price. The Benchmark committee on the basis of the broad guidelines for judging the reasonableness of price are as under.

- i. Last purchase price of same (or, in its absence, similar) machines
- ii. Current market price of same (or, in its absence, similar) machines
- iii. Price of raw materials, which go into the production of the machines
- iv. Receipt of competitive offers from multiple sources
- v. Quantity involved
- vi. Terms of payment
- vii. Delivery conditions
- viii. Cost analysis (material cost, production cost, over-heads, profit margin, ERV)
- ix. Scope of supply in the specification at the time of estimate and tendered specification.

In this regard, appropriate Indices can be accessed from the website of Ministry of Industry [www.eaindustry.nic.in](http://www.eaindustry.nic.in).

*NB: Price paid in an emergency purchase or purchase price of goods offered by a firm through 'distress sale' (i.e. when the firm clears its excess stock at throw away prices to avoid further inventory carrying cost etc.) are not accurate guidelines for future use.*

Sanction of additional fund for any P&M under sanctioned project, where multiple P&M are involved shall be governed by the Delegation of Financial Powers. While sanctioning additional fund, it is to be ensured that enhanced sanction cost of the machine shall remain within the sanctioned cost of project.

c. Consideration of Abnormally Low Bids

An Abnormally Low Bid is one in which the Bid price, in combination with other elements of the Bid, appears so low that it raises material concerns as to the capability of the Bidder to perform the contract at the offered price. Procuring Entity may in such cases seek written clarifications from the Bidder, including detailed price analyses of its Bid price in relation to scope, schedule, allocation of risks and responsibilities, and any other requirements of the bids document. If, after evaluating the price analyses, procuring entity determines that the Bidder has substantially failed to demonstrate its capability to deliver the contract at the offered price, the Procuring Entity may reject the Bid/Proposal and evaluate the next higher bidder (and so on), at his/ their own quoted rate (if considered reasonable, and not by the counter-offering rate of abnormally low bid), for the award of contract. However it would not be advisable to fix a normative percentage below the estimated cost, which would be automatically be considered as an abnormally low bid. Due care should be taken while formulating the specifications at the time of preparation of bid document so as to have a safeguard against the submission of abnormally low bid from the bidder.

**8.11** The SOs for P&M to be purchased under latest DFP financial powers are placed based on decisions taken in the respective TPC meetings on connected issues and on approval by a Competent Financial Authority. Contract / supply order to be signed by DO/GO of procurement agency after receipt of concurrence from concerned TPC.

**8.12 Check points for scrutiny of Bids:**

Procedural check-points for scrutiny of offers of various firms against tender

enquiry:

- (i) Processing of Plant and Machinery cases shall be carried out keeping in view the delegation of financial powers to GMs / EDs and YIL issued by YIL from time to time.
- (ii) It may be checked whether EMD/ MSME (UAM No.) certificate/ Bid security declaration has been deposited/Submitted by the tenderer or exemption has been asked as per latest Government Orders.
- (iii) Due care shall be taken to prepare the Compliance Statement for technical as well as commercial bids. As far as possible, each system/sub-system shall be shown separately and the compliance from the bidder shall be asked system/sub-system wise. In case, the Compliance Statement of the offer has not been submitted by the firm as per the compliance format and requires further clarification, the same may be obtained from the bidder by Procurement agency provided it does not have financial repercussions.
- (iv) In the CST and in the TPC, brief name of the firm and Model No.(if any) of the item shall be written clearly. Information obtained after clarification shall be included in the technical (Part-II)/ techno commercial (Part-I, III, IV & V) of CST.
- (v) No firm shall be called alone for discussion of any type as the same may give way for corruption, same opportunity shall be given to all the participated firms to submit their view. Similarly specific clarification / information which are not a part of tender document shall be communicated to only one firm or part of firms. In case, if it is felt that ambiguity in technical specification has to be cleared with issue of clarification from buyer side, the same should be incorporated in corrigendum to tender.
- (vi) The full TSC whether in factory units/other units under YIL or at MILis required to be involved in the discussion. Minutes of meeting shall be prepared including all clarifications and shall be signed by all including the representatives of the firm.
- (vii) If further clarifications are required, the minutes of discussion shall indicate specific date by which the firm / all the firms from which clarifications needs to be obtained shall submit their clarifications. The firm shall be informed by GeM portal / Email / Post. It shall be recorded that in case, they fail to submit the clarifications by the specific date, their offer is likely to be ignored.
- (viii) It is required to be very careful in rejecting an offer. The technical details will have to be studied and if required, the firm shall be told the specific points indicating whether they can comply with the required specification. Once a reason for rejection has been indicated against a firm, it shall be seen whether the same has been confirmed by the acceptable tenderer.
- (ix) Once the Tender has been opened, no change in the specification shall be resorted to. Minor variations without any financial repercussion, if any, may be considered, provided it is accepted in the TEC/TPC.
- (x) Reasons for rejections are to be recorded in the TEC Minutes with reference to specific clause of the tendered specification.
- (xi) In case, any firm raises a technical doubt on the specification after opening of tender bids, the same shall be studied with due diligence and necessary action taken, if there shall be sufficient grounds for authenticating / issue of amendment in one or more parameters framed in the specification. Deliberations in this regard may be recorded in TEC minutes.
- (xii) GST, P&F charges etc. shall be clearly specified by the firm. In case of nil duties, the same shall also be specified. In case, they have not confirmed in the technical bid, the same shall be asked before holding of final Technical Acceptance. In accordance with the limitations in admitting and paying variations in statutory

duties, the firms shall clearly mention the rate at which the duties are levied. In case the vendor mentions the GST/duties and taxes varying from some percentage to some percentage, the CST shall be prepared taking the maximum that could be levied as per orders on date.

- (xiii) For standard items, which have been indicated by the firm in the offer, it shall be specifically stated whether those are being supplied as accessories.
- (xiv) All clarification/confirmations shall be asked before the opening of the price bid. No correspondence shall be made with the firm, seeking clarifications, after opening of the price bid.
- (xv) The following indicative list of entries will be reflected in the priced CST:
  - (a) Total including basic, standard items and essential items as per the scope of supply without spares and optional/desirable items.
  - (b) Total including basic, standard items and essential items as per the scope of supply without spares and optional/desirable items but with taxes and duties.
  - (c) Ranking shall be made including basic standard items and items as per scope of supply without spares.
  - (d) Spares.
  - (e) Total of spares and with duties.
  - (f) Total with spares and optional items,
  - (g) Payment terms.
  - (h) Validity
  - (i) Warranty
  - (j) Delivery Period.

### **8.13 Lack of Competition in OTE/ GTE and LTE**

Sometimes, against advertised/limited tender cases, the procuring entity may not receive a sufficient number of bids and/or after analysing the bids, ends up with only one responsive bid – a situation referred to as 'Single Offer'. As per Rule 21 of DFPR (explanation subpara), such situation of 'Single Offer' is to be treated as Single Tender. It has become practice among some procuring entities to routinely assume that open tenders which result in single bids are not acceptable, and to go for re-tender as a 'safe' course of action. This is not correct. Re-bidding has costs: firstly the actual costs of retendering; secondly the delay in execution of the work with consequent delay in the attainment of the purpose for which the procurement is being done; and thirdly the possibility that the re-bid may result in a higher bid. Even when only one Bid is submitted, the process may be considered valid provided following conditions are satisfied:

- i) The procurement was satisfactorily advertised and sufficient time was given for submission of bids.
- ii) The qualification criteria were not unduly restrictive; and
- iii) Prices are reasonable in comparison to market values. However restricted powers of Single tender mode of procurement would apply. In case of price not being reasonable, negotiations (being L1) or retender may be considered as justifiable. Unsolicited offers against LTEs should be ignored, however Ministries/Departments should evolve a system by which interested firms can register and bid in next round of tendering. However, under the following exceptional circumstances, these may be considered for acceptance at the next higher level of competency:
  - a) Inadequate Competition
  - b) Non-availability of suitable quotations from registered vendors

- c) Urgent demand and capacity/capability of the firm offering the unsolicited being known, etc.

#### **8.14 Award of Contract**

- (a) After approval of procurement by relevant TPC or CFA before expiry of the tender validity period, the factory units shall issue Letter of Intent (LOI) i.e. notify the successful tenderer in writing, by suitable foolproof method, that its tender (briefly indicating therein relevant details like quantity, specification of the goods ordered, prices, delivery period, etc.) has been accepted. In the same communication, the successful tenderer shall be instructed to furnish the required Performance Security within a specified period (generally one month). This will help the contractor for planning his activities.
- (b) Promptly after the above notification, factory units shall also issue the supply order to the successful tenderer asking therein, *inter alia*, to send its unconditional acceptance of the contract. It shall also be made known to the successful tenderer that in case, it does not furnish the required performance security or does not accept the contract within the stipulated target dates, such non-compliance will constitute sufficient ground for forfeiture of its EMD and processing the case for further action against it (the successful tenderer).
- (c) Supply Order shall be placed in standard format along with specifications as enclosed with tender enquiry as well as conditions of supply. If any modification is required to standard format for any individual order, then it shall be done as per approval recorded in the concerned TPC minutes.
- (d) The lowest technically acceptable offer shall be recommended for placement of order. Where only one valid and technically acceptable offer is received, it shall be treated as Single Resultant Single Tender (RST).
- (e) The numbering system for the SOs placed other than GeM platform will have eight-digit alpha-numerical code as follows:  
  
Each SO no. will be prefaced by "CAP" to signify Capital Order. This will be followed by a three digit numeric code of the factory units, followed by slash, followed by two zeroes "00" to mean SO for CAPEX(RR)/CAPEX(NC) item. This will be further followed by a slash and then by three digit numeric code for the project for which the item is being purchased. Where the item is being purchased as CAPEX(NC) and not for any project, it will be "001". This code in parenthesis will precede the SO number of the factory units. The numbering system for the SOs placed through GeM platform generated by system itself with its unique numbering system for each SO.
- (f) If standard format cannot be used for supply order, as in case of turn-key projects, DO/GO of procurement agency of the factory units shall sign a contract with the successful bidder. Legal and financial advice may be taken in drafting the clauses in the contract.
- (g) Delivery period as per tender enquiry/firm's quotation shall be agreed mutually and to be mentioned in the supply order. Normally, deviations in respect of payment terms or waiver of penalty or some other terms and conditions are not considered. In case, the firm(s) do not agree to abide or comply some of the terms and conditions of the tender but due to urgency of the machines re-tendering is not

possible, in that case, the concerned TEC/TPC may consider certain deviations of commercial terms based on the merits of the case and with recorded reasons in the TPC minutes, for accepting the same.

- (h) Any payment due to foreigners, for erection and Commissioning of Plant and Machinery, is liable to be taxed under the Income Tax Act and the recipients are liable to pay the amount. It shall be made known to the contractor's personnel for deduction to be made at source by the purchaser.

#### **8.15 Letter of Intent:**

Letter of Intent (LOI) is a communication to the bidder that his bid submitted has been accepted and the formal S.O. will be issued. This will help the bidders for planning his activities. Such communication must contain the price, delivery date and other salient particulars. S.O. shall be issued within 1 month from the date of issue of letter of Intent except in those cases involving sign of contract by both parties. In latter cases, this period is 3 months.

#### **8.16 Extension of Tender Validity Period**

The entire process of scrutiny & evaluation of tenders, preparation of ranking statement and notification of award must be done within the original tender validity period. The validity period shall not be unreasonably long as keeping the tender unconditionally valid for acceptance for longer period entails the risk of getting higher prices from the tenderers. If however, due to unavoidable circumstances or some unforeseen reasons, factory units is unable to decide placement of the contract within the original validity period, it shall request, before expiry of the original validity period, all the responsive tenderers to extend their tenders upto a specified period. While asking for such extension, the tenderers shall be asked to extend their **offers** as it is, without any changes therein. They may also be communicated to extend the validity of the EMD for the corresponding additional period (which is to be specified in the request). A tenderer may not agree to such a request and this will not tantamount to forfeiture of its EMD. But the tenderers, who agree to extend the validity, are to do so without changing any terms, conditions etc. of their original tenders. The communication in this regard may be sent by E-mail / GeM Portal / Post / any other officially stated media account of bidders.

If a withdrawn bid happens to be the L1 bidder (lowest acceptable bidder, who is techno-commercially qualified for the supply of a bulk quantity and would have been awarded a contract, but for his refusal to extend validity), the tender must be retendered. However, such L1 price of the withdrawn bids shall not be taken as precedence for determining price estimates or reasonableness

#### **8.17 Time Limit for Procurement & Accountability:**

- a. The ill-effects of delay in processing and clearance of various procurement activities needs no emphasis. The decentralization of decision making mechanism and delegation of financial powers are aimed at facilitating faster decision making and obtaining best value for money. However, the delegation of powers also implies "authority with accountability". Every individual in the chain of the procurement process is accountable for taking action in a specified time period so that the requirements are met on time.

- b. The meeting of PFC(Fy./YIL) shall be taken as the date of sanction for issue of TE. The following time-frame for processing of procurement proposals after approval of PFC(Fy./YIL) should be followed:

| <b>Sl. No.</b> | <b>Activity</b>                                                                               | <b>Time frame guidelines</b>                                                                      |
|----------------|-----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| 1.             | (i) Finalization of Factory Units's TEC/other units under YIL/YIL TEC.                        | Within 3 months from the date TOD                                                                 |
| 2.             | (i) Finalization of Factory Units's TPC and other units under YIL/YIL's TPC for SO placement. | Within 1 (two) month from date of finalization of Factory Units's / other units under YIL/YIL TEC |

The expeditious procurement action by the factories is necessary for expeditious modernization of OFs and other units of YIL.

## CHAPTER-9

**CONTRACT MANAGEMENT****9.1 Introduction:**

Contract Management involves monitoring the implementation of a contract after it is placed to ensure timely completion of all the supplies and related services shown in the contract as per terms & conditions incorporated therein. For details Chapter 9, Page 217 of the DoE Manual 2024 may be referred to.

**9.2 Text of Contract:**

The very first requirement for ensuring a trouble free contract management is placement of contract with unambiguous and transparent terms & conditions, which have already been agreed to by both the purchaser and the supplier in black & white.

**9.3 Performance Security:**

The purchaser shall ensure that the supplier receiving the contract furnish the required Performance Security in the prescribed form by the specified date, failing which necessary action including forfeiture of the Earnest Money Deposit is to be taken against the supplier.

**9.4 Acknowledgement of Contract:**

The supplier shall acknowledge and unconditionally accept the contract within the specified days from the date of issue of contract. While acknowledging the contract, the supplier may raise some issues and/or ask for some modifications against some entries in the contract; such aspects shall be immediately looked into for necessary action and, thereafter, supplier's unconditional acceptance of the contract obtained. If both the parties (viz. the purchaser and the supplier) simultaneously sign the contract across the table, further acknowledgement from the supplier is not required. Contract Acknowledgement through official Email ID of bidder / seller to official Email ID of buyer is an accepted mode of communication.

**9.5 Contract Effective Date and Commencement Date:**

- a. The contract effective date is the date from which the contract comes into effect i.e. the date of signing the contract or the placement of SO date.
- b. The commencement date is the date with reference to which the delivery obligations of the supplier shall start under the contract. The commencement date is generally indicated in contracts with foreign firms and is conditional upon the completion of certain activities by both parties as mentioned in the contract. [Earlier, such a date was called effective date of contract. However, to avoid legal complications, it is now preferable to call the date of signing as the effective date of contract.]
- c. Some examples of activities on which the commencement date is base dare:
  - (i) Date of signing of the contract.
  - (ii) Furnishing of End User's Certificate by the purchaser.

- (iii) Obtaining Export Licence by the seller and sending a copy to the purchaser.
- (iv) Furnishing of performance bond by the seller in terms of performance security.
- (v) Receipt of Bank Guarantee for advance payment from the seller.
- (vi) Receipt of advance payment by the seller.
- d. In case of GeM contracts, the date of contract **confirmation / acceptance** by the seller through GeM portal online shall become effective date of contract.

#### **9.6 Monitoring and Coordination:**

- a. All the authorities, who are entrusted with some responsibilities and duties to perform in terms of the contract, shall work in unison in a coordinated manner to ensure completion of the contract without any time overrun, cost overrun and related legal complication. It is, therefore, necessary for the factory units/ other units to keep a proper watch and coordinate all such activities to avoid any bottleneck or problem in the execution of the contract.
- b. With respect to laid down time frame and targets for expenditure, regular monitoring is to be done at the purchaser level through weekly, monthly, quarterly, half yearly reports as relevant in each case.
- c. **Monitoring of Securities and other Instruments:** Proper procedure for safe custody and monitoring of bank guarantees and other instruments shall be laid down by each Factory Units and followed accordingly.

#### **Amendment to Contract:**

- (a) Many a times, due to various reasons, changes and modifications are needed even in a duly concluded contract. Either party to the contract can request for an amendment. If the proposed amendment is acceptable to other party to the contract, then amendment can be issued.
- (b) Requests for such changes and modifications mostly emanate from the supplier. Immediately on receiving such a request, the factory units/YIL shall examine the same and take action as necessary with the approval of the competent authority.
- (c) No variation in the terms of a concluded contract shall normally be made, unless the contract specifically provides for it.
- (d) Any amendment to contract terms requested by the supplier may have, inter alia, financial impact and/or technical impact and/or legal impact. Therefore, before agreeing to the request of the supplier, the factory units/YIL shall scrutinise the issue on its merits to ensure that the requested amendment will not have any adverse effect on the factory units/YIL. Financial concurrence shall be obtained before issuing any amendment having financial implications/repercussions. Otherwise, TPC may take appropriate decision.

#### **9.7 Payment to the Supplier:**

Factory Units shall ensure that all the payments due to the firm including release of performance security are made on priority basis without avoidable delay. Once the warranty period is over and there is no claim pending, performance security

Original Bank guarantee shall be returned to contractors by post, without insisting for no demand certificate, within 60 days from completion of all contractual obligations including warranty. Details of payment released, UTR number, Tax deducted at source (TDS) / Tax collected at source (TCS) and calculation sheet if any on part payment / final payment shall be communicated clearly to the contractors from payment disbursing authority.

## **9.8 Special care for import cases:**

For import of Plant and Machinery, some of the important aspects which need to be evaluated / followed are as follows:

- i. Documents shall be submitted to substantiate Nature of business agreement between the foreign OEM and the Indian side like authorized agent / partner / exclusive dealer / one time co-ordinator/JV/consortium etc. are to be clearly stated by bidder. Certificate for agency commission involved must be submitted along with offer.
- ii. Agency commission:  
The amount of Agency Commission, (normally not exceeding five percent) payable to the Indian Agent should not be more than what is specified in the Agency agreement (a certified copy should be submitted along with the bid) between the bidder and the Indian Agent. The Indian Agent will be required to submit a certificate along with their Agency Commission bill, confirming that the amount claimed as Agency Commission in the bill has been spent/will be spent, strictly to render services to the foreign Principal, in terms of the Agency Agreement. The Purchaser or their authorized agencies and/or any other authority of the Government of India shall have rights to examine the books of the Indian Agent and defects or misrepresentations in respect of the afore indicated confirmation coming to light during such examinations will make the foreign Principal (i.e. the Contractor) and their Indian Agent liable to be banned/suspended from having business dealings with the Purchaser, following laid down procedures for such banning/suspension of business dealings.
- iii. Provision of adequate safe-guards in the AT/Supply orders for invoking of the same in case of failure of on the part of the supplier of plant and machinery or default. The default or breach is always reckoned from the date as mutually agreed or as contracted.
- iv. The Foreign OEM / supplier shall bear Responsibility of system integration.
- v. The seller shall guarantee assurance and reliability of all bought out vendor items like- components/sub-assembly/ sub-systems etc. An appropriate provision shall be made in the contract for the same.
- vi. Provision for training in usage, maintenance etc. shall be made in the contract. In accordance with the commitments made by the respective parties to the contract, a schedule will be laid down for compliance.
- vii. In case of complex plants, it may be considered to depute design review team comprising of representatives of users, maintenance, inspection as also stage inspection where necessary. If approved, based on the requirement of the user, their charter of duties and plan of action shall be mutually agreed recorded and implemented.
- viii. The modalities of inspection (PDI & final inspection after erection & commissioning) shall be clearly and unambiguously set out in the contract.

- ix. Provision for pre-despatch inspection by the purchaser's inspection team as per schedule shall be ensured.
- x. Sustained follow up and implementation of contracts and close monitoring is an absolute necessity.
- xi. The inspection team shall be well versed in carrying out the pre-despatch inspection encompassing all aspects of performance. If inspection of imported P&M shall be done on receipt in India, availability of special test equipments/special test instruments shall be ensured.
- xii. Receipt at the destination and its erection shall be planned and monitored for adherence. Planning for civil works for foundation, services, dry runs shall be done in advance and monitored for compliance of by all concerned.
- xiii. Timely availability of raw materials for trials and commissioning shall be ensured.
- xiv. Preparation of inspection and acceptance, supply of men and materials and components etc shall be completed on time and the inspection agencies must complete the tasks as per stipulated time.
- xv. Period of support for supply of spares from foreign OEM (for minimum 10 years) shall be ensured and same to be mentioned in tenders and subsequent contract.

### **9.9 Dispatch of components as per input drawings:**

- (a) While purchasing machines/equipments required for stage processing of components, the quality of the output is checked stringently by the purchaser. It is the purchaser's obligation to supply input components, materials, samples etc. to the supplier against the equivalent amount of Bank Guarantee. The need arises due to the fact that:
  - (i) The input to the plant or machine may have special features not ordinarily available/obtainable by the supplier from other sources. Explosives and chemicals made to specifications of producing factory units will have to be supplied to the manufacturer for pre-despatch inspection of the machine.
  - (ii) The quality of trial components shall be ascertained with approval of Group officer of user section and QC.
  - (iii) The input to the machine may be required to be semi-processed by the machines available at the purchaser's end. The quantity & quality of such inputs to be supplied to the supplier shall be discussed and decided mutually.
  - (iv) In case of non availability of required quantity of trial components / exact dimension of the trial component for PDI / machining trials after receipt, due to any reason, the competent authority i.e. relevant TPC is empowered to approve conducting PDI / machining trial after receipt with similar product / different quantity, without compromising the machine capability for the purpose for which the machine was purchased.
  - (v) In case of PDI possible at firm premises, but as per request of the Firm Inspection of P&M has to be carried out at purchaser premises (at firm and risk and cost), 100% payment to be released after successful erection and commissioning and final acceptance of the machine.
- (b) Further, it may be desirable to carry out the functional trials, wherever practicable, at the pre-despatch stage and check performance of the machine being purchased, for which the terms and conditions of such supply shall be laid down in the contract as given below:
  - (i) The supply of input components normally required for specified duration of trials and testing shall be within purchaser's scope of responsibility. The

supplier shall pay for any further requirements. (against the equivalent amount of Bank Guarantee)

- (ii) Under general conditions, the cost of stores expended during trials and testing shall be borne by the supplier, unless the purchaser carries out special and independent tests. The supplier will reimburse the costs of tests and components, where there is no agreement of free supply of components to the supplier. This aspect shall be made clear in the contract.
- (iii) Before despatch of the input components to the supplier, the purchaser shall ensure that they conform to the quality standards of input materials. The input material shall be exclusively inspected and certified by the purchaser's as per clause above 9.9 a, (ii) before despatch to the supplier. Documentary evidence indicating traceability of trial components shall be maintained by QC / user section and the copy of Inspection report has to be shared with Engineering Office.
- (iv) The finished products along with the unused balance components/ materials shall be returned to the purchaser, and segregated as acceptable, scrap and balance unused components/ materials etc., if supplied free to the supplier as a part of the contractual conditions. Even when paid for, the supplier would be guided by the disposal instructions of the purchaser. Apart from final quality verification, the purchaser may require them back for converting to scrap on account of lethality considerations. Therefore, as a general rule, the finished products, unused balance components/materials, scrap shall be claimed back. The trial components are to be supplied by the purchaser free of cost and to be provided against BG. The value of BG shall be 110% of the actual cost of Input Trial Components. The Trial Components are required to be returned by the supplier in the form of finished products, unused balance components/materials, scrap etc.
- (v) The delivery of input components shall adhere to the mutually agreed schedule. The supplier shall intimate the requirement of input component in synchronizing with the readiness of the machine.

#### **9.10 Sequencing:**

- (a) If more than one item is ordered on one supplier, for individual plant and machinery or a group of system and sub-systems, it becomes necessary that the manufacture and supply follow a regulated sequence. Many manufacturers subcontract readily available materials to the OEMs and it might be possible that the hydraulic power pack, coolant system and Conveyor system etc are delivered ahead of the rest and the main machines are delivered long afterwards. Even if the main machine is delivered, the vital accessories are delayed leading to delay in commissioning after part payments are made.
- (b) It would, therefore, be required that on placement of contract, the supplier shall be asked to schedule delivery and inform the purchaser accordingly. It shall be obligatory for the supplier to pre-programme the delivery schedule and obtain purchaser's approval before proceeding with the manufacture and supplies.

#### **9.11 Termination of a Concluded Contract:**

A contract may be terminated in the following circumstances:

- a. When the supplier fails to honour any part of the contract including failure to deliver the contracted P&M in time.
- b. When the contractor is found to have made any false or fraudulent declaration or statement to get the contract or he is found to be indulging in unethical or unfair trade practices.
- c. When both parties mutually agree to terminate the contract.
- d. When the item offered by the supplier repeatedly fails in the inspection and/or the supplier is not in a position to either rectify the defects or offer items conforming to the contracted quality standards.
- e. Any special circumstances, which must be recorded to justify the cancellation or termination of a contract.
- f. If the supplier becomes bankrupt or becomes otherwise insolvent or undergoes liquidation or loses substantially the technical or financial capability (based on which he was selected for award of contract), at any time, the contract may be terminated, by giving a written notice to the supplier, without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to Procuring Entity.

**9.11.1 Termination of contract for convenience:** After placement of the contract, there may be an unforeseen situation compelling Procuring Entity to cancel the contract. In such a case, a suitable notice has to be sent to the supplier for cancellation of the contract, in whole or in part, for its (Procuring Entity's) convenience, inter alia, indicating the date with effect from which the termination will become effective. This is not Procuring Entity's legal right– the contractor has to be persuaded to acquiesce. Depending on the merits of the case, the supplier may have to be suitably compensated on mutually agreed terms for terminating the contract. Suitable provisions to this effect should be incorporated in the tender document as well as in the resultant contract.

**9.12 Closure of Purchase File:**

On completion of all activities against a contract, the purchase file shall be preserved in the record room and destroyed after expiry of the applicable mandatory retention period with the approval of the competent authority.

## CHAPTER-10

**DELIVERY, TRANSPORT & RELATED TERMS****10.1 Introduction**

- a. In this chapter, the issues concerning Delivery Schedule including Transportation & Transit Insurance and various aspects covering Delays in Supply have been discussed.
- b. Despatch is an important activity in the process of procurement, where another agency or third party is involved – the Carrier. This calls for coordinated action by the purchaser and the supplier to ensure that the machine purchased is despatched safely, satisfactorily and commissioned as per schedule.
- c. Despatch can be by road, rail, sea or air. Each carrier has its own set of practices and regulations for meeting the operational requirements and conditions.

**10.2 Delivery Period**

- a. The period for delivery of the ordered P&M and completion of any allied service(s) thereof (like installation and commissioning of the equipment, operators' training, etc.) shall be properly specified in the contract with definite dates and the same shall be deemed to be the essence of the contract. Expressions such as 'immediate', 'ex-stock', "as early as possible", 'off the shelf', etc. must not be used to indicate contractual delivery period.
- b. The bidders shall be asked to comply;
  - i) The delivery schedule
  - ii) Period For completion of erection and commissioning at the site from the date of successful supply of P&M or after communication to the seller of site readiness.
- c. In cases of specialized nature, SPMs and P&M involving aggregation/integration of complex nature, bidder may be asked to indicate delivery period for supply and erection & commissioning separately.
- d. In case of requirement of any addendum/corrigendum regarding delivery period the relevant CFA shall decide based on the merit of the case.
- e. Based on above, the period for delivery of the ordered P&M and completion of any allied service(s) thereof (like installation and commissioning of the equipment, Performance Guarantee Test, Machining Trials, operators' training, etc.) are to be properly specified in the contract with definite dates and the same shall be deemed to be the essence of the contract.

**10.3 Terms of Delivery**

The terms of delivery is decided depending on the nature of P&M to be purchased, transportation facility available, location of the user, location of the prospective suppliers etc. Terms of delivery *inter alia* determine the delivery point of the ordered P&M from where the purchaser is to receive / collect the P&M. Terms of delivery have direct bearing on the quoted prices. Fy relevant PFC shall clearly specify the terms of delivery for each specific P&M prior to bid creation / tendering.

#### 10.4 Linkage between Terms of Delivery & Date of Delivery:

- (a) Delivery dates in respect of contracts incorporating standard and commonly used terms of delivery shall be deemed to be as follows:
- i. **Ex-Works:** The date the supplier delivers the P&M/goods to the purchaser at its (supplier's) factory units/premises.
  - ii. **FOR, Station of Despatch:** The date on which the goods are placed by the supplier on rail with clear CAPEX(RR) (Rail Receipt).
  - iii. **FOR, Destination:** The date on which the ordered goods reach the destination **(inside Factory Units premises) by Road** specified in the contract.
  - iv. **CIP / DAP, Destination:** The date on which the delivery is affected at the destination mentioned in the contract.
  - v. **Local Delivery at Site:** The date on which the delivery is made at the consignee's site mentioned in the contract.
  - vi. **FAS, port of shipment:** The date on which the supplier deliver the goods alongside the vessel at the specified port of shipment. This date is reflected in the Bill of Lading.
  - vii. **FOB, port of shipment:** The date on which the supplier delivers the goods on vessel's board at the specified port of shipment. This date is reflected in the Bill of Lading.
  - viii. **CIF, port of destination:** The date on which the P&M/goods arrived at the destination port. In Incoterms® 2020, CIF keeps the same insurance requirements as in Incoterms® 2010, but CIF has increased the level of insurance required to be obtained by the seller. This is due to the fact that CIF is more often used with bulk commodity trades, and CIF is more often used for manufactured goods, and manufactured goods tend to require a higher level of insurance.
  - ix. **FCA, port of shipment:** The date on which the supplier delivers the goods to the buyer-designated carrier at the named place.
  - x. CFR - Cost and Freight
  - xi. CPT - Carriage Paid To :
  - xii. DPU - Delivered at Place Unloaded - Renamed "term" in place of DAT (Delivered at Terminal) as per Incoterms® 2020
  - xiii. DAT – Delivered at Terminal - In Incoterms® 2010, DAT means the goods are delivered once unloaded at the named terminal. As DAT limits the place of delivery to a terminal, in Incoterms® 2020, the reference to terminal has been removed to make it more general. DPU means delivered at place unloaded (which can now be used for all modes of transportation). There is no other change.
- (b) The FAS, FOB, CIF, CFR & CPT terms of delivery are applicable for goods which are directly imported from foreign countries against the subject contract and not imported already by the supplier under its own arrangement. The CIP/DAP terms of delivery may be applied both for domestic as well as imported supplies.

## 10.5 INCOTERMS

- (a) Unless otherwise specifically agreed to by the purchaser and the supplier and incorporated in the contract, the applicable rules & regulations for transportation of goods from foreign countries will be as per the contemporary version of International Commercial Terms (Incoterms) evolved by International Chamber of Commerce, Paris. Incoterms are the official rules for worldwide interpretation about the duties, obligations, etc. of the buyer and the seller for transportation of the goods from seller's country to buyer's country. Incoterms are recognized by the United Nations Commission on International Trade Law (UNCITRAL) as the global standard for such interpretation. The purchasing organization, while ordering goods for importation from foreign countries are to take note of the same.

The current version is INCOTERMS 2020. The 11 Incoterms 2020 rules are presented in two distinct classes.

- (b) The first class includes the seven Incoterms 2020 rules that can be used irrespective of the mode of transport selected and irrespective of whether one or more than one mode of transport is employed. EXW, FCA, CPT, CIP, DAT, DAP and DDP belong to this class.
- (c) They can be used even when there is no maritime transport at all. It is important to remember, however, that these rules can be used in cases where a ship is used for part of the carriage.
- (d) In the second class of Incoterms 2020 rules, the point of delivery and the place to which the goods are carried to the buyer are both ports, hence the label "sea and inland waterway" rules. FAS, FOB, CFR and CIF belong to this class.
- (e) Under the last three Incoterms rules, all mention of the ship's rail as the point of delivery has been omitted in preference for the goods being delivered when they are "on board" the vessel. This more closely reflects modern commercial reality and avoids the rather dated image of the risk swinging to and fro across an imaginary perpendicular line.
- (f) All types of transportation (including maritime):

**EXW, Ex Works** - EXW means that the seller has delivered when they place or deliver suitably packaged goods at the disposal of the buyer at an agreed-upon place (i.e. the works, factory units, warehouse, etc.). The goods are not cleared for export. From collection, the buyer is responsible for transport, all risks, costs and clearances.

**FCA, Free Carrier** - FCA means that the seller fulfills their obligation to deliver when the goods are handed, suitably packaged and cleared for export, to the carrier, an approved person selected by the buyer, or the buyer at a place named by the buyer. Responsibility for the goods passes from seller to buyer at this named place.

**CPT, Carrier Paid To** - CPT stands for when the seller delivers the goods to a carrier, or a person nominated by the seller, at a destination jointly agreed upon by the seller and buyer. The seller is responsible for paying the freight charges to transport the goods to the named location. Responsibility for the goods being transported transfers from the seller to the buyer the moment the goods are delivered to the carrier.

**CIP, Carrier and Insurance Paid to** - CIP means that the seller delivers the goods to a carrier or another approved person (selected by the seller) at an agreed location. The seller is responsible for paying the freight and insurance charges, which are required to transport the goods to the selected destination.

**DAT\*, Delivery at Terminal** - DAT is a term indicating that the seller delivers when the goods are unloaded at the destination terminal. While there is no requirement for insurance, the delivery is not complete until the goods are unloaded at the agreed destination. Therefore, the seller should be wary of the risks that not securing insurance could pose.

**DAP\*, Delivery at Place** - DAP means that the seller delivers the goods when they arrive at the pre-agreed destination, ready for unloading. It is the buyer's responsibility to affect any customs clearance and pay any import duties or taxes. The seller should be wary of the risks of not securing insurance.

**DDP, Delivery Duty Paid** - DDP means that the seller delivers the goods to the buyer, cleared for import and ready for unloading, at the agreed location or destination. The seller maintains responsibility for all the costs and risks involved in delivering the goods to the location. DDP holds the maximum obligation for the seller.

(g) **FLUVIAL AND MARITIME TRANSPORTATION:**

**FAS, Free alongside Ship** - FAS stands for when the seller delivers the goods, packaged suitably and cleared for export, by placing them beside the vessel at the agreed upon port of shipment. At this point, responsibility for the goods passes from the seller to the buyer. The buyer maintains responsibility for loading the goods and any further costs.

**FOB, Free on Board** - FOB means that the seller delivers the goods, suitably packaged and cleared for export, once they are safely loaded on the ship at the agreed upon shipping port. At this point, responsibility for the goods transfers to the buyer.

**CFR, Cost and Freight** - CFR means that the seller delivers when the suitably packaged goods, cleared for export, are safely loaded on the ship at the agreed upon shipping port. The seller is responsible for prepaying the freight contract.

**CIF, Cost Insurance and Freight** - CIF means that the seller delivers when the suitably packaged goods, cleared for export, are safely stowed on board the ship at the selected port of shipment. The seller must prepay the freight contract and insurance.

\*DAT and DAP can be equally used for transactions that involve the use of one or several types of transportation.

\*[In 2020 version: Introduction of a new Incoterm, **Cost and Insurance (CNI)**, and the **removal of EXW and FAS** as well as a more simplified version to aid comprehension and application of each Incoterm.]

\*[In 2020 version: Introduction of a new Incoterm, **Cost and Insurance (CNI)**, and the **removal of EXW and FAS** as well as a more simplified version to aid comprehension and application of each Incoterm.]

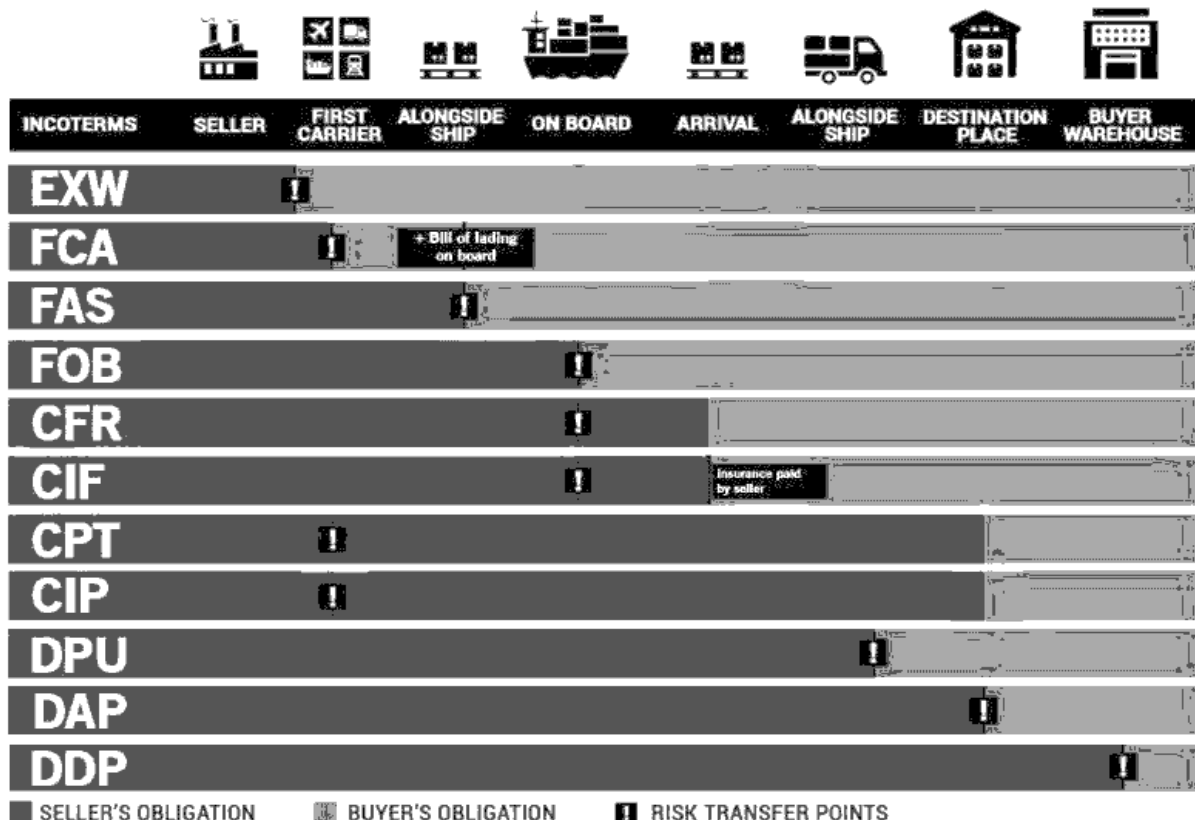
(Incoterms, 2020 Terms of Delivery, Page 177)

## INCOTERMS® 2020 QUICK REFERENCE GUIDE

|                                            | EXW      | FCA          | FAS                 | FOB                 | CFR            | CIF (2)                   | CPT (1)          | CIP (1) (2)                    | DAP                | DPU                         | DDP                 |
|--------------------------------------------|----------|--------------|---------------------|---------------------|----------------|---------------------------|------------------|--------------------------------|--------------------|-----------------------------|---------------------|
|                                            | Ex Works | Free Carrier | Free Alongside Ship | Free Onboard Vessel | Cost & Freight | Cost, Insurance & Freight | Carriage Paid To | Carriage And Insurance Paid To | Delivered At Place | Delivered At Place Unloaded | Delivered Duty Paid |
| SERVICES                                   | Who Pays | Who Pays     | Who Pays            | Who Pays            | Who Pays       | Who Pays                  | Who Pays         | Who Pays                       | Who Pays           | Who Pays                    | Who Pays            |
| Origin Warehouse Packaging Service         | Seller   | Seller       | Seller              | Seller              | Seller         | Seller                    | Seller           | Seller                         | Seller             | Seller                      | Seller              |
| Origin Loading                             | Buyer    | Seller       | Seller              | Seller              | Seller         | Seller                    | Seller           | Seller                         | Seller             | Seller                      | Seller              |
| Origin Export Customs Declaration/Duty/Tax | Buyer    | Seller       | Seller              | Seller              | Seller         | Seller                    | Seller           | Seller                         | Seller             | Seller                      | Seller              |
| Delivery to Port of Export/Inland Freight  | Buyer    | Seller       | Seller              | Seller              | Seller         | Seller                    | Seller           | Seller                         | Seller             | Seller                      | Seller              |
| Origin Terminal/Port Charges               | Buyer    | Buyer        | Seller              | Seller              | Seller         | Seller                    | Seller           | Seller                         | Seller             | Seller                      | Seller              |
| Loading on Vessel                          | Buyer    | Buyer        | Buyer               | Seller              | Seller         | Seller                    | Seller           | Seller                         | Seller             | Seller                      | Seller              |
| Carriage Charges (Ocean/Air Freight)       | Buyer    | Buyer        | Buyer               | Buyer               | Seller         | Seller                    | Seller           | Seller                         | Seller             | Seller                      | Seller              |
| Insurance                                  | N/A      | N/A          | N/A                 | N/A                 | N/A            | Seller                    | N/A              | Seller                         | N/A                | N/A                         | N/A                 |
| Destination Terminal/Port Charges          | Buyer    | Buyer        | Buyer               | Buyer               | Buyer          | Buyer                     | Seller           | Seller                         | Seller             | Seller                      | Seller              |
| Delivery to Place of Destination           | Buyer    | Buyer        | Buyer               | Buyer               | Buyer          | Buyer                     | Buyer            | Buyer                          | Seller             | Seller                      | Seller              |
| Unloading at Place of Destination          | Buyer    | Buyer        | Buyer               | Buyer               | Buyer          | Buyer                     | Buyer            | Buyer                          | Buyer              | Seller                      | Buyer               |
| Import Customs Clearance/Tax/Duty          | Buyer    | Buyer        | Buyer               | Buyer               | Buyer          | Buyer                     | Buyer            | Buyer                          | Buyer              | Buyer                       | Seller              |

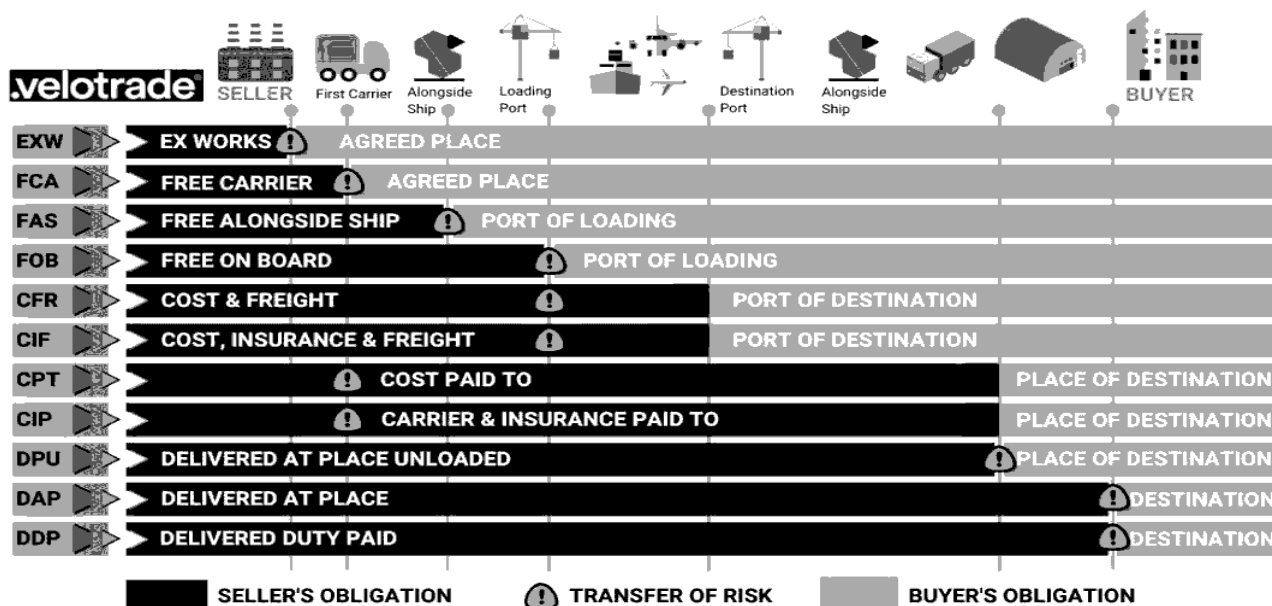
(1) Risk of loss or damage is transferred from Seller to Buyer when the goods have been delivered to the carrier.

(2) While the seller is responsible for insurance coverage during the main voyage, the buyer may have additional 'insurable interest' and prudence may dictate purchase of additional coverage



# INCOTERMS 2020

Point of Delivery and Transfer of Risk



## 10.6 Instructions for Transportation of Imported P&M

- (a) The delivery terms are to be expressed in terms of Incoterms. As per the revised policy of the Government, all Public Procurement import contracts involving (Ocean freight of dry or liquid bulk cargoes) are to be finalized only on FOB (Free on Board)/ FAS (Free Alongside Ship) basis and in case of any departure there-from, prior approval of the concerned administrative Ministry/ Department may be obtained.

However imports involving ocean freight of general liner: cargoes, project cargoes, heavy lift, container, break bulk cargoes etc. can now be made on FOB (Free on Board)/ FAS (Free Alongside Ship) or CFR (Cost & Freight)/CIF(Cost, Insurance & Freight) basis. All importing Government Departments/ PSUs are now allowed to make their own shipping arrangements without needing to route their requirements through Chartering Wing of Ministry of Shipping. As per the extant directive of the Government, airlifting of imported goods from abroad will be done only through the national carrier, that is, Air India, wherever applicable. However, before processing any contract involving import of goods through air, contemporary instructions in this regard may be ascertained and followed.

- (b) If the advice for shipping arrangement is not furnished to the supplier within 3 (three) weeks as aforesaid or if the vessel arranged is scheduled to arrive at the specified port of loading later than 15 (fifteen) days of the date of readiness of cargo, as aforesaid, the supplier may arrange for such transport on alternative carriers with the prior written consent of the purchaser.
- (c) Where the supplier is required under the contract to deliver the goods on FOB/FAS basis and to arrange on behalf and at the expense of the purchaser for ocean transportation on Indian flag vessels or vessels of conference lines in which India is a member country, the supplier may arrange for such transportation on alternate carriers if the specified Indian flag vessels or conference vessels are not available to transport the goods within the time period(s) specified in the contract, with the prior written consent of the purchaser.
- (d) Should the goods or any part thereof be not delivered on the nominated vessel (except in case where prior written consent of the purchaser was obtained), the

supplier will be liable for all payments and expenses that the purchaser may incur or be put to, by reason of such non-delivery including dead and extra freight, demurrage of vessels and any other charges, whatsoever incurred by the purchaser.

- (e) The supplier shall not arrange part-shipments and/or transshipment without the express/prior written consent of the purchaser.
- (f) Where the supplier is required under the contract to deliver the goods under CIF/CIP terms, no further restriction shall be placed on the choice of the ocean carrier except that the shipment shall be made by Indian flag vessel or by vessels belonging to the conference lines in which India is a member country.
- (g) Before processing any case for placement of contract on FAS/FOB/CIF/CIP basis for imported goods, the purchase organization should check the contemporary government instructions in this regard for further necessary action
- (h) Shipping arrangement etc can be made through hired agencies, if required.

#### **10.7 Packing and Marking:**

- (a) The packing of the consignments shall be done carefully and appropriately so as to prevent any damage to the P&M in the accepted means of transport.
- (b) The supplier shall forward the complete packing details preferably 3 months prior to despatch for arrangement of sea and inland transportation by the Fy.
- (c) The packing shall be weather-proof and sea-worthy (if dispatched by sea). Components inside shall be padded fastened securely and overall covered/sealed with tough polythene sheets. Hygroscopic material in sealed packets may be kept inside to avoid ingress of moisture in sea environment. The supplier will be fully responsible for suitability of packing material to withstand rough handling and exposure to sea conditions.
- (d) Sophisticated/delicate machines/components of delicate nature, likely to be damaged during transit or small and urgent consignments may be air-lifted after obtaining approval of competent authority.
- (e) Each package is to be marked by the supplier with indelible ink, prominently indicating-
  - (i) Contract number and date.
  - (ii) Full address of consignee
  - (iii) Port of landing, station of dispatch as applicable
  - (iv) Arrow showing upright position
  - (v) Care mark for glass/fragile items
  - (vi) Brief nomenclature of items inside
  - (vii) Marking for special slinging positions in block English letters
  - (viii) Each package shall contain packing list, Invoice, packing note giving cost of each item contained, a copy of pre-delivery inspection certificate, identification tag on each item.
  - (ix) Each of the packages shall ordinarily be less than 5m in length, 2.5m in width and 2.5m in height, and less than 10T in weight.

#### **10.8 Insurance**

Wherever necessary, the goods supplied under the contract, shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the contract. If considered necessary, the insurance may be done for coverage on "all risks" basis including war risks and strike clauses. The amount to be covered under insurance should be sufficient to take care of the overall expenditure to be incurred by the purchaser for receiving the goods at the destination.

**Note:** Insurance of imported goods/equipment would need to be arranged on a very selective basis and only for cases where the value of individual shipment is expected to be in excess of ₹. 5 crore. Procuring Entities who are entering into large number of imports contracts, may enter into annual Insurance arrangements for all imports during the year with Insurance Companies, instead of insurance for each individual imports separately on the basis of "Open Cover (all Risk)" Where delivery of imported goods is required by the purchaser on CIF/CIP basis, the supplier shall arrange and pay for marine/air insurance, making the purchaser as the beneficiary. Where delivery is on FOB/FAS basis, marine/air insurance shall be the responsibility of the purchaser.

#### 10.9 **Distribution of Despatch Documents for Clearance/Receipt of Goods**

The supplier shall send all the relevant despatch documents well in time to the purchaser to enable the purchaser clear or receive (as the case may be) the goods in terms of the contract. Necessary instructions for this purpose are to be incorporated in the contract. The usual documents involved and the drill to be followed in general for this purpose are as follows:

##### **For Domestic Goods**

Within 24 hours of despatch, the supplier shall notify the purchaser, consignee,..... (others concerned), the complete details of despatch and also supply following documents by registered post / speed post, (or as instructed in the contract):

- (i) Supplier's Invoice indicating, *inter alia* description and specification of the goods, quantity, unit price, totalvalue;
- (ii) Packing list;
- (iii) Certificate of country of origin;
- (iv) Insurance certificate;
- (v) Railway receipt/Consignmentnote;
- (vi) Manufacturer's guarantee certificate and in-house inspectioncertificate;
- (vii) Inspection certificate issued by purchaser's inspectorand
- (viii) Any other document(s) as and if required in terms of thecontract.

##### **For Imported Goods**

Within 24 hours of despatch, the supplier shall notify the purchaser, consignee, .....(others concerned), the complete details of despatch and also supply following documents by air mail / courier (or as instructed in the contract):

- (i) Supplier's Invoice giving full details of the goods including quantity, value,etc.;
- (ii) Packinglist;
- (iii) Certificate of country oforigin;
- (iv) Manufacturer's guarantee and Inspection certificate;
- (v) Inspection certificate issued by the Purchaser'sInspector;
- (vi) Insurance Certificate;
- (vii) Name of theVessel/Carrier;
- (viii) Bill of Lading/AirwayBill;
- (ix) Port ofLoading;
- (x) Date ofShipment;
- (xi) Port of Discharge & expected date of arrival of goods and
- (xii) Any other document(s) as and if required in terms of the contract.

#### 10.10 **Instalment Delivery**

- (a) The goods ordered in a contract to be delivered by instalments may be an "entire" contract or a "severable" contract as per illustrations given below:
  - i) **Entire Contract:** Total number of units of the required goods is100. Delivery Schedule: Delivery to commence after 30 days of placement of contract and

to be completed within 4 months @ 25 units per month i.e., completion by 30.06.2024 or earlier.

- ii) **Severable Contract:** Total number of units of the required goods is 100. Delivery Schedule: 25 units by 31.03.2024; 25 units by 30.04.2024; 25 units by 31.05.2024; 25 units by 30.06.2024.

- (b) In the case of a severable contract, each instalment constitutes a separate contract and extension in delivery period, if needed is to be done for each instalment separately. If goods are accepted after expiry of the delivery date of a particular instalment without extension in delivery period being given with reservation of right to liquidated damages etc., the purchaser will not be legally entitled to claim the liquidated damages etc. Therefore, in case of severable contract, the purchaser should watch delivery position of each instalment as per the specified date for that instalment, and, whenever necessary, extend the corresponding date for the instalment in question or cancel that instalment, in which there is delay in supply.

#### 10.11 Delay in Supplies for which Supplier is not responsible

- (a) Normally, in the following circumstances, the contractual delivery period needs to be re-fixed to take care of the lost period, without imposing any penalty to the supplier.
- (i) Cases where the manufacture of goods is dependent on the approval of the advance sample and delay occurs in approving the sample though submitted by the supplier in time.
  - (ii) Where extension in delivery period is granted on account of some omission on the part of the purchaser which affects the due performance of the contract by the supplier.
  - (iii) Cases where the purchaser controls the entire production.
  - (iv) Delay in sending PDI team or Shipping arrangement for Shipment by purchaser
- (b) The delivery cannot be re-fixed to make a contract a 'severable' contract without the specific agreement of the supplier, if the delivery originally stipulated in the contract was in the form of an 'entire' contract.

#### 10.12 Force Majeure Clause:

A Force Majeure (FM) means extraordinary events or circumstance beyond human control such as an event described as an act of God (like a natural calamity) or events such as a war, strike, riots, crimes (but not including negligence or wrongdoing, predictable/seasonal rain and any other events specifically excluded in the clause). An FM clause in the contract frees both parties from contractual liability or obligation when prevented by such events from fulfilling their obligations under the contract. An FM clause does not excuse a party's non performance entirely, but only suspends it for the duration of the FM. The firm has to give notice of FM as soon as it occurs and it cannot be claimed ex-post facto. There may be a FM situation affecting the purchase organisation only. In such a situation, the purchase organisation is to communicate with the supplier along similar lines as above for further necessary action. If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of FM for a period exceeding 90 (ninety) days, either party may at its option terminate the contract without any financial repercussion on either side. Notwithstanding the punitive provisions contained in the contract for delay or breach of contract, the supplier would not be liable for imposition of any such sanction so long as the delay and/or failure of the supplier in fulfilling its obligations under the contract is the result of an event covered in the FM clause.

The firm must give notice of FM within a reasonable time as the conditions permit (say, not later than 14 days after its occurrence), and it cannot be claimed ex-post facto.

### **10.13 Remedies to Purchaser for delay in Supply / Non-Supply for which Supplier is responsible**

The purchaser has the following options depending upon the circumstances of the case:

- (i) Extend the delivery with imposing of liquidated damages and other denial clauses
- (ii) Forfeit the performance security
- (iii) Cancel the contract
- (iv) Impose other available sanctions/penalties

### **10.14 Liquidated Damages**

- (a) The Liquidated Damages (LD) are pre-estimated damages recoverable from the contractor to take care of delays in supplies and performance, for which the contractor is responsible. The breach shall be reckoned from the agreed delivery schedule. Liquidated Damages are to be calculated on the basic cost (excluding taxes & duties) (Ref: DDP/MoD I.D.. No. 8(8)/O2P/2018 DATED 06/08/2018).
- (b) An LD clause in the contract enables the supplier to know the limit of its risk or liability for payment of damages for delay on its part in effecting supplies.
- (c) If the contractor fails to deliver the P&M within the period fixed for such delivery or at any time repudiates the contract before the expiry of such period, the Executive Director may recover from the contractor LD as per the contract, without prejudice to the other remedies available to the purchaser under the terms of the contract.
- (d) *LD against Erection and Commissioning:* It is mandatory to include in the tender specification where firm may be asked to give Time frame required allowed for erection & commissioning of P&M after supply shall be as per the supply order terms and condition. Accordingly LD is to be imposed if firm is unable to maintain the time frame indicated in the S.O as per their commitment in the tender. For erection & commissioning of the P & M, delay will be attributed to them and LD will be imposed @ 0.5% of the relevant portion of contract price excluding taxes & duties of the P&M for each and every week and part of a week for which the erection and commissioning of P&M have been delayed subject to maximum of 5% of the value of contract price excluding taxes & duties of the P&M. This LD will be in addition to the normal LD against delay in delivery.
- (e) **Waiver of LD**

There should normally be no system of waiver of LDs for delayed supplies in supply contracts and it may be strictly be an exception rather than a rule. For an extension of the delivery date with waiver of LD, approval of the CFA with consultation of associated Finance may be taken and justifications recorded.

**Note:** Waiver of LD beyond Rs. 500,000 would require approval of Director (Opn) and CMD with the concurrence of Director Finance.

#### **Quantum of LD (Standard clause to be specified in TE):**

- (i) In the event of seller's failure to have the plant / machines or any part/instalment thereof delivered by the date/dates specified in the contract, the buyer may at his discretion withhold any payment until the whole of the plant / machines have been supplied and the buyer may also deduct from the seller as agreed, Liquidated Damages and not by way of penalty, the sum of 0.5% of the contract price excluding taxes & duties of the delayed supplies for each week or part of a week for which the delay has occurred, subject to maximum of 5% of the value of delayed supplies.

- (ii) For delay in completion of any works or services attributable to the supplier, which leads to delay in commissioning and final acceptance of the plant / machines, LD will be imposed @ 0.5% of the full contract price excluding taxes & duties of the plant / machines for each and every week and part of a week of delay in commissioning and final acceptance, subject to maximum of 5% of the full contract price excluding taxes & duties. This LD will be in addition to the LD against delay in delivery of supplies.
- (iii) The sum of LD for (i) and (ii), i.e. for delays in supplies as well as works & services, will be subject to overall ceiling of 10% of full contract price excluding taxes & duties.
- (iv) For cases where payment condition is 100% after erection and commissioning LD due to delayed supplies, which leads to delay in commissioning and final acceptance of the plant / machines, LD will be imposed @ 0.5% of the full contract price excluding taxes & duties of the plant / machines for each and every week and part of a week of delay in commissioning and final acceptance, subject to maximum of 10% of the full contract price excluding taxes & duties.
- (v) LD will be calculated on the basic cost (excluding taxes & duties) as indicated in the contract.

#### **10.15 Review of Performance:**

- (a) Review of performances periodically is a means of deciding those ones which need timely corrective action one of such contingency is when the supply does not materialize within the delivery period. The options available are:
  - i. Extend delivery date
  - ii. Refix delivery date
  - iii. Cancel the contract and repurchase the quantity.
- (b) Whether to extend or cancel the contract depends upon if the purchaser is convinced that the supplier would come forward during the extended period. If there is no possibility, it would be advisable to cancel the contract and repurchase, if the requirement exists.
- (c) The extension to DP is to be as asked for by the firm and mutually agreed. The letter and spirit of application for extension by the firm would have to be considered rather than only end dates. The supplier shall get effective time for performance of contract. The purchase officer is competent to grant extension for contracts if it falls within his power of purchase. Such extensions are however conditional upon right to levy liquidated damage and denial for increase in prices, duties etc. Copies of extension shall be given to Inspector concerned.
- (d) If there is no response to the contract by the firm, the purchase officer may issue a notice- cum-extension letter (Performance Notice) in specified proforma. If there is no response within 15 days, Cancellation Notice may be issued to the firm. Shall the trend continue, the Purchaser would be in a position to cancel the contract after a notice period of 15 days. The original delivery date would remain as the date of breach.
- (e) If the firm dispatches the material without getting DP extended, it will be at its own risk. The purchaser is free to cancel the contract and no claim will lie even if delivery of the material is taken and the material can be rejected if delivered beyond delivery period. The LR/RR and other dispatch documents shall be returned to the firm.
- (f) By a written notice of default sent to the firm, the purchaser can cancel the contract. The performance security deposited shall be forfeited and the purchase

will procure elsewhere. The contractor is however free to perform to the extent the contract is not terminated.

#### **10.16 Denial Clause (DC):**

Since delay in delivery is a default by the seller, the buyer may protect himself against extra expenditure during the extended period by stipulating a denial clause (over and above Levy of Liquidated Damages) in the letter conveying extension of delivery period. In the denial clause, any increase in statutory duties and/or upward rise in prices due to the PVC clause and/or any adverse fluctuation in foreign exchange are to be borne by the seller during the extended delivery period, while the purchaser reserves his right to get any benefit of a downward revisions in statutory duties, PVC and foreign exchange rate. Thus, PVC, other variations and foreign exchange clauses operate only during the original delivery period.

#### **10.17 Handling Deliveries after the Expiry of Delivery Period**

As per law, if stores are accepted after expiry of the delivery date of a particular instalment without extension in delivery period having being given, duly reserving our rights to levy LD, it amounts to voluntary abrogation of our legal rights under the contract to claim LDs or other remedies.

If the contractor makes supplies locally after the expiry of delivery period, the supplies may be provisionally retained under a franking clause reserving rights and the contractor may be asked to obtain an extension of the delivery period from an authorised officer with or without any LD/denial clause.

"Please note that materials have been supplied after the expiry of contracted delivery date and its provisional retention does not acquiesce or condone the late delivery and does not intend or amount to an extension of the delivery period or keeping the contract alive. You may apply for an extension of delivery date from the procuring entity. The goods are being retained without prejudice to the rights of the YIL under the terms and conditions of the contract."

As regards supplies coming from outside contractors, if the contractor dispatches the stores after expiry of the delivery period, the consignee should, after the receipt of the railway receipt or lorry receipt or goods consignment note or airway bill, send an intimation to the contractor stating that the action taken by him in dispatching the goods after expiry of delivery date is at his own risk and responsibility, and that the consignee is not liable for any demurrage, wharfage and deterioration of goods at the destination station and, in his own interest, the contractor should get an extension of the delivery period from the purchasers. A copy of the communication sent to the contractor should also be sent to the purchaser. In case of imports, the contractor must not dispatch the consignment after expiry of the delivery period without taking prior extension of the delivery period. In any case, the terms of LC should be such that if there are dispatches beyond the delivery period, payment should be denied without levy of full LD and without formal extension of the delivery period by the purchaser.

#### **10.18 Correspondence with the Supplier after Breach of Contract**

As soon as a breach of contract is noticed, a show-cause 'Notice of Default' shall be issued to the contractor, giving two weeks' notice, reserving the right to invoke contractual remedies. After such a show-cause notice, all payments to the contractor would be temporarily withheld to safeguard needed recoveries that may become due on invoking contractual remedies. If there is an unsatisfactory units resolution, remedial action may be taken immediately

### 10.19 Risk Purchase and General Damages:

- (i) **RISK & EXPENSE PURCHASE:** Risk and expense purchase clause may be included in the TE / RFP and the contract, if considered necessary. Risk and Expense purchase is undertaken by the purchaser in the event of the supplier failing to honour the contracted obligations within the stipulated period and where extension of delivery period is not approved. While initiating risk purchase at the cost and expense of the supplier, the purchaser must satisfy himself that the supplier has failed to deliver and has been given adequate and proper notice to discharge his obligations. whenever risk purchase is resorted to, the supplier is liable to pay the additional amount spent by the DPSU, if any, in procuring the said contracted goods / services through a fresh contract, i.e. the defaulting supplier has to bear the excess cost incurred as compared with the amount contracted with him. Factors like method of recovering such amount should also be considered while taking a decision to invoke the provision for risk purchase.
- (ii) Risk and expense purchase **clause is not mandatory:** Risk purchase at the cost and expense of the supplier may not always be a practical proposition as it may not be feasible to enforce recovery without legal action. This clause is rarely invoked in case of import contracts for this reason. In such cases where the item is of proprietary nature or there is only one qualified firm to supply the items and there is a remote possibility of procuring the same item from an alternative source, it will be essential that instead of having risk and expense purchase clause in the contract, the contract should have performance guarantee clause to cover any such default.
- (iii) **ALTERNATIVE REMEDIES TO RISK & EXPENSE PURCHASE CLAUSE:** In case of foreign contracts, risk and expense clause is generally not applicable. The other remedies available to the purchaser in the absence of the risk and expense clause are as follows :-
  - (a) Deduct the quantitative cost of discrepancy from any of the outstanding payments of the supplier.
  - (b) Avoid issue of further TEs to the firm until resolution of the discrepancy.
  - (c) Bring up the issue of discrepancy in all meetings with the representative of supplier.
  - (d) Provide for adequate Bank Guarantee to cover such risks.

In case of foreign contracts, finally approach the Government of the Supplier's country through the Ministry of Defence, if needed and raise the issue in Inter Governmental meetings.

**CHAPTER-11****ELEMENTS OF PRICE & TERMS OF PAYMENT****11.1 Introduction**

- (a) The elements of price included in the quotation of a tenderer depend on the nature of the P&M to be supplied and the allied services to be performed, location of the supplier, location of the user, terms of delivery, extant rules and regulations about taxes, duties, etc. of the seller's country and the buyer's country.
- (b) In case of indigenous goods, the main elements of price are raw material price, production cost, overhead, packing & forwarding charges, margin of profit, transit insurance, GST and other taxes and duties as applicable.
- (c) In case of imported goods, in addition to similar elements of price as above (other than duties and taxes), there may be elements of custom duty, import duty, landing and clearing charges and commission to Indian agents.
- (d) Further, depending on the nature of the goods (whether domestic or imported), there may be cost elements towards installation & commissioning, operator's training etc.
- (e) It is, therefore, necessary that, to enable the tenderers to frame their quotations properly in a meaningful manner, the tender documents should clearly specify the desired terms of delivery and, also the duties and responsibilities to be performed by the supplier in addition to supply of goods.
- (f) Where the price has several components like price of the P&M, costs for installation & commissioning, operators' training etc. the tenderers shall be asked to furnish the cost break-up indicating the applicable prices for each such component (as specified and desired in the tender enquiry document) along with the overall price.

**11.2 Indigenous purchase :**

In case of purchase of indigenous P&M, the main elements of price as given below:

- (i) Basic Price, which includes price of plant and machinery, packing and forwarding cost.
- (ii) Prices for accessories, other items and tooling as per scope of supply in the tender.
- (iii) Civil Works, related to foundation of plant and machineries as per scope of supply in the tender, if any.
- (iv) Taxes and duties like GST.
- (v) Freight charge, if applicable.
- (vi) Insurance charges, if any
- (vii) Erection supervision charges or erection charges, if any.
- (viii) Commissioning supervision charges.
- (ix) AMC/CMC requirement to be specifically mentioned in the tender. In case in the tender it mandatory to enter into AMC/CMC, then AMC/CMC cost will be included for ranking.
- (x) Training charge, for number of manpower and days, if any.
- (xi) Cost of spares: Whenever asked for and necessary for catering the needs of spares consumed during initial period of one or two years.

**11.3 Imported purchase:**

The cost of P&M ex-import generally consists of following elements:

- (i) FOB price of the basic machine, accessories and toolings in FE, converted to Indian rupees with the prevailing BC selling rate of conversion.
- (ii) In addition to above, CIF / CIP price of the basic machine, accessories and toolings in FE, converted to Indian rupees with the prevailing BC selling rate of conversion.
- (iii) Ocean Freight Charges
- (iv) Insurance charges as per the incoterm delivery terms specified / offered

- (v) Customs Duty & other levies at the port of landing
- (vi) Landing and clearing charges
- (vii) In land freight, other local taxes etc
- (viii) Erection charges/supervision of erection charges
- (ix) Commissioning charges
- (x) Civil Works, if any
- (xi) Cost of spares whenever asked for and necessary for catering to the needs of spares consumed during initial period of one or two years.

#### **11.4 Cost of Spares:**

Even though the cost of spares is an important element of cost in the purchase of plant and machinery, which indicate the cost of maintenance of the plant in future, the cost so offered by the supplier/contractor out of his own volition, assessment of requirement and prices, is not to be considered as an element of cost for ranking the bidders.

#### **11.5 Currency**

The tender documents are to specify the currency (currencies) in which the tenders are to be priced. As a general rule, domestic tenderers are to quote and accept their payment in Indian currency; costs of imported goods, which are directly imported against the contract, may be quoted in foreign currency (currencies) and paid accordingly in that currency; and the portion of the allied work and services, which are to be undertaken in India (like installation & commissioning of equipment) are to be quoted and paid in Indian currency.

#### **11.6 Firm & Fixed Price Contract**

Contracts for P&M should be concluded on firm and fixed price basis by inviting tenders accordingly unless it is specified for ERV in tender.

#### **11.7 Duties and Taxes on Domestic Goods**

- (a) GST levied by the Government on domestic goods vary from product to product. As a general policy, the statutory variations in such duties & taxes are to be allowed during the period from the date of tender to the date of acceptance of the tender (i.e. placement of contract) and during the original/ re-fixed delivery period of the contract so that both the supplier and purchaser are equally compensated for rise or fall in the prices of the goods on account of such statutory variations.  
(Note: Re-fixed delivery period means the fresh delivery period which is arrived at by recasting the original contractual delivery period after taking care of the lost period, for which the supplier was not responsible.)
- (b) In the tender enquiry conditions, the tenderers, wherever applicable, should be asked to specifically state in their offer whether they intend to ask for the duties and taxes as extra over and above the prices being quoted. In the absence of any indication to this effect by the tenderers, it is to be assumed that the prices quoted include these elements and no claim for the same will be entertained after opening of tenders and during the currency of the resultant contract. However, where the tenderer in its quotation mentions that the prices are exclusive of statutory duties & taxes and the same will be payable extra, this condition should be incorporated in the resultant contract in clear terms.
- (c) Sometimes, the tenderer, in its tender mentions that its quotation includes current rates of taxes and duties as applicable and statutory variations, if any at the time of supply will be applicable. This condition may be acceptable. However, correctness of the taxes and duties quoted by a tenderer as applicable during that period is to be

verified while considering its tender. Also, only statutory variations, and not any other type of variations are allowed.

- (d) Duties tax are not levied on transactions of sale in the course of import .Categories of cases constituting sale in course of Import are:
  - (i) Where the movement of goods from the foreign country to India is occasioned directly as a result of the sale.
  - (ii) Where the Indian supplier acts as the agent of the foreign manufacturer in the agreement of the sale.
  - (iii) As notified in GST act by Govt. of India and subsequent amendments from time to time

### **11.8 Customs Duty on Imported Goods**

- (a) It is generally expected that all Government goods will be imported on FOB basis. For all import of Defence goods of YIL, the liability for payment of Customs duty and levies as per contract rests with the Executive Director of the factory units or CMD/YIL as the case may be. But if any Indian firm/ tenderer quotes against YIL Tender for imported equipment/plant and machinery, in such cases, the tenderer shall quote prices in INR including the Customs duty and other levies and associated taxes as a cost of basic price of the machines and subsequently add details of other taxes like GST as extra as in Second sale. YIL /Factory Units shall not take any responsibility for payment of Customs duty, export license, etc in such cases.
- (b) In the event of replacement of any defective component of goods against a supply order, the supplier will be responsible to bear all the cost including the Custom duty, transportation, re-packing and other costs as applicable at that time for replacement of the same, considering the fact that such extra payment would have been avoided had the supply been made in time and found satisfactory units.

**11.9 Terms of Payment:** Tender documents shall contain the offered payment terms to make the bidders aware before submission of bids.

### **11.10 Terms of Payment for Indigenous P&M (For F.O.R Supply):**

- (a) 90% value of material plus 100% Taxes, Duties if any, less LD due to delayed supply, if any, will be paid after acceptance in Pre-dispatch inspection of machine at Firm's works and on receipt of machine in safe condition at Purchaser's end against submission of PSD BG mounting to 5% valid till two months after the commissioning. Freight charges will be payable on actual against documentary evidence but not exceeding as quoted by the firm and accepted by purchaser.
- (b) Balance 10% value of supply and including training charges at firm's premises, if any, plus 100% Erection & Commissioning (E&C) supervision charges after commissioning and final acceptance of machine at purchaser's end against submission of Warranty Bank Guaranty amounting to 10% of contract value and valid till two months after warranty period

**11.10.1** Trade Receivable Discounting System (TReDS) is a digital platform to help MSMEs to get their trade receivables financed at a competitive rate through an auction mechanism where multiple financiers can bid on invoices accepted by Buyers. TReDS is governed by the Reserve Bank of India under the Payment and Settlement Systems Act, 2017 and the Factoring Regulations Act, 2011. Under the TReDS initiative, at present, RBI has given licenses to three participants (A.TREDS Ltd, RXIL, M1Xchange). Factories /Units should be registered in TReDS online platform with any one of the Licencee to facilitate payments to MSMEs through TReDS.

### **11.11 Terms of Payment for Imported P&M (For F.O.B Supply):**

- (i) Payment will be made through DBT or irrevocable Letter of Credit only for 100% value of the order established on a scheduled bank in India. In case of payment through confirmed LC, the charges of confirmation will be borne by the contractor. Purchaser will establish LC only three months prior to the actual date of delivery/ shipment. In case contractor insists on establishment of LC immediately after conclusion of contract/ placement of order irrespective of delivery/ shipment schedule, LC will be established by the purchaser immediately after conclusion of contract for a period of three months with a provision in LC that cost of further extension of validity of LC will be borne by the beneficiary and the issuing bank will be advised accordingly while amending the LC.
- (ii) If any extension of the Letter of Credit (LC) is required due to the fault of the supplier, the supplier will have to pay for such extension.
- (iii) 10% payment for supply and services including training charges at firm's premises, if any, will be paid after acceptance in Pre Despatch Inspection (PDI) of machine at Firm's works against dispatch documents i.e. bill of lading / airway bill, acceptance certificate by PDI team, etc. against submission of Warranty Bond amounting to 5% of contract value and valid till two months after warranty period.
- (iv) Balance 10% value of supply and including training charges at firm's premises, if any, plus 100% Erection & Commissioning (E&C) supervision charges after commissioning and final acceptance of machine at purchaser's end.

**11.12** For having a level playing field to indigenous supplier vis-à-vis Foreign supplier and in terms of ministry of finance manual 2006 (para 9.2 & 9.13.2), payment through LC may be extended to indigenous supplier in GTE cases only. However the payment terms shall be similar to 11.11 on FOR basis. Payment through LC shall not be extended in OTE cases.

**11.13 Special Terms of Payment:**

- a. Where the functional PDI at Firm's premises is not possible, payment terms will be 80% (depending upon the level of aggregation of P&M) against firm's Guarantee Certificate and self-inspection of material, equipments, systems subassemblies, etc and submission of 5% B.G., subassemblies, etc. and on receipt of machine in safe condition at Purchaser's end. Balance 20% shall be paid against successful erection & commissioning of the plant. 5% B.G. submitted at the time of 80% payment will remain valid till two months after the commissioning. The F.O.R and F.O.B conditions as elaborated for normal P&M will accordingly be modified to cater for such cases.
- b. For special cases for reconditioning and revamping of existing P&M, etc., 100% payment will be made after erection and commissioning of P&M.
- c. Terms of payment will be decided and recommended in the factory units PFC whenever there is any deviation envisaged in the standard payment terms of this manual and same shall be approved by BoD YIL on case to case basis.
- d. For contracts involving Turnkey projects where stage payment is contemplated:

Payment terms may be arrived at Factory Units/YIL PFC (As the case may be) meeting in consultation with concerned Finance representative and the same may be got approved by respective PFC along with the mode of tender. Payment terms so decided must be part of Tender Enquiry.

**11.14 Advance Payment**

If required by bidder, advance payment to be made maximum up to 15% (of total contract value), against an unconditional Bank Guarantee called Advance Bank Guarantee (ABG) for 110% of advance amount (format attached).

Following documents are required for release of advance payment:

- a. Acceptance of Supply Order
- b. Performance Security deposit as per Supply Order.
- c. Ink signed copy of proforma invoice.
- d. Bank Guarantee for advance payment.

This advance payment will be adjusted at the time of payment after successful joint receipt inspection.

Any advance made to suppliers will be interest free within original delivery period of the contract, but shall carry interest beyond this period if delay is due to the contractor.

Also in case of Seller fails to perform a substantial obligation under the Contract, buyer reserved the rights to recover the said amount already paid by the Buyer, and in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India (or Base Rate of State Bank of India in the absence of Prime Lending Rate), while in case of a Bidder from a country other than India with interest thereon at 2% higher than the LIBOR.

If the recovery amount is more than the Bank Guaranty submitted for advance payment then, balance amount will be recovered from the pending bill of other supply orders.

**11.15 Stage payments:**

When stage payments are considered e.g. for turnkey projects or high value projects, following should be ensured:

- (i) Stages (milestones) against which payments are to be made should be clearly defined.
- (ii) Necessary provision should be incorporated in the contract ensuring purchaser's ownership on the stages up to which work is completed and payment is made.
- (iii) Recovery of advance amount paid already should be made proportionately from the stage payments.

**11.16 Documents for Payment**

- (a) The documents, which are needed from the supplier for release of payment, are to be clearly specified in the contract. The paying authority shall also verify the documents received from the supplier with corresponding stipulations made in the contract before releasing payment. The important documents, which the supplier is has to furnish while claiming payment, are:
  - i. Original Invoice
  - ii. Packing List
  - iii. Certificate of country of origin of the goods to be given by the seller or a recognized Chamber of Commerce or other agency designated by the local Government for this purpose.

- iv. Certificate of pre-despatch inspection by purchaser's representative
  - v. Manufacturer's test certificate
  - vi. Certificate of Insurance
  - vii. Bill of lading/Airway bill/Rail receipt or any other dispatch document, issued by a government agency (like the Department of Posts).
  - viii. Supplier's certificate that product is new, un-used and also meets the other relevant contractual requirements.
- (b) While claiming payment, the supplier is ~~also~~ has to certify in the bill that the payment being claimed is strictly in terms of the contract and all the obligations on the part of the supplier for claiming this payment has been fulfilled as required under the contract. There should also be a suitable provision for verification of the authenticity of the person signing the invoice etc. for claiming the payment.

### 11.17 Modes of Payment

#### (a) Payment to Domestic Suppliers

- i. Payments to domestic suppliers should preferably be made by NEFT/RTGS/ or any other govt. approved mode of payment.
- ii. It will be mandatory for the Bidders to indicate their bank account numbers and other relevant e-payment details to enable payments and refunds of various natures through ECS/ NEFT mechanism. A copy of the model mandate form prescribed by RBI to be submitted by Bidders for receiving payments through ECS is enclosed as annexure.

#### (b) Payment to Foreign Suppliers

It should be ensured that the imports into India are in conformity with the export-import policy in force: FEMA; FEMA (Current Account Transactions) Rules, 2000 framed by Procuring Entity; and directions issued by RBI under FEMA from time to time. Payments to foreign suppliers are ordinarily made by Letters of Credit (LC) opened by the State Bank of India or any other scheduled/authorized Bank. While opening the Letters of Credit, factories should follow the provision of Uniform Customs and Practices for Documentary Credit (UCPDC).

- (i) For contracts below USD 1,00,000, it is preferable to make payment to the seller through Direct Bank Transfer (DBT) for which buyer has to ensure that payment is released only after the receipt of the prescribed documents. Accordingly, it may be specified in the TE that the payment would be made through DBT for contracts of value below USD 1,00,000.

#### e-Payment

- (i) **DBT** "The DBT mode of payment is a direct transfer of funds to the account of the supplier by the purchaser's bank, on being so authorised by the purchaser. DBT shows high degree of trust between parties. Buyer ensures that the payment is released only after receipt of the requisite documents provided in the contract and confirmation from the Supplier that one set of the documents has been sent to the port consignee immediately after dispatch of the stores.
- (ii) **NEFT**: National Electronic Funds Transfer (NEFT) is a nation-wide payment system facilitating one-to-one funds transfer. Under this Scheme, individuals, firms and corporates can electronically transfer funds from any bank branch to any individual, firm or corporate having an account with any other bank branch in the country participating in the Scheme. For being part of the NEFT funds transfer network, a bank branch has to be NEFT- enabled. The list of

bank-wise branches which are participating in NEFT is provided in the website of Reserve Bank of India at <http://www.rbi.org.in/scripts/neft.aspx>

- (iii) **ECS:** Electronic Clearing System (ECS) is an electronic mode of payment / receipt for transactions that are repetitive and periodic in nature. ECS is used by institutions for making bulk payment of amounts towards distribution of dividend, interest, salary, pension, etc., or for bulk collection of amounts towards telephone / electricity / water dues, cess / tax collections, loan installment repayments, periodic investments in mutual funds, insurance premium etc. Essentially, ECS facilitates bulk transfer of monies from one bank account to many bank accounts or vice versa.

### 11.18 Payment by Letter of Credit

- (a) Letter of credit is a documentary credit. Two banks are involved for payment to the supplier by Letter of Credit –purchaser's bank and supplier's bank. The purchaser is to forward the request to its bank in the prescribed format as formulated by State Bank of India, along with all relevant details including authenticated copy of the contract. Based on the same, the purchaser's bank opens letter of credit on behalf of the purchaser for transacting payment to the supplier through the supplier's bank. Care shall be taken to ensure that the payment terms and the documents to be produced for receiving payments through letter of credit are identical with those shown in the contract. Generally, irrevocable letter of credit is opened so that the supplier is fully assured of its payment on fulfilling its obligations in terms of the contract. In case, the delivery date of the contract is extended to take care of delay in supply, for which supplier is responsible, the tenure of the letter of credit is also to be extended, but the expense incurred for such extension (of letter of credit) is to be borne by the supplier.
- (b) The parties to a Letter of Credit are:
  - (i) **Applicant:** It is normally the buyer, who applies to the authorized dealer to open a Letter of Credit. He shall ensure that the items under import are not included in the negative list of latest Export - Import Policy in-vogue
  - (ii) **Issuing Bank:** It issues the letter of credit and undertakes to make the payment. As per provisions of Exchange Control Regulations of RBI, only Authorized Dealers are permitted to open letters of Credit on behalf of their customers who are parties to the trade.
  - (iii) **Beneficiary:** He is the seller of goods to receive the payment. He could be the first or more (second) beneficiary in case of transferable LC.
  - (iv) **Advising Bank:** A bank normally in the country of the beneficiary who advises the LC, thereby assuring genuineness. As per Foreign Exchange Control practices, if the advising bank does not involve itself in the process of checking, they must say so to the beneficiary.
  - (v) **Confirming Bank:** It confirms and adds its guarantee to the credit of another bank. It stays in and allows reimbursement/payment on behalf of opening bank. The cost of confirmation is ordinarily borne by beneficiaries.
  - (vi) **Negotiating Bank:** It is the bank nominated to negotiate the documents or pay the proceeds of the bill against presentation of documents specified.
  - (vii) **Reimbursing Bank:** It is designated by the issuing bank to reimburse to the negotiating bank when payment is claimed against retirement of bills. Normally opening/issuing bank has accounts to which such reimbursements are to be debited.
- (c) The common types of LCs are:
  - (i) **Irrevocable Letter of Credit:** This most commonly used Letters of Credit cannot be cancelled without the consent of all parties concerned. In contrast, revocable letters of credit can be cancelled/amended by issuing bank at any

time, except that it has to honour payment liabilities before notice of cancellation. Revocable LCs are not generally issued by banks in India unless specially permitted and therefore unless specified, all LCs are irrevocable.

- (ii) **Irrevocable LC:** This cannot be amended, modified, or cancelled after issue without agreement and notice to the seller. Generally, the irrevocable LC is opened so that the supplier is fully assured of his payment on fulfilling his obligations in terms of the contract.
  - (iii) **Confirmed Letter of Credit:** Sometimes a bank in the country of the beneficiary does confirmation. This is done at the instance of the beneficiary, an undertaking by the confirming bank in addition to issuing bank. Generally confirmed Letter of Credit will be discouraged. If the seller invites/desires for confirmed Letter of Credit the cost of confirmation may be borne by them.
  - (iv) **Unconfirmed LC:** There is no additional confirmation beyond the issuing bank.
  - (v) **Sight Credit:** Under this Credit, the beneficiary receives payment upon presentation of documents to the paying/negotiating bank, after due examination by the bank.
  - (vi) **Revolving Credit:** Under this Credit a commitment is made by the issuing bank to restore the credit to the extent of amount utilized. In cumulative revolving credit, the unutilized amounts, in a period, can be added to the amount during next period. In the non-cumulative credits, the unutilized amounts lapses, if not used. The permissible duration and period of utilization of these credits are specified in letters of credits.
  - (vii) **Acceptance Credit:** The beneficiary draws a time draft and the draft is accepted by banks for payment as a discountable instrument upon presentation of document. The seller may get the draft discounted against guarantee of issuing/confirming banks and the payment is debited to the buyer on maturity.
  - (viii) **Deferred Payment Credit:** Both are retired after a period specified in the contract, after documents are presented. It is a financing instrument for the buyer and ensures payments by buyer on the due date.
  - (ix) **Transferable Credit:** In this arrangement, the first beneficiary, transfers his rights and obligation to one or more (second) beneficiary/beneficiaries only once. Subsequent transfers to third beneficiaries are not permitted. Wherever partial shipments are permitted, fractions of a transferable credit can be made available.
  - (x) **Back-to-Back LC:** An intermediary (second beneficiary) is involved in this
- (d) The Letter of Credit shall contain the following:
- (i) Name and address of the applicant
  - (ii) Name of issuing bank or the credit document on preprinted stationery
  - (iii) The dates of issuance of credit, and the date and place of expiry of credit shall be stated
  - (iv) Name and address of beneficiary (or beneficiaries in case of transferable credit)
  - (v) Whether if it is confirmed, revocable or not. In case of confirmed credit, the name and address of confirming bank shall be mentioned.
  - (vi) The terms of dispatch i.e. FOB, CIF and FAS etc shall be mentioned.
  - (vii) The documents to be presented for payment.
  - (viii) The credit amount and its currency are to be stated. Amounts shall be in figures and words. The expression "circa" and "about" may be construed as 10% above and less than the amount stated.
  - (ix) Credit is negotiable with any bank of beneficiary's choice, unless it is stated explicitly in the credit as to which bank shall negotiate.
  - (x) The credit also states modes of payment like "at sight" or "deferred payment" terms.

- (xi) If the import bill for payment has not been drawn up as specified on letter of credit, or drawn up on acceptance basis, the same is referred to importer for their acceptance, before any bills are paid by the negotiating banks.
- (xii) In case final payments are to be accepted by the buyer, depending upon the pending claims to be settled, it must be mentioned in the LC. This would help in settling all pending claims of the purchaser before final payments are made.
- (e) Opening of 'Letter of Credit' and keeping the same alive costs money to the purchaser. Therefore, all efforts shall be made to open the same as close as possible to the date of delivery (within a quarter of the proposed delivery). If any extension of the LC is required due to the fault of the supplier, the supplier shall be made to pay if any additional cost is involved for such extension.
- (f) **Documents related with Documentary credits:**
  - (i) **Bill of Lading:** The negotiable copies of bills of lading are required to be transacted through banks. However, the original copy of bill of lading ought to be transmitted to Embarkation Headquarters for early release of consignment without paying wharfages/demurrages and delay due to transmission through banks is avoided. It shall show "on board" date prior to last date of shipment stipulated in LC. It shall be made in the name of party in LC and the description of goods shall tally with invoice and with details of LC. The port of shipment, port of destination, Consignee, Consignor, carrying vessel, terms of payment like FOB/CIF and payment made towards freight etc shall find mention in the Bill of Lading. The bill of lading shall be clean. It shall not be claused, received for shipment unless marked "on board" with date, "On deck" etc. It shall be signed manually by Steamship Company or its authorized agent and is properly stamped.
  - (ii) **Insurance documents:** Generally Insurance policy, and not cover notes, duly stamped as per laws of the country, is required, if so specified in the LC. They are negotiated through banks, if needed, for payment purposes. They shall be endorsed in favour of the bank/buyer as the case may be. Third party policy is not acceptable. The date of insurance shall be dated prior to the date of shipment. The insurance policy shall mention the name of ship, merchandise details, number of packages, name of vessel, number of voyages, port of shipment, port of destination/destination warehouse and the details on Insurance documents shall not contradict the stipulation in Bill of Lading or Invoice.
  - (iii) **Invoices:** It is a signed document signed by the beneficiary of the LC made in the name of buyer (who has opened LC) containing description of goods which shall correspond with all details of the description as in LC. It shall tally with price and quantity as per LC. All negotiable copies shall be submitted to the bank and an extra copy for exchange control copy shall be sent to the port consignee. The marking and number of packages shall be identical as given in the LC. The terms of payment like FOB, CIF etc are to be mentioned in the invoice. Any other certification/endorsement required shall also be mentioned and the invoice shall be certified as correct by the beneficiary.
  - (iv) **Inspection Certificate:** It shall contain description of goods, shipper's name and the authority issuing the certificate, which shall be as per LC. The date of drawing of samples shall be mentioned. The samples drawn shall relate to the goods shipped.
  - (v) **Certificate of Country of Origin:** It is required for the purposes of Exchange control. It is generally issued by the Chamber of Commerce of the country concerned and is as stipulated by LC. The description of goods shall agree with that in the Invoice.
  - (vi) **Packing list:** It gives the details of items packed, their volume/size of packing and their approximate quantities. This gives advanced information on planning their unloading and despatch to the ultimate consignee.
- (g) As a general requisite, all documents, as stipulated in the LC, are submitted. They are issued by the authority as specified in the LC and contain the details as

stipulated in the LC. Documents shall be submitted within the due date. The details in LC are:

- (i) The Credit may be allowed on trans-shipment or partial shipment basis.
  - (ii) The particulars of insurance, if required, especially in case of CIF contracts.
  - (iii) Mode of transportation, the originating point and destination shall be mentioned.
  - (iv) Brief description of goods shall find mention. 'Circa' or 'about' unit price means 10% tolerance on high or low sides. Generally 5% variation on quantity on either side is permissible. For fixed quantities, definite quantity is stipulated.
  - (v) It shall specify documents and nature of documents and their distribution for the purpose of their negotiation by the negotiating bank.
  - (vi) Necessary reimbursement instructions like whether reimbursement is available with transmission or on actual receipt of documents after negotiation.
- (h) The applicant/importer shall categorically instruct the bank on the above issues to avoid amendments etc at a later date, for which banks charge service charges as per FEDAI Rules. They shall also ensure that permission of RBI is obtained wherever LC permits advance payments. The importer shall ensure that Original Exchange Control copy of bill of Entry/Postal wrapper etc, as evidence of import, are submitted within prescribed period from date of effecting remittance. The authorized dealers compile lists of defaulters every three months. The last date of transshipment shall not exceed 15 days from the date of licence or importation period, wherever so allowed.

#### **Documentary evidence of Import:**

The extract of RBI's advice to erstwhile OFB on the subject is given below (suitably modified for YIL) and the same shall be followed by YIL:

"It is advised that Exchange Control copy of B/E being the conclusive proof of import, triplicate copy of B/E cannot be accepted as documentary evidence of import. You are therefore requested to insist on submission of Exchange Control copy of B/E for home consumption.

Alternately, a certificate from Auditor of YIL, indicating that the goods have actually been imported as per bank of accounts may be forwarded to the control".

- (i) Confirmation by foreign banks:
  - i. Various agencies have been requesting SBI to open LCs abroad and have the same confirmed by foreign banks. Such confirmation not only affects the credibility of SBI but also is to material disadvantage. Not only Indian Banks abroad shall be used for opening letters of credit but in the event of not doing so, approval of Govt./ YIL be obtained.
  - ii. The cost of confirmation shall be borne by the supplier.
  - iii. Imports other than FOB/FAS basis: As per procedure laid down by the Govt. of India, import contracts of Central/State Govt. and PSUs etc, are required to be done on FOB/FAS basis. For contracts entered into on terms other than FOB/FAS, a No Objection Certificate from the Ministry of Surface Transport would be required to be obtained. Authorized dealers would ensure that a No Objection Certificate is obtained by the concerned Govt. organizations in cases of import contracts made on terms other than FOB/FAS before opening import letters of credit on releasing foreign exchange. A copy of the aforesaid "No Objection Certificate" issued by the Ministry of Surface Transport, Govt. of

India is to be obtained in the event of approaching SBI with any proposal for opening of Letter of credit on terms other than FOB/FAS.

**11.19 Deduction of Income Tax, Service Tax, etc. at Source from Payments to Suppliers**

This will be done as per the existing law in force during the currency of the contract.

**11.20 Recovery of Money from Supplier's Bill.**

Sometimes, requests may be received from a different factory units/unit under YIL for withholding some payment of a supplier out of the payment due to it against a contract. Such requests are to be examined by the factory units which has received the request on the merits of the case for further action. It will however, be the responsibility of the factory units/unit under YIL asking for withholding of payment to defend the organization against any legal procedure arising out of such withholding as also for payment of any interest thereof.

**11.21 Refund from Supplier**

Sometimes, the suppliers, after claiming and receiving reimbursements for GST, custom duty etc. from the purchaser, applies to the concerned authorities for refunds, on genuine grounds, of certain portions of such duties and taxes paid by it and receives the allowable refunds. Such refunds contain the purchaser's share also (out of the payments already made by the purchaser to that supplier). The tender enquiry document and the contract are to contain suitable provisions for obtaining such refunds from the supplier.

**11.22 Payment against Time Barred Claims**

Ordinarily, all claims against the organization are time barred after a period of three years calculated from the date when the payment falls due unless the payment claim preferred has been under correspondence. However, limitation is saved if there is an admission of liability to pay, and fresh period of limitation starts from the time such admission is made. The drill to be followed while dealing with time barred claims will be decided by the factory units concerned in consultation with the Paying Authority. The Paying Authority is to ensure that no payment against such time barred claim is made till a decision has been taken in this regard by the competent authority.

## CHAPTER-12

**INSPECTION OF PLANT & MACHINERY****12.1 Introduction**

Before accepting the ordered P&M, it must be ensured that they have been manufactured as per the required specifications and are capable of performing the functions as specified in the contract. To achieve the same, the tender document and the subsequent contract should specify the details of inspection and tests to be carried and stages like Pre-dispatch Inspection, Joint Receipt Inspection, Stage Inspection (if applicable), Performance Guarantee Test (PGT), Final Acceptance after Erection & Commissioning etc. and manner for carrying out the same. Due diligence to be given so that members of PDI team possess the required competency level. Inspection Authority subjects these machines to physical inspection or through e-PDI (in certain circumstances as approved by ED) at the Pre-despatch inspection stage and only accepted ones are dispatched to the consignee. The machines are also inspected at the site after receipt as well as after erection and commissioning to ensure conformance to the stipulation made for post commissioning quality requirements.

**12.2 Stages of Inspection /Acceptance:****A. MANUFACTURER'S QUALITY CONTROL:**

- a. During manufacture various parts of the equipment are to be subjected to inspection/tests to ensure quality of the product according to relevant National/International standards.
- b. Results of such tests whether carried out by the machine manufacturer or his subcontractors are to be made available to the purchaser. The vendor must indicate in his offer, the stages of such inspections and the place where the same will be carried out and the standards to which such tests will conform.
- c. Test certificates for such tests will have to be forwarded to the purchaser or submitted to his authorized Inspector wherever desired.
- d. The manufacturer will submit a Guarantee Certificate in the prescribed proforma for having satisfied themselves of the quality of manufacture of the equipment.
- e. The purchaser may reserve the right to depute Inspector/representative to witness any of the tests at manufacturer's works being carried out as parts of manufacture's quality control.

**B. PRE-DISPATCH INSPECTION (PDI):**

- a. After assembly of the equipment at the vendors works pre-delivery / pre-dispatch inspection will be carried out to ascertain that the equipment so offered for inspection, meets the Purchaser's specifications broadly and there is fair chance of the equipment passing the final performance tests at the purchaser's works.
- b. Pre-delivery Inspection will consist of static accuracy tests, dynamic load tests, other tests as specified in supply order and actual trial on sample jobs as specified in technical specification for which the equipment is tooled up to determine jobs accuracies and rated out-put/cycle time etc.
- c. Specific tests that are to be carried out will be agreed upon jointly by purchaser and vendor before delivery and the same shall be a part of contract. Completeness and

correctness of equipments as per contract in general will be determined at this stage.

- d. Wherever acceptance of goods against supplier's in-house Inspection Report cannot be resorted to and pre-despatch inspection is considered essential, competent financial authority CFA may decide appropriately for resorting to e-PDI with due diligence on case to case basis ensuring that all the safeguards as well as requisite checks and balances are in place to protect YIL's interests.

While taking a decision for conducting the e-PDI, the following broad aspects may be kept in view:

- (i) Nature and cost of the P&M ordered and reputation of the supplier.
- (ii) The functional parameters which are to be tested/checked during inspection are feasible through video conferencing (VC) or any other suitable video medium of the day.
- (iii) Other parameters, as defined in the specifications of the contract, including the structural soundness etc. are required to be demonstrated by the firm in the same manner as would have been done during physical PDI.
- (vi) Wherever considered essential by the YIL Unit concerned, assistance of the Indian Embassy/ High Commission/Consulate through appropriate Ministry may be considered.
- (v) Apart from recording the daily proceedings of e-PDI, the video recording should be done and kept in the safe custody till all contractual obligations are over.
- (vi) All the incidental expenditure for e-PDI incurred, if any, will be borne by the supplier concerned.
- (vii) Purchaser's Right of Rejection in line with Clause 12.11 of YIL- P&M Manual though the goods have already been inspected and cleared through PDI/e-PDI.
- (viii) Inspection through e-PDI would not relieve the supplier of his contractual obligations under the warranty.
- (ix) If as per terms of the contract, PDI includes training to be imparted by the firm, the financial implications for the same should be suitably taken care of, so that the YIL's interest is safeguarded. Training clause to be suitably taken care at the time of E&C.
- (x) As per guidelines at Para 12.3 (c) of YIL- P&M Manual, G.M. / Sr.G.M. of factories/ other units or CMD/Dir at YIL or authorized official will act as the Inspection Authority in respect of the SO/Contract. Hence, necessary amendment regarding the PDI clause in the S.O./contract shall be done with the approval of the said Inspection Authorities.
- (xii) The Entire cost for first Pre-dispatch Inspection of P&M shall be to the Buyer's (YIL Unit) Account. In case, machine / P&M could not be proved by the seller during first PDI or for any other reason, there was a requirement to depute PDI team for more than one time, the entire cost of further PDI deputation (after first PDI) has to be borne by the Seller which failed to prove the P&M during first PDI.
- (xiii) Some of the P&M may require PDI of part of the equipment / machines at more than one places on different period. Such special PDI requirements shall be included

as a part of tender / contract and in such cases, cost of all the pre-agreed PDIs shall be at the cost of Buyer.

Note: The above guidelines are not exhaustive and if required, YIL units may further supplement the same maintaining due transparency and protecting the Organisation interests.

#### **C. PRELIMINARY ACCEPTANCE:**

As soon as the erection of equipment with auxiliary facilities is completed, the representatives of the purchaser and the supplier shall jointly proceed with the preliminary checking and conduct necessary tests to ascertain that the unit has been completely delivered, properly erected and is fit to be operated. This will include no-load and load trials of equipment, on site testing of all important elements of equipment for the functioning and verification of provision of necessary safeguards/facilities to satisfy the statutory requirements. As soon as the tests have been carried out and the results are found to be satisfactory units, the purchaser he shall record his preliminary acceptance and proceed with start up runs for the plant/equipment as a whole.

#### **D. TAKINGOVER:**

The equipment shall be deemed to be taken over by the purchaser after clearance in preliminary acceptance tests. Taking over in any manner or transfer of title of the equipment to the purchaser in no manner relieves the vendor of his obligation under the contract. Taking over means taking over physical possession with full rights to operate the equipment without prejudice to acceptance tests, guarantee and warranty and other obligations of the vendor. If agreed and mentioned in the contract, "Taking Over Certificate" (TOC) may be issued at this stage by the senior most officer of PDI Team nominated by competent authority. Format of this certificate is in the Appendices.

#### **E. PERFORMANCE TESTING OR ACCEPTANCE TESTS:**

- a. Tests at this stage will cover accuracy of machine, accuracy of product, out turn capacity, other tests as specified in supply order and sustenance of performance under tropical condition over specified period.
- b. The equipment will normally be put under on tests for two successive weeks (single 8hrs shifts) unless otherwise stated in the particular Technical specification, in case of any specific acceptance criteria, same has to be mentioned clearly in the technical specification. The equipment will be subject to tests for 5 days continuously and the sixth day will be utilized for preventive maintenance unless otherwise stated in Technical Specification.
- c. Cycle time for completing the job as tooled up will have to be proved during the test period. Apart from adhering to the individual cycle-timings it has to be proved that the machine will continue to achieve the agreed cycle time at 80%, or as agreed, efficiency of machine time utilization.
- d. All time for tool changing, breakdown, maintenance, adjustment etc. will be included for arriving at 80% efficiency. However, downtime due to non-availability of power compressed air, water and other service facilities will be excluded. Machine Trial observation Register indicating all the aspects / breakdowns, tool damage, satisfactory units running or otherwise shall be maintained by user section and maintenance section / Team nominated by competent authority.
- e. A machine capable of giving rated out-turns at "zero defect" or at the agreed process capability of equipment in terms of accuracy of product is the requirement of the Purchaser. However, if the vendor has quoted for any rejection percentage,

which is accepted by the Purchaser at the time of placing order, tests will cover checking of such rejection percentage at this stage.

- f. Failure to achieve the agreed cycle-time or specific efficiency or rejection percentage will generally call for reduction in total price of the equipment in direct proportion to the reduction in out-turn capability. However, the relevant TPC may take decision on acceptance reducing cost of plant on based on the merit of the case.
- g. Performance Endurance under tropical condition will involve satisfactory units working under production run for two weeks during summer. The vendor may opt to witness the trials or otherwise. This may or may not be part of final acceptance tests. If it is not part of the final acceptance tests, then it should be kept part of the contractor's obligations in the contract and should be performed in the warranty period.
- h. All facilities like electricity, compressed air, lighting and other P&M specific requirements as made available for erection and commissioning will also be made available to vendor's Engineer/Representative during acceptance testing period also.

#### **F. FINAL ACCEPTANCE:**

Final Acceptance Certificate (FAC) as proof of successful commissioning of the equipment will be issued by the purchaser as soon as the equipment passes the acceptance tests in satisfaction of all the contract conditions. Format of this certificate is in the Appendices.

#### **12.3 Inspection authority and their functions:**

- (a) Inspection is required to follow a pre-specified charter, known as Inspection schedule, to assure the purchaser that the plant/P&M under procurement is in conformance with the required standards of performance. Thus, all payments are made only after stage wise inspection procedures are complied with, if incorporated in tender and Contract. The contractor shall inform the Contract accepting authority when the Plant and Machinery is ready for inspection.
- (b) Pre-despatch inspection constitutes a very important stage in the procurement process of P&M. The Supply Order clause governing pre-despatch inspection shall clearly spell out the basis on which the Pre despatch inspection will be carried out by Officials authorized by Executive Directors of the factories or CMD/ Dir /YIL as the case may be.
- (c) Team of Officials authorized by Executive Director of the factories or CMD/Dir/YIL as the case may be shall function as Inspection Authorities as per terms and conditions of the supply orders. The Inspection team shall ensure that he has all particulars, drawings, specifications etc. The Inspection Team shall make administrative arrangements for such inspections and where test facilities are not made available with the firm, arrangements for quality certification of the components used may be done at reputed institutions, where such tests may be conducted.
- (d) On completion of preliminaries, the Inspecting Officials may be deputed to the firm's premises to carryout Pre-despatch inspection. The inspection shall normally follow a pre-decided schedule, governed by Contract conditions. The Inspecting Officials can ask for self inspection / Pre-PDI reports of the firm if indicated in the technical specification / as per contract terms and carryout inspection in accordance with the national and international standards for machine components for their dimensional and geometrical features. The performance of machine in producing P&M to specified accuracies and repeatability etc. shall also be tested at the firm's

premises. Tests carried out on similar machines, the inspection standard and method adopted elsewhere can act as guidelines for planning and carrying out inspection.

- (e) Notwithstanding any such inspection and clearance accorded by the purchaser, the seller remains responsible for final testing and acceptance at site. Nevertheless, the purchaser's acceptance at firm's premises indicates compliance to the desired quality standards and performance by the machine so offered. Therefore, a conditional acceptance based on incomplete pre-despatch inspection is not in the interest of the purchaser. The suppliers also highlight lapses on the part of purchaser on the subsequent modes of transport, receipt of machines, storage, erection, commissioning etc. Therefore, a plant accepted on the basis of Pre-despatch inspection gets finally commissioned albeit with delays and protracted correspondences, rectifications in final performance trials, often stretching the purchaser's resources.

#### **12.4 General Conditions of Inspection:**

- (a) Facilities for test and examination: The contractor shall, at his own expense, afford to the Inspection Team all reasonable facilities and such accommodation as may be necessary for satisfying the team that the goods are being and/or have been manufactured in accordance with the particulars. The Inspection Team shall have full and free access at any time during the execution of the contract to the contractor's works for the purpose aforesaid, and they may require the contractor to make arrangements for inspection of the goods or any part thereof or any material at his premises or at any other place specified by the Inspector and if the contractor has been permitted to employ the services of a sub-contractor, he shall in his contract with the sub-contractor, reserve to the Inspector a similar right.
- (b) Cost of test: The contractor shall provide, without any extra charge, all materials, tools, labour and assistance of every kind which the Inspector may demand of him for any test, and examination, other than special or independent test, which he shall require to be made on the contractor's premises and the contractor shall bear and pay all costs attendant thereon. If the contractor fails to comply with the conditions aforesaid, the Inspector shall, in his sole judgment, be entitled to remove for test and examination all or any of the goods manufactured by the contractor to any premises other than his (contractor's) and in all such cases the contractor shall bear the cost of transport and/or carrying out such tests elsewhere. A certificate in writing of the Inspector that the contractor has failed to provide the facilities and the means for test and examination shall be final.
- (c) Delivery of Goods for Test: The contractor shall also provide and deliver for test, free of charge, at such place other than his premises as the Inspector may specify such material or goods as he may require for tests for which contractor does not have the facilities or for special/independent tests.
- (d) Liability for costs of special or independent tests: In the event of rejection of goods or any part thereof by the Inspector in consequence of the sample thereof, which is removed to the laboratory or other place of test, being found on test to be not in conformity with the contract/or in the event of the failure of the contractor for any reason to deliver the goods passed on test within the stipulated period, the contractor shall, on demand, pay to the purchaser all costs incurred in the inspection and/or test. Cost of test shall be assessed at the rate charged by the Laboratory to private persons for similar work.
- (e) Method of testing: The Inspector shall have the right to put all the goods or materials forming part of the same or any part thereof to such tests as he may think fit and proper. The contractor shall not be entitled to object on any ground whatsoever to the method of testing adopted by the Inspector.

- (f) Goods expended in test: Unless otherwise provided for in the contract, if the special or independent test proves satisfactory units and the goods or any installment thereof is accepted, the quantity of the goods or materials expended in test will be deemed to have been taken delivery of by the purchaser and be paid for as such.
- (g) The Inspector as the Final Authority to certify performance shall have the following power:
  - (i) Before any goods or part thereof are submitted for inspection to certify that they cannot be in accordance with the contract owing to the adoption of any unsatisfactory units method of manufacture.
  - (ii) To reject any goods submitted as not being in accordance with the particulars.
  - (iii) To reject the whole of the installment tendered for inspection, if after inspection of such portion thereof as he may in his discretion think fit, he is satisfied that the same is unsatisfactory units.
  - (iv) To mark the rejected goods with a rejection mark so that they may be easily identified if re-submitted.

## 12.5 Verification of Machine Tool accuracy and work piece accuracy:

- (a) **Geometrical Accuracy Tests:** The geometrical accuracy tests are carried out on any machine tool basically to check the accuracy of the machine axis movement, main spindle accuracy, etc. These tests have finally been formulated as test charts at the national and international level, viz. ISO, DIN, Verein Deutscher Ingenieure/Deutsche Gesellschaft fuer Qualitaet (VDI/DGQ), etc. In addition, standards at the level of the machine tool manufacturers' association, like IMTMA, have also been formulated. All these test charts deal only with the verification of accuracy and do not apply to the testing of the machine for vibration, noise, etc. As the result of the geometrical accuracy test is an indication of the accuracy of the movement or rotation of the various machine elements, the test shall be conducted only after the completion of the final assembly of the machine, so that the overall effects of the various other elements on the geometrical accuracy can be discerned.
- (b) The geometrical accuracy tests are done as per test charts which indicate the required test to be conducted along with the type of equipment to be used and the limiting values of the test results recommended. A code for machine tool testing has been formulated by BIS (IS: 2063- 1962) corresponding to a similar international recommendation, ISO-R-230. The major inspection equipment used for conducting the geometrical accuracy tests are:
  - (i) Dial gauges/level type of indicators
  - (ii) Level
  - (iii) Auto-collimator
  - (iv) Laser measuring systems
  - (v) Test mandrels
  - (vi) Squares
  - (vii) Straightedges
- (c) In case of CNC turning centers, the test chart includes verification of machine elements and sub-assemblies, viz. bed, carriage, headstock spindle, tailstock, tool turret with and without rotary tool feature, etc. Tests are also included for measurement of straightness of carriage movement, spindle run out, spindle indexing accuracy, parallelism of spindle axis to carriage movement, parallelism of axis of centers with the movement of carriage or turret, turret indexing repeatability and coaxiality of turret bore with the spindle axis, squareness of

transverse movement of turret with spindle axis, axis positioning accuracy and repeatability.

- (d) Similarly, in the case of machining centers, test charts specify the verification of bed, carriage, spindle, table/pallet, etc. Measurement of surface flatness of table/pallet, parallelism of table/pallet surface to axis movement, squareness among axis movements, spindle taper run out, parallelism of spindle axis to axes movements, table indexing accuracy, run out of pallet face, axis positioning accuracy and repeatability of pallet positioning are some of the important tests carried out.
- (e) **Positioning Accuracy and Repeatability Test:** Machine tool positional accuracy and repeatability are core descriptors of a CNC machine and indicate the machine's expected level of performance. The main parameters measured are positioning accuracy, repeatability, lost motion and least input increment. The acceptance inspection should be done using ISO standard 230-2. This standard specifies the methods of testing and evaluating the accuracy and repeatability of positioning of CAPEX(NC) machine tools and components by direct measurement of independent axes on the machine. However, many machine tool builders still follow evaluation procedures different from the ISO standard, viz. VDI/DGQ guidelines, National Machine Tool Builders' Association (NMTBA, USA) guidelines or Japanese Institute for Standards (JIS 6330) guidelines. They differ in their analysis procedures and in key parameter definition. As a result the values reported for positional accuracy and repeatability for any one machine can vary depending on which standard is used.
- (f) The assessment involves a statistical test, which measures the actual displacement when an axis is moved to a programmed target position. The errors between the targeted and actual distances are usually recorded from the laser interferometer display unit. Laser measurement systems are used for carrying out the axis positioning accuracy and repeatability measurement. A set of errors may be linear, which is made up of progressive and symmetrical errors, ignoring the effect of repeatability. Cyclic errors can be considered as any error, which repeats itself at least once along the axis. A progressive error, as its name indicates, is the error component that changes its value with distance and is regarded as non-cyclic. Generally, the problems of progressive errors are only associated with machines that use the ball screw as part of the positioning system. This is because the machine's controller will only be monitoring the axis servo rotation and any pitch error of the ball screw will show up as a positioning error on the machine.
- (g) **VDI/DGQ 3441 System of Inspection:** Two separate groups, Data Processing section of the Production Engineers of Verein Deutscher Ingenieure (VDI) and Quality Assurance Association, Deutsche Gesellschaft für Qualität (DGQ) of Germany were engaged in evolving statistical test methods of machine tools. They were amalgamated in 1970 to publish their joint work as VDI/DGQ guidelines.
- (h) General specifications for acceptance of machine tools are contained in DIN 8601. This gives the geometrical accuracies of machine tools, determined as a rule with the machine in the unloaded state. The effects of factors of loading and operation are not fully comprehended under static testing. The quality of work piece machined is decisive for the operational accuracy of machine tool. These are assessed through statistical methods, as explained in VDI/DGQ system of inspection in VDI/DGQ 3441. They supplement inspection methods of DIN8601.
- (i) VDI/DGQ 3441 are applied to all machines where components to be produced are defined in advance. These procedures are also applied to all machines not tied to specific components, but test conditions and work piece are to be pre-decided, in accordance with VDI/DGQ 3442 - 3445. The Geometrical deviation in shape of work piece is defined in DIN 7148. The conditions of test and inspection should be established and agreed for any particular case.

- (j) The accuracy of a component produced on machine under given conditions is due to operational uncertainty. It includes all deviations which occur during production of work piece, not only defects in the machine system but also random factors as well. The measure of accuracies in a work piece is a reflection of operational accuracy of a machine tool, measured in terms of operational uncertainty. Broadly operational uncertainty is due to following:
- i. System deviations: (i) Rigidity, (ii) Geometry of machine tool, (iii) Positional deviations, (iv) Reversal error.
  - ii. Random deviation or operational scatter: (i) Positional scatter, (ii) Loading and reversal, (iii) Vibrations.
  - iii. Positional Uncertainty: (i) Positional deviations, (ii) Reversal error and (iii) Positional scatter. They are also included in (A) and (B) above.
  - iv. The operational uncertainty, comprising of defects due to machine system and random errors, can only be indirectly assessed. This includes inspection under DIN and ISO standards and dynamic behavior of the machine. By establishing test conditions and static tests, the errors due to machining process like tool wear, operator etc, can be eliminated. The errors due to machine systems like thermal effects, rigidity etc. can be assessed by using DIN/ISO systems. The operational scatter, due to random variations can be assessed. The operational scatters, on the other hand, is measured as  $6 \times S$  ( $S$  = Standard deviation) of work pieces machined under specified test conditions.
- (k) **TEST PROCEDURE IN VDI/DGQ 3441:** Before these tests, the following should be defined:
- i. Allowable deviations in size, shape and position.
  - ii. Technical conditions in tools, and operation layout.
  - iii. Number of test work pieces.
  - iv. Limiting conditions like machine set up, environment.
  - v. Arrangements for measuring work pieces.
- (l) In the standard test, the random sampling covers the whole of running time between two tool changes starting with a sharpened tool. This takes care of the tool wear and the other systematic machine variations. For the standard test, in case of single spindle machines, ten individual random samples are generally taken, with every five observations/inspection data for each sample. In a quick, low cost investigation into the overall picture of the operational scatter is required the short tests may be carried out, e.g. when machining with a single spindle machine with sharpened tools, as far as possible, 50 parts are run off one after another. This test is satisfactory units for machines, which are not tied to a particular component. Compared with the standard test, the short test offers quicker information, a relatively simple procedure and little expense. In a standard test, operational scatter increases due to higher cutting forces and there is a trend in the observed deviation due to machine systems. Therefore random sampling covers jobs within two tool changes.
- (m) The dimensions of each random sample can be taken randomly or over smallest and greatest dimensions. If the shape deviations are too small, it can be neglected. If the shape deviations are large, they are to be separately assessed. The operational scatter is determined by finding Range 'R' as the difference of largest and smallest dimension measured for every random sample.  $R_j = X_{imax} - X_{imin}$ ; j is the sample and 'i' is the observation number.<sup>10</sup>

- (n) The mean range of  $m$  (10) random samples is  $R_{\text{mean}} = \frac{\sum R_j}{m} = 0$  Standard Deviation  $= S = R_{\text{mean}}/d_n$ ;  $d_n$  is a factor which is dependent on number of measured values on each random sample. For five values,  $d_n = 2.326$   
Operational scatter =  $6X S$
- (o) The relationship of operational scatter to manufacturing tolerance has been recommended as follows in VDI/DGQ 3441: for example in operations like drilling etc. where tool wear causes a marginal dimensional and trend error, the ratio of Operational scatter to manufacturing tolerance, known as relative operational tolerance, could be 80%. Wherever there is a marked trend, the relative operational scatter could be 60%. In other categories of machine tools, the scatter due trend should be within 20% of manufacturing tolerance. The measurement uncertainty to manufacturing tolerance should be within 20% for all machine tools. In case of negligible trend error, relative operational scatter being 80%, the mean range will be around 30% of manufacturing tolerance.
- (p) It would therefore be obvious therefore that the operational uncertainty is contributed by trend of observations and the error of measuring equipment. The standards recommend considering the random variations in Operational scatter, caused due to measurement deviations and operational scatter in shape by machining of work pieces. It may not be feasible economically to use test pieces that would detect all system deviations. The corrections to be applied for range and equipment error can be made as per procedure explained in VDI/DGQ 3441 and the corrected operational scatter estimated. In the event of negligible values of equipment error this can be eliminated.
- (q) Similarly positional accuracy by direct measurements is also estimated. This assumes significance in the case of numerically controlled machine tool. The positional scatter, due to random causes, in movement of slides in length directions is also statistically estimated, in the procedure explained in VDI/DGQ 3441. Here again, for deviations in movement of slide, for each position several random observations are taken. From these measurements, for any position, Range is estimated. Positional scatter is calculated by assessing six times the standard deviation of the observation recorded, both in the positive directions and in the negative directions. Reversal error is the difference between two observations, positive and negative directions, at any discrete position. Positional deviation is the maximum difference of the mean values of all measuring positions on a selected axis. Positional uncertainty is the total deviation on any selected axis taking into account values of positional deviation, reversal error and positional scatter. The positional uncertainty should be less than the quoted positional tolerance by the manufactures.
- (r) Positional uncertainty is required to be tested for general-purpose machine tools, especially so in numerically controlled machine tools. Random deviations are estimated by direct measurements. Positional accuracy is measured on a particular axis while others are at rest. It demonstrates the quality of measuring system and quality and geometry of drive and slide-ways. The machine is not under load and therefore geometrical interaction of these areas cannot be assessed. The positional uncertainty, deviation and scatter can be derived and it always serves to agree on a value of positional tolerance in advance.
- (s) VDI/DGQ 3441 lays down recommendations on types of tests to be carried out depending on the type of machine tool and if it is linked to machining any particular work piece.

## 12.6 Process Capability Test:

- a. Working accuracy tests establish the capability of the machine with regard to machining of a few test pieces under controlled machining conditions. The process capability test is carried out to determine by measurement of consecutive pieces produced in a production trial run whether the machine would be capable of producing the specified tolerances in a continuous production run. The basic objective of the process capability test is to determine both the inherent and systematic variations due to the machine or process influencing factors.
- b. Regarding methods of test, VDI/DGQ 3441 standard statistical testing of the operational and positioning accuracy of machine tools - basis is followed. There are two choices for the test procedure, viz. standard test and short test. The test results are analysed statistically to obtain the product dimension variation, which results from variability in performance of the machine itself when used on representative production parts.
- c. In either of the standard or short tests, the dimensional variations of machine parts are brought out by different causes. The principal causes are:
  - i. Operational scatter of the machine
  - ii. Adjustment and measurement uncertainty of the machine
  - iii. Trend due to tool wear, thermal aspects, etc.
- d. The normal process capability involves both machine related and process related variation. One can study the actual process only if the machine parameters are considered and is designated as  $C_m$  or  $C_{mk}$ . Process capability study involving both machine and process parameters (such as inherent a drift, tool wear, measurement error etc.) is designated as  $C_p$  or  $C_{pk}$ . In machines where adjustment may be possible both for position setting and cutting parameter selection, and is targeted for manufacturing component of specific nature having both upper and lower tolerance limits, index  $C_m$  or  $C_p$  issued to denote the machine or process capability. This is without influence of the mean dimension. In this case it has been assumed that middle value of the tolerance band and production dimension mean is identical and any deviation that occurs during production can be adjusted easily and hence need not be considered.
- e. In this case, machine capability index  $C_m$  or process capability index  $C_p$  is given by:  $C_m$  or  $C_p = T/6xS$ ; Where,  $T$  = component tolerance limit,  $S$  = standard deviation of the dispersion of the observed values.
- f. Any machine which has its 'production dimension mean' not easily suitable or changeable will have shifted of the 'production dimension mean' with respect to the required tolerance band during changeovers of tools, jobs, etc. In such a case, one has to consider the effect of these deviations obtained during process on production dimension mean. This effect is shown in an equation below, wherein a value  $D$  is specified which is the minimum of the dimension between tolerance limits and the production dimension mean. Now, the overall machine process capability is defined by:  $C_{mk}$  or  $C_{pk} = D/3XS$  where  $D$  = minimum distance between a tolerance limit and the average of the produced parts and  $S$  = standard deviation.
- g. For instance, in the case of turning centres and machining centres, all the CNC programmes are aimed at the nominal of the dimensional specifications, whereas in the conventional work centre like gear hobbling and grinding, there are chances that the specifications are not held at the nominal due to differences in tools and job setting. Generally, for machines and processes, which are not adjustable to the required mean value setting during production, machine or process evaluation is done through the capability index  $C_{mk}$  or  $C_{pk}$ .
- h. The important factors necessary to be considered while evaluating process capability ratios are as follows:

- i) Machine related:
  - (a) Work piece mounting spindle rigidity and repeatability
  - (b) Machine positional repeatability
  - (c) Machine form errors
  - (d) Spindle thermal drifts
- ii) Process related:
  - (a) Tool wear
  - (b) Tool-to-tool variation
  - (c) Work-piece clamping deformation
  - (d) Variation in incoming material stock and type
  - (e) Measurement error
- i. The process capability ratios are tests to determine out-turn quality in a long run of production and can be adapted to process plants. In quite a few occasions this technique issued to test conformance to the specification of the machine parameters.

## **12.7 Inspection of Imported Items**

- (a) The excerpt of the recommendations of the 'Expert Committee to Streamline the Procedure of Import of Defence Equipments' report is as follows:
 

"Considering the high stakes involved in large value equipment imports, it shall normally be obligatory to depute our inspection teams to the seller's premises for purposes of carrying out acceptance inspection. The Committee observed that import Contracts generally contain this stipulation. At the same time, it is conceivable that our inspectors are not fully versed in carrying out inspection of complex state-of-the art equipment/systems being imported. This would require a certain training effort before the inspection organisation feels reasonably well equipped to carry out such inspections. Consequently, it would be desirable to incorporate a proper provision in the contract for imparting training to our inspectors together with the provision for training users/operators and maintenance personnel. It would be desirable to synchronize such that training effort is accomplished at the point of time when the system is being offered for inspection".
- (b) Normally, PDI shall be restricted at the firm's premises. For cases where PDI is to be carried out at multiple locations for same P&M, the same shall be brought by the bidder in technical bid. Accordingly, S.O. should clearly indicate the location where the PDI shall be carried out.

## **12.8 Outside Testing Laboratories**

- (a) Sometimes it becomes necessary for the purchase organization to conduct type test, acceptance test or special test at outside laboratories, when facilities for these tests are not available in-house with the supplier or carrying out of confirmatory tests is considered desirable before accepting the goods. It should be ensured that such tests are carried out at reputed NABL accredited laboratories.
- (b) In cases where the samples are to be tested at supplier's cost on account of non-availability of their own testing arrangements, the responsibility of depositing the testing fee, etc. would rest with the supplier.

## **12.9 Handling of Inspection Stamps/Inspection Documents**

Each Inspecting Officer shall be supplied with Acceptance stamps, Lead Seals, Pliers, Rubber Stamps, Stencils, Labels, Stickers, Holograms etc. according to the requirements, for sealing and marking the inspected goods in terms of the contract. He will be responsible for safe keeping of these articles and shall ensure that they

are not misused by unauthorized persons.

**12.10 Acceptance of Goods against Supplier's In-house Inspection Report and Warranty**

- (a) In case of goods to be imported from abroad, pre-despatch inspection of goods at supplier's premises involves considerable expenditure to the purchaser. In such a situation, the purchaser may substitute pre-despatch inspection by its own inspector with manufacturer's in-house inspection report and warranty.
- (b) However, before adopting this procedure, the nature and cost of the goods ordered, the reputation of the supplier, etc. should also be kept in view and appropriate decision taken.
- (c) Alternatively, for sensitive P&M, third party inspection of an Agency of International Repute with help of Indian Embassy / Defence attaché of the country shall also be permitted depending upon the circumstances.

**12.11 Purchaser's Right of Rejection**

Purchaser has the right to reject the goods on receipt at site during final inspection though the goods have already been inspected and cleared at pre-despatch stage by the purchaser's inspector. However, such rejection should be strictly within the contractual terms & conditions and no new condition should be adopted while rejecting the goods during final inspection.

**12.12 Acceptance of Goods vis-à-vis Warranty Provisions**

Inspection by purchaser's representatives at various stages would not relieve the supplier of his obligations under the warranty.

## CHAPTER-13

**RECEIPT, ERECTION & COMMISSIONING****13.1 Receipt of machines:**

- (a) Machines are either received through road or by sea, as per contractual conditions. It may be transhipped from the port or supplier's works and in exceptional circumstances due to urgency may also be air-lifted.
- (b) On receipt of machine, the packages are to be inspected. The package can be opened if no outward damage is observed. Often the base plank of the package is supported with cross pieces and provided with anchor bolts for the purpose of slinging and shifting. They shall be generally used for shifting of the package. Wire ropes of suitable size, depending upon the gross weight can also be used for lifting and shifting by crane. Rollers and trailers may also be used. Base plank with lifting devices are kept with the machine until dismantled for putting the machine in its proper place for erection.
- (c) Application of excessive force on the package and shifting it by weak members or unsuitable equipments, will not only damage the package, but also the contents inside the package as well. The packages shall therefore be opened systematically at the points tightened with bolts, steel strips or nailed. In case of any doubt that the contents may not be in good condition or with the observation of damage on the package, the supplier's representative may be called to witness the opening. If the consignment is with separate transit insurance, the representative of Insurance agencies may also be informed. Depending upon contractual condition with transporter they also may be informed to witness the opening. It is a good practice therefore that information on opening schedule, for costly machines, is given to suppliers.
- (d) The contents of the package shall be verified with the packing slip/packing note/copy of invoice forwarded along with the package. Packing note/invoice shall contain the cost of individual items in the package, for claiming recovery if any of it is found lost or damaged. A joint statement is made in case any damage is observed with the carrier's representatives and with the Insurance representatives. On making a joint signed statement claim is lodged with Railways / Insurance Agencies / Carrier or Transporter. The Seller firm may pursue the matter with carrier agencies to recover the loss. Therefore, the supplier / Seller is often contracted to effect door delivery at the factory units even though the title of the machine may have passed on to the purchaser (Buyer).

**13.2 Civil Works for Erection:**

- (i) General-purpose machine tools are generally grouted on shop floors constructed to bear the working load of the machine. They are grouted with the help of anchor bolts. For special purpose and heavy-duty plant and machinery like presses, high-speed blowers, compressors and machines requiring vibration free foundation special foundations are necessary. The foundation shall not only bear the working load, but dampen the vibration being transmitted to nearby machines, without affecting the rigidity of its own support. The supplier is required to furnish foundation diagram that will meet their design operational conditions. The requirement shall be a part of the contract. To enable designing the foundation required, soil test reports at various depths shall be kept ready to be furnished to the supplier. With the estimated design load, the supplier shall be able to make a safe design of the foundation details, and furnish it to the purchaser as per the agreed schedule.

- (ii) Often erection needs underground chambers to accommodate electrical equipment and lift out cylinders of hydraulic presses. This may need sheet piling to protect column foundations.
- (iii) Underground cellars and foundations may need water proofing, if grouting is required, all supports, protrusions, castings are to be completed beforehand.
- (iv) In air conditioning plants, enough headspace is to be left even after laying the ducting.
- (v) Special lead lining is laid around x-ray room. This requires special anchorage to lead.
- (vi) The traverses around the explosive buildings do not permit cuttings later to lay piping. It is a good practice therefore to insert hollow pipes to leave an opening for the purpose.

### 13.3 Services / Utilities for Erection:

**A. Battery Limits:** The technical specification to the tender shall specify the supply of services at required points by the Buyer. The quality of water, steam and air, pressure and volume required by the machine will have to be specified by the supplier (Seller). The points at which such of the services are required are generally pre-decided and the supplier (Seller) is generally advised to furnish these details, known as battery limits, in advance of the actual delivery of the equipment. The purchaser has to lay the necessary power and services network in advance, to be in readiness; so as to adhere to the time frame required for erection and commissioning. User section shall be responsible for coordinating with different agencies / sections and ensure site readiness prior to PDI / Dispatch clearance.

**B. Power Supply:**

- (i) The type of load and diversity are important in designing electrical distribution system, panel boards and isolation equipment. Equipment with heavy electrical load at the end of the bus shall in general be avoided. Overhead or underground power distribution shall be decided in advance.
- (ii) Unacceptable harmonics in the electrical circuits would cause perpetual problems for the maintenance of the equipment. Care shall be taken to suppress it.
- (iii) CNC machines are to be connected to panels with steady power requirement and preferably with separate earthing to prevent data corruption.

**C. Water:**

Water conservation is ensured through re-circulation of water. Sometimes emergency water supply is provided for cooling water for induction heating furnaces to meet the contingencies of power failure. Since the discharge pressure of different equipment is different, it is common to have sumps and pumps with pressure reduction valves to ensure proper distribution of water. The scheme is to be integrated with the erection of plant and machinery.

**D. Steam:**

It shall provide for the peak loads. The piping size shall limit pressure drops. Steam lines shall have good slopes, lagging, steam traps and to the extent possible low pressure piping (outside IBR) within the building. The road crossings shall have enough clearance.

**E. Air Conditioning:**

Since the buildings where such machines would be positioned would need to have false ceilings, the equipment will have to be erected before the roofing is done. Air conditioning may or may not be provided depending on the necessity / nature of the P&M to be commissioned.

**F. Compressed Air:**

It shall be free of moisture, oil and of adequate pressure. The air filters shall be housed close to the equipment. Separate layout shall be made for high pressure duty and low pressure lines.

**G. Fuel Oil:**

It is often necessary to store enough oil to run boilers and heating furnaces without interruptions. They are to be stored in conditions recommended by the oil companies. Adequate fire fighting facilities are to be provided. Steam tracings may be provided from service tanks to the boilers, in cold climates to avoid pumping difficulties. Bulk storage shall follow safety regulations, especially in explosive units.

**H. Miscellaneous:**

- (a) In case instrumentation, cables and piping require a separate structure, it shall also be decided in consultation with supplier.
- (ii) Safety and pollution control requirement, drain pits, and sometimes cooling towers for coolant, local water treatment and refrigerant system etc are required to be set up for the machine exclusively. These will require additional Civil Works. They are to be ascertained from the machine layout diagram and erected as soon as the equipment arrives. They do not need special foundation generally.
- (iii) The erection may be departmentally executed or through contract. The vendor (Seller) shall understand the intricacies of the erection process. He shall have approved welders and fitters. There shall be enough space for erection. It is a good idea to insure the equipment from store yard until the completion of erection. Necessity of such insurance for specialized P&Ms shall be indicated in the bid document.
- (iv) It is necessary therefore, that the supplier shall furnish the services requirements and structural much ahead of the delivery of the equipment, as per the agreed schedule.
- (v) Civil works require long execution time and is often the critical path.

**13.4 Responsibility of Erection:**

- (i) Unless otherwise specified, the purchaser's liability is to the extent of supply of labour, tools and tackles as mutually agreed. The erection is done under the supervision of the supplier usually User Section / Commissioning Team and he remains responsible for satisfactory unit erection. But this will not absolve the seller of his responsibilities till handing over of the P&M.
- (ii) The Commissioning Team of supplier therefore has to inspect the erection work and advise any rectification if any. He has to supply all special equipment required to erect and assemble the plant. Detailed stage-wise assembly and inspection schedule has to be furnished by supplier (Seller) with diagrams. The wiring and piping will be labelled and identified by the supplier to facilitate easy identification during erection.
- (iii) At the end of the Erection, it is necessary to check the following:
  - (a) P&I diagram and ascertain its conformance to the firm's requirement.
  - (b) Machine layout, its accessories and auxiliaries including operator's and swarf space.
  - (c) Proper alignment of machine components. The method for checking alignment, references used and permissible error, level of machine, its bed, reference surfaces etc so as to avoid excessive wear and tear is to be informed by the firm. The purchaser shall ensure compliance of the above features within limits and prepare a joint statement with firm's representative.

**13.5 Obligations of Purchaser / Buyer for Erection &Commissioning:**

The purchaser has to offer the following facilities for erection and commissioning of the equipment:

- (i) To provide suitable storage space to all supplies made by the supplier. If the supplier has affected supplies as laid down in the contract, the title passes on to the consignee and the purchaser, in his own interest must provide proper storage till erected atsite. Closed enclosure with Lock and Key may be provided for sensitive P&M.
- (ii) Supply different utilities as agreed in Contract free of cost to the supplier (Seller) during erection andcommissioning. However, the buyer reserves the right to ask for payment from the seller, in case the supplier / Seller is failed to prove the P&M within sufficient period or taking abnormal number of trials to prove the P&M.
- (iii) Work areas shall beilluminated sufficiently.
- (iv) Provide lodging, on chargeable basis, to the supplier's engineers for supervision of erection andcommissioning if available.
- (v) Safety & Security of material, if within the factory unitspremises.
- (vi) Construction of various foundations as per supplier'sdrawings unless otherwise specified in S.O.
- (vii) First aid, emergency medical attention ifrequired.
- (viii) To provide access for supplier's material handling equipment and transport for equipment for loading / unloading.
- (ix) Allow the supplier's personnel to enter the factory units and work at the site of erection and commissioning as per the securityprocedures.
- (x) Ensure the coordination and dovetailing of all requirements so that no delay takesplace.

**13.6 Obligations of Supplier for Erection &Commissioning:**

As contractual obligation, the supplier has to tender the following services:

- (i) Firm will detail competent persons to identify supplies and advise and oversee the Pre-erection work being undertaken by the purchaser. They shall also confirm satisfactory units completion.
- (ii) They will make available consumables, commissioning spares, perishables for trial runs; special tools and tackles etc as and when necessary to facilitate unimpeded progress of erection andcommissioning.
- (iii) Their personnel will follow STEC/IE rules/ other safety guidelines, apprise themselves of it and will not jeopardize theirs and other's safety whileworking.
- (iv) Pay for any supply required over and above mutually agreed free supplies. The material consumed/rejected during supplier's rectification trials or beyond agreed quantities for acceptance trials will have to be paid for if not agreed for free suppliesearlier.
- (v) Arrange / assist in obtaining clearance from statutory bodies like Pollution Control Boards, Electricity Departments, CFEES,etc.
- (vi) Train purchaser's personnel to a reasonable competence in handling, operating and maintaining the equipment. If any period has been laid down in the contract, it shall be the minimum duration of training to be imparted for the purpose of certification of its contractual completion.
- (vii) The firm will be liable for the conduct of its personnel, and shall deploy those who have not participated in anti-nationalactivities.
- (viii) Contractor's personnel shall abide by the norms of security of the factory units. Contractor will be liable to obtain their Affidavit from notary public, Character Certificate, Aadhar or any other authorized Identification cards and PVR (in case of permission for more than 15 days) cleared if sorequired.

- (ix) Notwithstanding stage wise inspections being done by the purchaser's representative, it shall not relieve the contractor from his obligations of satisfactory units erection and performance trials or warranty and guarantee.
- (x) Unless the full supply is made as per contract, any part supply kept in the custody of the purchaser is at the risk of the supplier. The supplier shall send his representative for survey within 48 hours of receiving any intimation on arrival of consignments in damaged condition.
- (xi) The supplier will pursue/assist in pursuance of any claim by the purchaser upon the carriers for damage/loss in transit cases.
- (xii) Request for permission of personnel, Gadgets like Mobile phone / Laptops, Special equipments, Tools, Crane/Forklifts etc. shall be suitably intimated to the buyer by Email / post at least 7 days in advance, so that necessary permission from competent authorities could be arranged. Decision of competent authority will be final.

### **13.7 Maintenance of daily logs for Erection & Commissioning:**

A 'Work Diary' or 'Log Book' containing record of daily progress of activities, schedule of erection, planning, etc will be jointly maintained and signed by supplier's and purchaser's representatives daily. The authority to sign the daily logs kept for the purpose shall be vested in authorized representatives only. Any excess material supplied, remaining unused at site after due erection and commissioning and which do not form a part of supplies under the supply contract, remain as supplier's property and shall be removed within three months from the factory units's premises by the supplier.

### **13.8 Erection testing and Taking Over:**

- a. Before undertaking commissioning, the purchaser shall be fully satisfied that the erection is complete in all respects. The supplier representative shall inspect and confirm that the plant and machinery has been delivered completely. The items shall also be tallied consignment-wise with the invoices/packing slips to ascertain that no further shortages remain to be recovered within the Contract price.
- b. The purchaser shall then undertake erection testing to check that the equipment has been completely supplied, properly erected and it is fit to be operated/taken over by the Purchaser. The erection testing will include the following steps:
  - i. Prima-facie get satisfied that the erection is complete. It could be a joint inspection with the supplier depending on the size, volume and complexity.
  - ii. Check all alignments of the equipment.
  - iii. Make sure that there is no foreign material in vessels, pipes, pumps etc. Erection materials like welding rod stubs and nuts may remain in the equipment. Similarly sand, concrete fallen during the concreting the foundation bolts shall be removed.
  - iv. Clean the hydraulic tanks with cloth or other suitable material before the oils are filled.
  - v. Make sure the electrical connections are dressed up and tagged for easy identification.
  - vi. Using megger, do insulation resistance testing for motors before starting to ensure there is no deterioration in storage.
  - vii. Fill all gearboxes with initial fill. Also grease all the bearings and sliding surfaces.
  - viii. Functionally test the individual equipments like pumps and the instruments.
  - ix. Run the machines dry. Watch for unusual sounds, vibrations, heating and any other unusual occurrences. Rectify if necessary and run again to satisfaction.
  - x. If any defaults or deficiencies are noticed which do not allow the start up, the party responsible for such deficiencies shall remedy them within the shortest possible time, and a new inspection shall be carried out.

- xi. The plant/machine is now ready for run with actual materials and components. It is therefore taken over by the purchaser. If stipulated in the contract, a 'TakingOver Certificate' (TOC) may be issued at this stage that the plant/equipment is erected and found satisfactory units in preliminary checking. A specimen format for TOC is given in the Appendices. Minor defaults or deficiencies that do not hinder the start up shall not delay the issue of TOC, but they shall be mentioned in the TOC, together with the indication of the deadlines and actions that the defaulting party will take to remedy them.

### **13.9 Water run or dummy run for plants:**

In addition to the above, water run or dummy run is done for chemical plants as part of erection testing. The following are done in this regard.

- i. Run the plant with water, dummy materials, acids, etc as mutually agreed in the contract. Also admit service items like steam keeping one end open to purge all the foreign materials, rust and mulch that may be in the pipelines.
- ii. Close all openings and make the plant ready for run.
- iii. Set controls of pressures, temperatures, levels and other parameters.
- iv. Run the plant idle without actual raw materials to ensure that the individual equipments are running on load without exhibiting any unusual phenomenon.
- v. Ensure that all required test facilities are available to test the raw materials as well as intermediates and final product.

### **13.10 Start Up Runs or Trial Runs:**

- (a) Commissioning of the equipment will be carried out immediately after erection. It is the supplier's responsibility to satisfactorily prove to the purchaser, the conformance to the performance parameters of the plant delivered.
- (b) Unless otherwise agreed, the supplier remains responsible for supply of the equipment with the first fill of lubricants, oils, refrigerants, coolants etc, which however shall be mentioned in the general conditions to the tender. Tools including perishable tooling are to be ordered.
- (c) The supplier shall apprise the purchaser about consumption of tools for trials, testing and for the normal operational consumption rates for purchase, in advance, for a reasonable period to be decided as per the technical assessment of the purchaser. The purpose of asking for consumables and tooling either as a part of the equipment cost or paid for separately, as the case may be, is to ensure that the plant is received in ready to operate condition.
- (d) During commissioning, the plant / machine is operated by purchaser's personnel under the supervision and control of supplier's personnel. The purchaser shall supply services for operating the machine as a part of their own obligations. The purchaser shall also supply consumables, during operation of the plant by the purchaser, free of cost. All raw material and services shall be strictly to the specifications to avoid controversy in running the plant or in obtaining the outputs as per the assured quality, capacity, production cycle time and utilities consumption.
- (e) A '**protocol**' for undertaking start up runs and performance test runs should be prepared first and signed by both the purchaser and the contractor. Further action should be taken as per this protocol. The plant is run initially to adjust all parameters of operation. When the operating conditions are adjusted, the plant is run continuously for a period mutually agreed to, in the steady condition of the plant. The operators also will get a feel of the plant during this period.
- (f) The supplier remains responsible to supply free of cost, all components, parts etc damaged/broken during the erection and commissioning of the equipment done under overall supervision of the Suppliers' representative. The replacements will be

carried out at site. However, if the equipment is in normal use by the factory units, before furnishing an acceptance certificate and the period of warranty has expired, where consumption or damage is attributable to normal wear and tear due to prolonged use, free replacements cannot be insisted upon.

### **13.11 Guarantee Run for Final Acceptance:**

- (a) After the trial runs are over, the plant is run for the plant supplier to demonstrate the product, its quality, capacity and the consumption of raw materials and utilities. If these are satisfactory units the supplier can offer to run the plant for the guarantee run for final acceptance of the plant. Guarantee run is also called Performance Testing or Performance Test Run (PTR).
- (b) All the periods of runs (demonstration and guarantee) should be agreed in advance taking into account the amount of raw materials required to be provided and its cost, utilization of the product produced. For instance, if one produces large quantities of explosives with no immediate consumption it could be problem to store these. Similarly, if the product is not meeting the specifications, disposal could be a problem.
- (c) Once the guarantee run is taken, the results are tabulated to compare the results with the guaranteed performance parameters as per the contract for taking over the plant. Training of the personnel can be undertaken thereafter. Generally, the supplier prefers to train the people after the guarantee run as he feels more relaxed and concentrate to the demand of the customer personnel after the plant is accepted.
- (d) It is essential that all the set parameters and settings are recorded for future reference. If such records are not maintained when a plant is opened for maintenance it would be time consuming to get to the original parameters and operating conditions.
- (e) The Final Acceptance Tests, in addition to above, will also include accuracy tests, generally measured in terms of process capability ratio. During long trial production runs as above, out-turns components are measured and either accepted or rejected. During measurement of dimensional values, the  $C_{pk}$  or  $C_p$  ratios are estimated. From the measurements of dimensions or features of the samples, the percentage rejection can be assessed statistically, which should conform to process capability ratios stipulated in the Contract.
- (f) The equipment will be certified to have been commissioned if it has satisfactorily complied with the stipulated performance parameters. A specimen format for 'Final Acceptance Certificate' (FAC) is given in the Appendices.
- (g) Deficiencies or shortcomings in the plant, that can be rectified by means of minor adjustments or additions or replacements and do not hinder the plant from being operated in accordance with the contract, shall not constitute any due reasons for not issuing the FAC. However, the deadlines for rectifying such deficiencies shall be recorded in the FAC.

### **13.12 Repeated Performance Testing:**

- (a) If performance test run reveals that the plant does not meet the 'guaranteed performance' i.e. the performance parameters to be achieved in the plant as specified in the contract, the contractor shall at his own cost and expenditure carry out rectification, modification, replacements and effect additional supplies to achieve the guaranteed performance. Subsequently, a second guarantee run will be carried out to achieve the contracted figures. The cost of maintenance of the establishment of the contractor will be borne by the supplier himself.

- (b) In any case, the Performance Testing or repeated PTR must be completed within period stipulated in the contract, or such other period as may be agreed in writing by the Parties, from the date on which start up commenced.
- (c) The equipment will be certified to have been commissioned if it has satisfactorily complied with the prescribed performance standards.
- (d) In some cases, the contract has provision for 'minimum performance levels' i.e. the minimum performance parameters below which the plant shall not be accepted. It is also agreed and laid down in the contract conditions that for every 1% shortfall performance from the guaranteed levels (e.g. capacity and consumption figures), the contractor will pay back 1% of contract cost, to the purchaser for compensating the losses, and not by way of penalty, subject to a maximum of 5% / 10% of total contract price. This is in addition to any other damage being recovered like recovery for delay in supplies.
- (e) In case the shortfall in capacity and/or other performance figures is above 5% / 10% (as stipulated in the contract), the purchaser shall have the right to reject the plant.
- (f) If the contractor fails to abide by the agreed time schedule of erection and commissioning, the purchaser will have the right to erect the plant as per guidelines in technical documentation furnished by supplier and start the plant. This will however require issue of formal notice to the firm, intimating them about the breach in agreement. The trial run will be completed at the risk of the supplier.

#### **13.13 Permission for visits of foreigners to factories / YIL Hqrs:**

- (a) In the course of erection and commissioning of plant and machinery, it may become contractually obligatory to invite foreign nationals to purchaser's premises. The proposal to engage foreigners inside the Ordnance Factory Units premises is guided further by security considerations, for which permission of YIL is required.
- (b) The power to permit Indian citizens coming in connection with contractual business with factory units (e.g. execution of works) vests with the Executive Director.
- (c) With regards to grant permission to visit foreign nationals/representatives of foreign nationals prevailing policy of YIL has to be followed strictly.
- (d) Conduct of such foreign nationals within the factories shall be regulated by the principles of 'need to know' and 'need for minimum exposure'. They shall be accompanied at all times by gazetted officers. They shall be screened so that no view of strategic/sensitive areas is allowed other than the permitted area.

#### **13.14 Time frame for commissioning:**

- a. It is essential to ensure commissioning of Plant & Machinery in a time bound manner. For this purpose, factory units shall give responsibility to the same team of officials which were involved in PDI of the P&M. In addition to the PDI team (with PDI team leader as a group A officer), Group officers of Production and Maintenance shall be included in the commissioning team and sign the final acceptance report. Based on the report, DO/GO of Engineering office would issue FAC/commissioning certificate. There is no approval required to be taken from the Competent authority for commissioning team as PDI team has already been approved by competent authority and other additional members to be a part of commissioning team are of standard designations of user / maintenance sections.

- b. The Plant and machinery shall be commissioned as per time frame indicated in the contract agreement/supply order. If the time frame for commissioning is not complied with by the supplier due to their own failure, L.D. shall be levied as per terms and conditions of the contract.
- c. In case, any of the PDI member has been transferred to a new Unit within YIL / deputation. Executive Director is authorized to approve a different member as part of Commissioning team with reasons to be recorded in writing.

**13.15 Failure to Commission the Machines:**

- a. No machine or equipment should be accepted unless performance tests and acceptance tests are conducted and machines satisfy these tests. In case, any plant or machinery fails these tests the GMs should use their discretion and if the failure is to a major extent, the plant / machinery should be rejected and the rejection communicated to all concerned. This procedure is required to be followed as otherwise it is observed that the firms after supply of Plant & machinery/equipment, keep on dilly dallying till the warranty period is over and then escape any penal provision of the contract. No informal understanding with the firm should be encouraged and if there is any meeting held with firm's representative or any tests conducted, the Minutes of the meeting and the results of the test should be recorded under the signature of the firm's representative as well as factory units representative and the copy of the minutes of the meeting or results of the test should be sent to EO section.
- b. In case where the firm has failed to commission an equipment and factory units is confident of commissioning the equipment due to their own experience of working with similar equipment, the factory units may try to commission the equipment at firm's risk & cost. The purchaser should seek legal advice to suitably protect the organization interest. The cost of such rectification shall be estimated in advance and approval of the competent authority shall be obtained for such rectification to ensure working of the P&M. Generally the cost shall be limited to the bank guarantee amount deducted from seller for such lapses and balance 10/20% payment for commissioning, relevant TPC will take decision based on merit of the case.
- c. In case where the firm has failed to commission the plant and machinery and factory units is unable to commission the P&M with their own experience available/resources factory units may complete the E&C work through outside firm/agencies at firm's risks and cost, relevant TPC will take decision based on merit of the case.

## CHAPTER-14 SETTLEMENT OF DISPUTES

### 14.1 General

Normally, there should not be any scope of dispute between the purchaser and the supplier after entering into a mutually agreed valid contract. However, due to various unforeseen reasons, problems may arise during the progress of the contract leading to disagreement between the purchaser and the supplier. Therefore, the conditions governing the contract shall contain suitable provision for settlement of such disputes / differences binding on both the parties.

### 14.2 Mode of Settlement

- (i) Any dispute or difference whatsoever arising between the parties out of relating to the construction, meaning, scope, operation or effect of this contract or the validity or the breach thereof shall be settled by bilateral discussions.
- (ii) Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this contract or the validity or the breach thereof, which cannot be settled amicably within sixty (60) days or such longer period as may be mutually agreed upon, from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question exists, shall be settled by arbitration.
- (iii) The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 (amended time to time) and the award of such Arbitration shall be enforceable in Indian Court only. The law applicable to an arbitration shall be Indian law. In case of Foreign Seller, Indian law of foreign law to be decided by contracting parties is applicable.

#### **For Indigenous Seller:**

The arbitration tribunal shall be consisting of sole arbitrator. The sole arbitrator shall be nominated by the parties within ninety (90) days of the receipt of the notice mentioned above through mutual discussions and referred to CMD, Yantra India Ltd for appointment of the Sole Arbitrator with the mutual consent of the parties. The Arbitrator so appointed (with mutual consent) who had not dealt with matters to which this agreement relates and in course of his duties had not expressed views on all or any of the matter in disputes or differences. Failing which the arbitrator shall be nominated under the provision of Indian Arbitration and Conciliation Act, 1996 (amended time to time) at the request of either party or by dispute resolution institutions like Indian Council of Arbitration or ICADR, but said nomination would after consultation with both the parties. The Award of arbitration shall be final and binding on the parties to this contract.

#### **For MSEs only:**

The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 provides parties to a dispute (where one of the parties is a Micro or Small Enterprise) to be referred to Micro and Small Enterprises Facilitation Council if the dispute is regarding any amount due under Section 17 of the MSMED Act, 2006. If a Micro or Small Enterprise, being a party to dispute, refers to the provisions in MSMED Act 2006, these provisions shall prevail over the Indian Arbitration and Conciliation Act, 1996.

**For CPSUs/DPSUs**

In order to provide for an institutionalized mechanism for resolution of such disputes, Secretary, Department of Legal Affairs has vide DO letter No. 332619/338367/LS/2019 dt. 28th February, 2020 (copy enclosed) advised all Secretaries to the Government of India that the existing Administrative Mechanism for Resolution of Commercial Disputes(AMRCD), currently applicable to commercial disputes between CPSEs inter se and also between CPSEs and Government Departments / Organisations, shall stand extended for resolution of disputes other than taxation, between Ministries / Departments inter se and between Ministries / Departments and other Government Ministries / Departments / Subordinate / Attached offices / Autonomous and Statutory Bodies under their administrative supervision/control. Details of the new mechanism, namely, Administrative Mechanism for Resolution of Disputes (AMRD). Detailed guidelines are available in Government of India Ministry of Law & Justice Department of Legal Affairs OM No. 334774/DoLA/AMRD/2019 dated 31.03.2020 and the amendments issued time to time.

**For Foreign Seller:**

The arbitration tribunal shall be consisting of sole arbitrator. The arbitrator, who shall not be a citizen or domicile of the country of either of the parties or of any other country unacceptable to any of the parties shall be nominated by the parties within ninety (90) days of the receipt of the notice mentioned above, failing which the arbitrator may be nominated under the provisions of Indian Arbitration and Conciliation Act, 1996 (amended time to time) or by dispute resolution institutions like Indian Council of Arbitration and ICADR. In case, nomination of third arbitrator under Indian Arbitration and Conciliation Act, 1996 (amended time to time) or by dispute the sole arbitrator may be nominated by the President of International Chamber of Commerce, Paris, but the said nomination would be after consultation with both the parties and shall preclude any citizen with domicile of any country as mentioned above.

The Arbitration Tribunal shall have its seat in \_\_\_\_\_ in India or any suitable place in India as may be decided by the arbitrator.

Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the arbitrator shall be shared equally by the SELLER and the BUYER, unless otherwise awarded by the Arbitration Tribunal. In the event of a vacancy caused in the office of the arbitrator, the parties which nominated such arbitrator shall be entitled to nominate another in his place and the arbitration proceedings shall continue from the stage they were left by the retiring arbitrator.

In the event of both parties failing to nominate arbitrator within sixty (60) days of the place of arbitrator falling vacant, then the other party shall be entitled after due notice of at least thirty (30) days to request dispute resolution institutions in India like Indian Council of Arbitration or ICADR to nominate another arbitrator as above.

The parties shall continue to perform their respective obligations under this contract during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitrator proceedings.

The language(s) of the arbitration shall be English. "Except as may be required by law, neither a party nor its representatives may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of (all /both) parties."

In case of technical disputes involving confidential matters, the issue shall be referred to a high level technical authority for each party, appointed for this purpose.

As per Department of Legal Affairs, Ministry of law and justice, Government of India letter no. DO No. A-60011/50/2023-ADR Dt. 31/10/2023, Gazette notification Dt. 31/08/2023 has been published India International Arbitration Centre (Conduct of arbitration) Regulations, 2023 providing the detailed institutional modalities for conduct of Arbitration under its ageies. Copy of the above Gazeette notification is enclosed as Annexure

Based on the above, YIL will peruse the **Indian International arbitration centre** (Conduct of arbitration) regulations 2023 and consider incorporating appropriate clauses in the tenders / contracts for reference f its contractual disputes for resolution through arbitration, to the **Indian International arbitration centre**.

#### **14.3 Venue of Arbitration**

The venue of arbitration shall be the place from where the **contract has been issued** or **Nagpur**, as agreed and stipulated in the contract.

#### **14.4 Applicable Law**

The contracts shall be interpreted in accordance with the laws of the Union of India.

#### **14.5 Legal Advice**

Factories / YIL shall consult the Legal Advisor counsel in all cases of arbitration.

#### **14.6 Dispute resolution for contracts placed on GeM:**

This shall be governed as per relevant version of GeM GTC or any clause uploaded by buyer in ATC.

## CHAPTER-15

## DISPOSAL OF PLANT &amp; MACHINERY

**15.1 Declaration of Surplus:****15.1.1. Obsolete:** Equipment will be treated as obsolete on the following grounds:

- (a) Technical inefficiency to carry out its required and intended role and non justification for its retention in service.
- (b) Its required role has disappeared and it is not in use for any other role.
- (c) It has been completely superseded by improved equipment.

**15.1.2 Serviceable:** Any equipment that can be used for the purpose for which it is intended or any other alternative purpose is classified as serviceable.**15.1.3 Repairable:** Any equipment which has been rendered unserviceable for use in its present form but can be used after economical repair.**15.1.4 Unserviceable:** The condition of the plant/machinery/equipment has deteriorated to such an extent that it cannot be used either for the purpose for which it is intended or for any other alternative purpose economically. The vehicle declared unserviceable to be scraped as per latest govt guidelines updated time to time.**15.1.5 Declaration of surplus:** Identification and classification of machinery and equipment is a continuous process. This is done so that the capacity for production of the factory units is maintained. Any large scale de-rating of equipment can be detrimental to the unit's production efforts. A technical Board of Officers, associating representative of Finance & Account office, will examine the condition of Plant and Machinery and declare them as:

(i) Serviceable (ii) Repairable (iii) Beyond Economical Repair (iv) Alternate Use in Non-production/Estate area and (iv) Unserviceable.

**15.1.6 True Surplus:**

- (i) The serviceable/repairable surpluses so identified are circulated among sister factories under Mutual Aid Scheme. If no response is received within six weeks of circulation, it is presumed that the equipment is no longer required. The true surplus is the quantity, which is surplus to the total requirement of all the branches of the organization. Therefore, the equipment found surplus to the requirements of Ordnance Factories under YANTRA INDIA LIMITED (YIL) can be taken up for the purpose of disposal in the open market. The machine declared Beyond Economical Repair or Unserviceable shall be disposed off and need not be circulated under Mutual Aid Scheme.
- (ii) Serviceable/Repairable surplus plant & machineries and vehicles are required to be referred to YIL together with the specified questionnaires. The proforma shall be duly completed and signed by the technical board, including finance representative. Requirements of sister factories will also be informed to YIL. After scrutiny, YIL may issue orders for issue of machines and vehicles to sister factories. The remaining items may be ordered for disposal. On receipt of YIL's instructions, factories may proceed with disposal of said surpluses.

- (iii) All Plant & Machineries declared unserviceable and Beyond Economical Repair may be disposed off as per the power given in latest delegation of financial power issued by YIL
- (iv) Once approved for disposal, no P&M can be withdrawn from disposal. Therefore factory units may withdraw any machine from surplus list with the sanction of YIL before final list is approved. As soon as the replacement of P&M is taken on charge, the condemned machine shall be removed from the Shop Floor and disposed off within a period of 6 months. In exceptional cases, a condemned P&M may be retained upto a maximum period of 3 years duly justifying the necessity for such retention with the approval of.

### 15.2 Disposal through MSTC:

Disposal of unserviceable P&Ms beyond economical repair can also be done by Open Tender/e-auction through MSTC (an Agent) as per the Selling Agency Agreement between MOD, Govt. of India and MSTC Ltd., a Govt. of India Enterprise as per the terms and conditions of the agreement.

### 15.3 Buy Back offer

When it is decided to replace an existing old item(s) with a new/better version, the factory units may trade the existing old item while purchasing the new one by issuing suitable bidding documents for this purpose. The condition of the old item, its location and the mode of its handing over to the successful bidder are also to be incorporated in the bidding document. Further, the bidder should be asked to quote the prices for the item (to be offered by them).

This provision will be optional and will not be taken into account for deciding Ranking of the bidder. This will enable the Factory Units either to trade or not to trade the old item while purchasing the new one. CFA may accept bids upto 50% below the reserve/ guiding price.

- 15.4 The bid of the highest acceptable responsive bidder in auction through shall normally be accepted. However, In this regard, following shall be followed for P&M.

| Item                           | Authority and nature of Power                                  |
|--------------------------------|----------------------------------------------------------------|
| Unserviceable stores / Vehicle | CFA can accept bids upto 50% below the reserve/ guiding price. |

### 15.5 Disposal at scrap value or by other modes:

If a factory units is unable to sell any surplus or obsolete or unserviceable item in spite of its attempts through advertised tender or auction, it may dispose off the same at its scrap value with the approval of the competent authority in consultation with Finance. In case it is unable to sell the item even at its scrap value, it may adopt any other mode of disposal including destruction of the item in an eco-friendly manner.

### 15.6 Disposal through tender:

While disposing the goods through advertised tender, the following aspects shall be kept in view:-

- (a) The principle for sale of such goods through advertised tender is ensuring transparency, competition, fairness and elimination of discretion. Wide publicity

shall be ensured of the sale plan and the goods to be sold. All the required terms and conditions of sale are to be incorporated in the bidding document comprehensively in plain and simple language. Applicability of taxes, as relevant, shall be clearly stated in the document.

- (b) The bidding document shall also indicate the location and present condition of the goods to be sold so that the bidders can inspect the goods before bidding.
- (c) The bidders shall be asked to furnish bid security along with their bids. The amount of bid security shall ordinarily be ten per cent of the assessed or reserved price of the goods. The exact bid security amount shall be indicated in the bidding document.
- (d) The bid of the highest acceptable responsive bidder shall normally be accepted. In this regard, following shall be followed for P&M also.

| Item                           | Authority and nature of Power                                            |
|--------------------------------|--------------------------------------------------------------------------|
| Unserviceable stores / Vehicle | CFA of the Fy can accept bids upto 50% below the reserve/ guiding price. |

- (e) Full payment, i.e. the residual amount after adjusting the bid security shall be obtained from the successful bidder before releasing the goods.
- (f) In case the selected bidder does not show interest in lifting the goods, the bid security shall be forfeited and fresh actions shall be initiated.
- (g) Immediately after opening, a spot CST will be prepared. Thereafter, a regular CST will be prepared in the form of a ranking statement. The bidders will be decided within the validity period of offers.
- (h) Reasonableness of offers may be examined with reference to market prices, last sale price, condition and quality of equipment etc.
- (i) Before submission of offers, the intending bidders may inspect the lots of the machines put up for sale.
- (j) The bids shall be accompanied with Earnest Money Deposit to the extent of 5% without fail from prospective bidders. This may be in the form of Deposit-at-call receipt on any scheduled bank. Offers without Earnest Money will be rejected. Security deposit will accordingly be called for performance of contract. EMD of successful bidder may be adjusted against Security Deposit.
- (k) The purchaser may be called upon to deposit sale value and forward Treasury challan/MRO receipt/DACR for release of SRO. In the case of DACR, however, the guideline that may be issued to the purchaser shall require that the full sale value may be deposited in SBI or any other scheduled bank and purchaser obtain a DACR in favour of Executive Director and forward the same along with the purchaser's specimen signature on a separate sheet to reach the factory units by a cut-off date.

## 15.7 Matters incidental to disposal:

- (a) **Lots on Sale:** The lots of surplus machinery on disposal through auction or sale shall form convenient lots. Materials of similar/identical quality shall be grouped in one or more lots. It shall be the endeavour to ensure that the items under disposal get the best price obtainable. For chemical plants having auxiliaries and piping connections etc may be disposed off in one lot. This may add value to the lot in

consideration of subsequent use. However, in case of P&M identified for potential misutilisation after disposal, such P&Ms are required to be damaged before disposal action and disposed off as per existing guidelines as scrap. Identification of such P&Ms for potential misutilisation after disposal may be declared by condemnation committee as sensitive duly recording so after due diligence.

- (b) Once a lot has been identified and formed, care shall be taken to ensure that the components and accessories do not deteriorate to reduce its sale price. It is necessary that the stockholder takes care to see that the lots presented to the bidders are maintained intact. Marking on the lots could be adopted to identify and segregate each lot and its constituents.
- (c) **Ground rent:** The seller has the right to recover a charge for the storage space at @ 2% of the cost of material uncleared, per week or part thereof, with maximum ceiling of 25% of auction price. After lapse of 3 months, if it is found that bidder has not taken any action for lifting of goods, full amount shall be forfeited after sending a notice and giving 7 working days time to the bidder. ED can waive duly recording justification and reason for such waivers.

When the buyer fails to pay the sale value within the prescribed period, the seller is entitled to recover the difference between original sale value and earnest money paid and in addition all incidental expenses and the ground rent due.

## CHAPTER-16

## PROJECT PLANNING, MONITORING &amp; CLOSURE

**16.1 Introduction:**

- (a) There are four categories of Projects:
  - (i) Setting up of Greenfield Project for new product/stores.
  - (ii) Setting up of capacities for new stores in the existing factories.
  - (iii) Augmentation of existing capacities.
  - (iv) Modernization of existing facilities with state-of-the-art technologies.
- (b) The broad activities involved in a Project are:
  - (i) Site selection based on availability of land, water, power supply and logistics infrastructure of Rail and Road connectivity. If proposed Project is of Chemical/Explosives in nature, CEEFS clearance is to be obtained.
  - (ii) Preparation of Feasibility Report based on the following:-
    - (a) Clearance from Environment Authorities for setting up the Plant
    - (b) Approval from State Authorities;
    - (c) Approval from Forest Authorities;
    - (d) Rapid Environment Impact Assessment study.
  - (iii) The concerned ED/Project Officer must exercise utmost care to make realistic assessment of the load requirement after taking into account all relevant factors i.e. time for procurement of plant and machinery, progress of civil works including accommodation and foundation, necessity of services, prospects of trained man-power and raw-materials etc. to arrive at the peak demand to be attained in a phased manner.
  - (iv) Preparation of Preliminary Project Report (PPR)
  - (v) Preparation of Detailed Project Report (DPR) and obtaining Project sanction. Consultancy firms may be engaged through normal tendering procedure (EOI+RFP) for preparation of DPR for green field projects. The Terms of Reference (TOR) for consultancy should include technical assessment and identification of facilities required in factory units and township and detailed cost estimation. Generally, payment is made to such consultants in two stages, 50% after submission and approval of Draft DPR and 50% after submission of Final DPR.
  - (vi) Project planning related to project establishment matters i.e. sanction for staff and officers, budget, submission of periodical returns, procurement of raw materials, answering audit queries.
- (c) DPR shall include the following:
  - i. Detailed process layout for each item of store.
  - ii. Finalisation of list of Plant and Machinery with estimated cost and procurement thereof.
  - iii. Preparation of layout of shops and other works required and execution of the same.
  - iv. Bar Chart related to completion of Civil Works and procurement of P&M in consonance with the date of sanction of the project.

**16.2 Preparation of Detailed Project Report(DPR):**

The Detailed Project Report spells out in detail capacity planned, the requirement of P&M and Civil Works required for execution of the Project. It amplifies the projection made in Preliminary Project Report and Feasibility Report. It lists out the requirements of outlays in Capital Expenditure for P&M and Civil Works, Land and Rehabilitation package requirement if any, Deferred Revenue expenditure, approximate time frame, essential raw material required and external assistance if any. It may also contain requirement for engagement of consultant and agency for construction of civil works. It contains projected requirement of manpower and justification for services, energy and water requirements, need for infrastructural requirements etc.

**16.3 In order to make uniform DPRs, the following general guidelines may be adopted.****Introduction:**

- (i) Background leading to setting up of the capacity
- (ii) Indicative /firm capacity requirements.
- (iii) Justification for the project with reference to the requirement
- (iv) The basis on which the Capacity parameters have been worked out
- (v) Technical feasibility for setting up such facility explaining the technologies involved and available competence
- (vi) Financial appraisal of the Project based on estimated cost of production at peak capacity. If the production is based on strategic requirement, it may also be spelt out.
- (vii) Collaboration if required and the extent of collaboration required.
- (viii) Whether the Project is against TOT

**Summary of Project proposals and Cost thereof:**

- (i) Capacity parameters detailing monthly and annual capacities and the number of shifts proposed per day;
- (ii) Financial highlights - cost of production, IRR, Pay-back period
- (iii) Summary of Cost under various heads of accounts i.e P&M, Civil Works, Services, Railway works, Land acquisition and Rehabilitation package, Deferred Revenue, contingencies, escalation etc.,
- (iv) Summary of Deferred Revenue to cover payment of wages during the project execution stage, ad-hoc requirement of site cleaning, soil testing, project planning, manpower training, Preliminary expenses for setting up of the Project Office.

**Assumptions made during formulation of the project:**

- (i) Existing capacities, if any, assumed for arriving at the net requirements of Capital assets;
- (ii) Realistic assessment of the reasonability of the cost estimate depending upon the project sanction time frame and the subsequent date of Govt. sanction;
- (iii) Requirement of raw materials and technology, plant and machinery through import to enable establishment of final product.
- (iv) Availability of indigenous raw materials and technology, plant and machinery to establish manufacture of the desired final product.

**Site selection of the Project:**

- (i) Site selection will require justification by a Competent Committee formed by concerned head of Units.
- (ii) Basis of choice of site-selection explaining availability of suitable land including private and Government, sufficient source of water and power supply, availability of Logistics infrastructure like Rail/Road services and clearance from Forest and Environment Authorities and CFEES/Authorized safety regulatory in case of Chemical and Explosives Factory Units.
- (iii) If the project is for augmentation of existing product or setting up new product in the existing factory units, a schematic layout of the existing factory units including the proposed site of new project including the requirement of existing infrastructure available like water, steam and power supply, movement of raw-material from one section to another to be indicated.

### **Civil Works:**

Civil Works requirement assessment covering the following subheads:

- (i) The Civil works requirement for Production buildings depending upon the plinth area requirements, foundation for plant and machinery and type of structure will have to be projected. The DPR shall also give a list of plant and machinery with associated facilities to justify the plinth area requirements. In case of chemical or explosive production/inter-stage storage buildings, the detailed requirement of safety distance and other requirements are to be indicated as per STEC/CEEFEES / Authorized safety regulatory guidelines.
- (ii) Civil works of Non-Production buildings, consisting of Stores (both Main and inter-stage Stores), Inspection, Inspectorates and Maintenance buildings etc has to be included in the DPR. The main Office area, as per authorized scales along with change room for DB workers and security office in the case of chemical and explosive buildings shall be also contained in the DPR. The requirement of site Office also shall be included.
- (iii) Amenity buildings to cover shift rooms, Canteens etc within the factory units and requirement of facilities within the estate viz. Market place, recreation clubs, children park, stadium, bus stops, etc., (as per authorized scale wherever applicable) will have to be planned and catered for in the DPR. Also, service stations are to be provided if the factory units estate is in the remote area beyond 20 km from the nearby township.
- (iv) The requirements for fire-fighting facilities will have to be met from the Civil works as assessed and approved by the Fire Advisor of Ministry of Defence. This will consist of Static tanks, fire hydrants, main and sub-fire stations, and the water distribution systems, both in the factory units and the Colony.
- (v) The requirements of Security, consisting of Security Offices, Perimeter wall, bastions, accommodation for DSC platoons, and their Offices, Security check posts, CCTV etc will have to be envisaged at the time of project planning and have to be catered for in the DPR.
- (vi) The basis of cost estimation will have to be defined in the DPR itself. The cost estimate received from MES/other agency, needs to be enclosed in the estimate. Assumptions made in regard to the time frame of completion of the buildings need to be brought out along with the escalation of costs in case of delay in completion.
- (vii) Though not compulsory, it is preferable to hold Siting Board for getting RIC (Rough Indication of Cost) from MES/other agency. It has been experienced that if RIC is obtained without holding siting board, significant increase in the cost may occur due to changes in the scope of work after siting board is held.

**Justification for investment of P&M covering the following areas:**

The investment for P&M shall be justified based upon the data given in the DPR as follows:

- (i) The requirements of plant and machinery along with the support data and cycle time calculation, in respect of production machines.
- (ii) The existing capacity assumptions while calculating the additional requirements.
- (iii) The basis of assumptions of existing capacities.
- (iv) The plant and machinery under replacement which will need to be reinstated for meeting the project capacities giving their year of purchase, their register no, cost of their requirements of machines/equipment for service sections like Tool Room, Surface Treatment Section, Quality Sections, Mechanical/Electrical/Civil/Estate Maintenance and other services like Hospitals, Industrial Canteens etc.
- (v) Transport requirements during the project implementation and production stage
- (vi) Requirement of tools, gauges and equipment for production.
- (vii) Mechanical handling equipment for project execution and production.
- (viii) Inventories like stores rack and bin, furniture for Offices, production and other miscellaneous inventory items.
- (ix) A summary of cost separately for capital expenditure for P&M and Civil Works for production and maintenance required to be explained with the basis of realistic cost estimates. Cost estimates in RE and FE to be summarized, with the basis of estimation, the factor of escalation depending upon the time frame of completion and other contingencies are to be indicated.
- (x) Wherever imported plant and machinery is absolutely necessary, the same may be explained in the Project Report with detailed justification of economies of using imported machines vis-a-vis, indigenous machines in terms of productivity, quality, and reliability. The source of origin and the exchange rates assumed while computing the rupee value ought to be brought out.

**Utilities required for the Project:**

The utilities form a major consideration while assessing the Project investment and implementation. The assessment of requirements shall be in consultation with the plant suppliers. The DPR shall contain the following relevant details:

- (i) The requirements will include water for process, fire fighting and drinking purposes; bulk and distributed power supply and their cabling; compressed air, steam; chilled water, air conditioning; railway lines, loading and unloading platforms; telephones and communication networks; sewage treatment plants and effluent treatment plants conforming to the local environmental control norms, drainage systems etc which will need detailed planning. Measures to conserve energy, with its cost, shall also form a part of the utilities. Conservation in the use of water including recycling shall be considered.
- (ii) Estimated cost of the utilities and the basis thereof.
- (iii) Availability of power and water and their augmentation, contracts to be entered into with State Governments/supply agencies.
- (iv) Roads, culverts and bridges etc required for the project area for enabling purposes and for the factory units shall be planned.

**Deferred Revenue Expenditure:**

Deferred Revenue Expenditure constitutes an essential part of project execution.

Detailed assessment of the expenditure has to be made in the DPR. Some aspects are listed below:

- (i) Requirements of training including foreign training have to be foreseen and spelt out.
- (ii) Requirements of raw materials, components and Completely Knocked Down and Semi Knocked Down items (CKDs & SKDs) both indigenous and imported with cost assessments.
- (iii) A separate Annexure detailing the Deferred Revenue Expenditure need to be enclosed.

#### **Time Frame:**

The report shall also give brief outline of the envisaged time frame of completion. Implication on the cost in case of delay may also be brought out.

#### **Capital and Revenue Expenditure**

The anticipated cost of Capital and Revenue Expenditure will have to be shown. It shall also highlight the phasing of cash flow both in FE, RE separately for plant and machinery giving the phasing of the project. It shall also phase out the FE commitment year wise.

#### **Manpower:**

The Manpower requirement is an essential addendum in any project report. It shall be given in the following formats:

- (i) Requirement of manpower at the site and in the Headquarters, during the planning and execution stages, category wise and the phasing thereof shall be contained in the report.
- (ii) Requirement of IEs in the production and phasing thereof.
- (iii) There shall be adequate justification in the report itself and net year wise requirement shall be annexed as an Annexure.
- (iv) In case manpower will be organized from the existing strength of factory units/sister factories, the same may be indicated.

#### **Economics of the Project**

The Economics of the Project shall form an integral part of the project report. It may have the following:

- (i) Comparison with a known cost from outside source, indigenous or foreign.
- (ii) If the project is required on strategic requirements and the economies are of secondary considerations, it shall be brought out clearly.
- (iii) If the project is for balancing the capacities for manufacturing end products for civil trade, cost benefit analysis, justifying investment is essential.

#### **Special requirements:**

The Project Report may recommend the following special sanctions, if required, for speedy implementation of the project.

- (i) Special powers, if any, for procurement of plant and machinery, Contracts for erection and other services shall be delegated to the project implementation authorities.
- (ii) Special powers for engaging consultant agencies in connection with construction of Civil Works may be delegated to the Project authorities.
- (iii) Sanction of Officers and Staff along with the Govt. sanction for the project

- (iv) Requirements of Go-ahead sanction for preparatory works such as site cleaning, soil testing etc., before commencement of the civilworks.

**16.4 The DPR shall also cover the following points:**

- (i) Project cost shall be worked out based on the latest available price.
- (ii) The exchange rate adopted shall be clearly spelt out
- (iii) Likely increase in cost due to price escalation formula due to expiry of time before project completion shall be indicated.
- (iv) A realistic time frame for completion of the project may be worked out.
- (v) The potential areas of diversification into civil trade or export shall be identified at the time of preparation of DPR and this shall be taken into account at the time of ordering P&Ms.
- (vi) The quantum of statutory levies like CD, GST shall be specified in the DPR.
- (vii) Periodic mid-stream reviews may be carried out to ensure that the facilities created are commensurate with the actual requirements.

**16.5** The cost of the projects which were referred to EFC and Public Investment Board (PIB) has to be assessed on realistic basis so that cases requiring large cost revision can be avoided. Therefore, inclusion of new items of work not provided in the original estimates and changes in the scope of the project shall be avoided at a later date and the provision for various elements shall be carefully made. The format to be adopted for preparation of DPR is given as Annexure.

**16.6 Summary:**

As would be evident from above, the project report is a factual basis for the investment projected with envisaged outturn for setting up of fresh capacities. The Annexure to the report shall present a tabular/graphical statement of the contents of the report. The annexed statements shall therefore contain acceptance in principle by Min of Def for setting up the project. It shall also contain clearances accorded by other statutory authorities like Environmental bodies, State Electricity Boards, etc. It shall also enclose the details of plant and machinery with cost, support data for assessment of the requirement of P&M, machine layout, requirement of utilities, manpower requirement, training requirement, phased build up of manpower, estimated importation requirements of materials, cash flow year wise etc. CPM network and key plan to factory units and the township also add to the clarity in visualising the projected requirements. Schematic flow of material from one factory units to another, measures to comply with anti-pollution norms and steps to conform to the requirements of energy conservation shall also be annexed.

*(Ref Note 001/I&P/Proj(c) dated 7/15 -1-1980)*

**16.7 Provision of anti-pollution measures:**

While preparing the DPR, Project Management may consider latest anti-pollution measures as per clearance from Environment Authorities and shall be an integral part in the costs of Project to safeguard environment. In this connection, the Notification issued by the Govt of India making environment impact assessment (EIA) statutory for twenty-nine different identified activities is to be studied and the EIA report is to be incorporated in the Project Report along with the cost impact. This EIA notification includes procedures for obtaining environmental clearance. (Ref. Hand book of Environmental Procedures and Guidelines, published by MOEF, Govt. of India, 1994)

**16.8 Energy conservation in new project:**

DPR of Greenfield Project, augmentation/inclusion of new projects in the existing factories shall have a chapter on energy conservation, where the implementation of energy efficient equipment and their comparison with the contemporary equipment is mentioned in terms of energy savings and their cost impact.

**16.9 Measures for speeding up of decision making:**

The following salient features are to be followed for speedy implementation of Project.

- (i) The services of Consultants may be availed to lay down specifications as complete as possible.
- (ii) Time limits may be fixed for drawing bidders and submission of bidders
- (iii) It would be useful to invite Expression of Interest in the case of complicated P&M and have Pre-bid discussions/presentation with prospective firms for finalizing firm specifications and then go for Two bids bidders with standard commercial terms. This will avoid post-tender queries and save time.
- (iv) The lowest priced tender satisfying the technical requirements shall be accepted.
- (v) All TECs/TPCs and finalization of the contract shall be made within a certain time-frame indicated in the tender to avoid further complications.
- (vi) The Project Management has to identify certain areas of slippages, if any, in the execution of projects, analyse and take recourse for corrective measures and maintain records.

**16.10 Plant and machinery and Civil works:**

- (a) Activities pertaining to Plant and Machinery for the projects are as follows:
  - (i) Preparation of Master List of P&M with basis of calculation with cycle times, estimated cost including budgetary offers
  - (ii) Preparation of detailed specifications of P&M
  - (iii) Issue of Tender Enquiries
  - (iv) Holding of TEC/TPC at Fy/YIL
  - (v) Obtaining financial concurrence and placement of Supply Order.
  - (vi) Approval of release of FE for imported plant and machinery may be deliberated upon and obtained in the concerned TPC itself.
  - (vii) The SO/Contract shall be detailed. The acceptance criteria, of machines/process plants, details of commissioning, building/foundation details, service requirements, technical assistance are all required to be well laid out.
  - (viii) Follow up of commercial aspects of S.O./Contracts, so far as purchaser's obligations are duly performed. LC opening and obtaining necessary statutory clearances is pursued.
  - (ix) Adequate pre-planning and contract planning to ensure timely delivery, erection and commissioning of P&M.
- (b) Some of the important aspects which need to be evaluated/ followed for import of Plant & Machinery are:
  - (i) Formulation of Qualitative and Quantity requirements in the specifications.
  - (ii) Financial standing/soundness and reputation of the short listed suppliers.
  - (iii) Provision of adequate safe-guards in the AT/Supply Orders for invoking of the same in case of failure of supplier of Plant and Machinery or default on his part.

- (iv) Responsibility of system integration shall be assured and reliability of all bought out vendor items, like components/sub-assembly/subsystems etc. is guaranteed by the seller and an appropriate provision is made in the contract.
  - (v) Provision of training in usage, maintenance etc. in the contract.
  - (vi) In case of complex chemical/metallurgical process plants, it is advisable to depute a team comprising reps. of users, maintenance and inspection to study various plants similar to the purchaser's requirements, installed by the manufacturers at sites in overseas or in India itself.
  - (vii) The modalities of inspection shall be clearly and unambiguously set out in the contract.
  - (viii) Provision for pre-dispatch inspection by the purchaser's inspection team.
  - (ix) Sustained follow up and implementation of contracts.
  - (x) The inspection team shall be well versed in carrying out the pre-dispatch inspection.
  - (xi) If inspection of imported Plant and Machinery is to be done on receipt in India, availability of special test equipments/special test instruments and terms of payment to protect Government interest have to be ensured.
- (c) The related Civil Works in Project execution involves the following activities:-
- (i) Obtaining various Civil Works data from plant suppliers. The schedule of receipt shall be pre-decided. The data would include dimension of machines, working area and the layout of plant, its auxiliaries, fixtures and fitments, material handling equipment and area for flow of men and components/processed items.
  - (ii) Convening of Siting Board.
  - (iii) Approval of Siting Board by Competent Authority.
  - (iv) Preparation of AE Part I & II by Civil works agency.
  - (v) Concurrence by Finance and issue of Administrative Approval by Competent Authority.
  - (vi) Prior to formal project sanction or approval of Civil Works, 'Go Ahead' approval may be accorded to compress time span.
  - (vii) Execution of Civil Works and its formal taking over by user factory units.
  - (viii) Wherever Civil Works are executed by the department, the technical specifications and scope of works are to be finalized by the factory units and vetted by Operation division / YIL.
  - (ix) The works are estimated cost-wise and are concurred by Finance.
  - (x) The works are tendered in a two-bid system - asking for technical and financial bid separately.
  - (xi) All clarifications and discussions are held to ensure that conformity to specifications, as well as statutes and building codes are complied with. The competent financial authority shall accept the technically accepted offers.
  - (xii) The price bids are opened thereafter and a ranking statement is made, for all offers which were accepted technically earlier.
  - (xiii) The Contract is concluded by the Competent Authority in consultation with finance.

#### **16.11 Monitoring of Projects:**

- (a) The Project Monitoring is done with respect to both Plant and Machinery and Civil Works. It is done for both physical achievement and for financial progress. The basis of progress monitoring is done on the basis of preplanned schedules

expressed as CPM networks, where landmarks and completion of designated tasks are scheduled realistically, depending upon data furnished by plant suppliers or construction agencies. Quite often they are laid down based on interaction with consultants or specialized agencies. They are periodically updated based on actuals. The activities are:

- (i) Preparation of PERT/CPM networks.
  - (ii) Preparation of progress reports periodically, both for physical completion as well as for financial expenditures/cashflows.
  - (iii) Compressing the activities, removal of unwanted slack periods and even bunching of procurements so as to steer towards targeted dates of completion.
  - (iv) In some cases even preparing Exception Reports, compiling slippage against projections and planning for remedial steps.
  - (v) Preparation of Cash flow budgets for the year, for both commitment noting (for FE) and actual expenditure. This may be done for periods of one each for the entire project duration.
  - (vi) The funds are to be arranged for annual budget expenditure and slippages are to be formally analysed.
  - (vii) If different agencies are involved, compilation of cash flow from multiple sources, involving different plant suppliers is an essential task.
  - (vii) Taking care of excess requirement of funds as well as restricting slippages in Cash flow is an essential ingredient to project implementation.  
(Ref: erstwhile OFB R Note No 01/IMP/Proj(C) dated 06.03.1978)
- (b) The progress monitoring can be done by use of application packages, which can be run even on PCs. Scheduling, and planning is done either based on single machine or a group of machines. The tasks in execution of a large project involving large number of activities or procurement of a small number of machines are identified by task nos., which links them to their originating major works. The task identification number uniquely establishes their linkages with groups/subgroup of activities. The dependencies and constraints are identified and defined. The resources are identified and their costs per time unit are defined with standard application software (PC based packages), the CPM network can be drawn and their modes are defined. Bunching/grouping of similar plants and machinery provides ease in progressing project execution.
  - (c) Project monitoring data in DPR: Each project proposal shall incorporate Pert Chart or Bar Chart for all important activities indicating the date of commencement of the project and the date of completion of the project after erection, commissioning and trial-run etc.
  - (d) The factory units shall submit a Monthly Progress Report regarding the project to the concerned project group at YIL with a copy to the Operating Division. The various levels of reporting and monitoring the progress of projects are:-
    - i. Monthly report from factory units to YIL Headquarters
    - ii. Project Review in DDG Networking meeting at MIL
    - iii. Monitoring at Board Level on quarterly basis
    - iv. Monitoring at Ministry Level through Monthly, Quarterly and Half-yearly Reports.
  - (e) In case of big projects (setting up new factory units), MoD generally constitutes a Steering Committee and a Project Monitoring Board (PMB) to monitor and review the progress of the project.
  - (f) The Steering Committee to be headed by CMD/YIL. Other members may be nominated by CMD/YIL. Its functions include:

- i) Review technical and financial progress of the project.
  - ii) Coordinate and interact with other Departments and Services.
  - iii) Formulate agenda for PMB with specific items for approval.
- (g) The PMB to be headed by Secretary (DP). Other members may be nominated by Secretary(DP). Its functionsinclude:
  - i) To monitor/review the progress of theproject.
  - ii) To provide policydecisions/directions.
  - iii) To lay down guidelines to remove bottlenecks in the implementation of theproject.

#### **16.12 Physical Closure of the Projects:**

- (a) On physical completion of all activities of the project, ED/Project officer at site in consultation with F&A will certify that all the plant & machinery envisaged in the Project have been received, erected and commissioned. Also all items of Civil Works including services have been completed and taken over. These have been posted and accounted for in the respective block register of the Factory Units. Production achievement shall also be highlighted with respect to the capacitycreated.
- (b) On receipt of these details, the project officer in the YIL HQ will prepare a Board Memorandum regarding physical closure of the project highlighting the position of completion of physical activities viz. procurement of plant and machinery, construction of civil works, services etc. as well as the latest position of financial expenditure vis-à-vis project sanction. The Board Memorandum with the comments of Finance Division and their replies after approval of concerned Member/YIL shall be put up in the Board meeting for consideration. After approval by the Board, the project shall be deemed to be physically closed. The same will be discontinued from the next Half Yearly Progress Report on Projects. The concerned project group shall apprise the same to Ministry ofDefence.

#### **16.13 Financial Accounting of Expenditure against the Project:**

Considerable difficulties have been noticed in the Financial Closure of Projects. It must be ensured by the Project officer at site/factory units and the local accounts officer that the expenditure against Plant and Machinery, services and civil works envisaged in the project are properly accounted for against the relevant code head of the project. Also monthly expenditure and cumulative expenditure shall be reconciled every month and corrective action taken for any anomalies/discrepancies.

#### **16.14 Financial Closure of the Projects:**

Soon after the physical closure of the project, the Project Officer at site would take necessary action towards financial closure of the project.

- (i) He would prepare a statement showing the Regd. No., Receipt Voucher No. & date, description of plant and machinery and civil works (separately under P&M head and CW head) and send it to the F&A who would put the value and vet the statement with a comparative table showing the amount of sanction under each head and expenditure incurred under each item.
- (ii) The statement duly vetted by LAO will be sent back to the project officer at site/ED who in turn will send it to the project officer at YIL HQrs. for preparation of Board Memorandum for financial Closure.

Project office at YIL HQrs will prepare draft Board Memorandum (format given in the Appendices) and put up to YIL /Finance Division for concurrence. The Board Memorandum duly concurred by Finance division and approved by concerned Member/ YIL will be put up to the Board for decision on financial closure of the project. On receipt of the decision of the Board, the same will be intimated to the Ministry of Defence.



## CHAPTER-17

## FINANCIAL APPRAISAL OF INVESTMENT

**17.1 Introduction**

These guidelines as outlined below are to be followed in all OFs and other unit under YIL.

**17.2 Financial appraisal of Capital Investment:**

- (a) A capital investment proposal will require financial appraisal which would involve the following sequence of steps:-
- (i) Estimation of the initial capital investment and the timing of cash out flow.
  - (ii) Estimation of the production level at the time of full production.
  - (iii) Estimation of future cash out-flows considering various production factors.
  - (iv) Estimation of future in-flows based on the estimated volume of production and prices etc.
  - (v) Working out the net in-flows.
  - (vi) Evaluation of the proposals through Payback and IRR techniques.

**(b) Exclusions:**

Investment appraisal need not be done for following:

- i. All investments below ₹. 50 Lakh.
- ii. Cases where there is no direct nexus between investment and inflows e.g. Inspection, MT vehicles, Quality Control, Services, Tool Room machinery and equipment.
- iii. Machineries required to meet Safety, Environment and Statutory obligations.

However, for such of the above types of plant & machinery which form part of a green field project or large scale modernization, the investment shall be included in the total investment of the project for financial appraisal.

- (c) For financial evaluation of investments valuing between ₹. 50 Lakh and ₹. 2 crore simple evaluation techniques detailed below are to be adopted:-
- (i) **Investment/Turnover Ratio:** This is calculated by dividing the incremental value of issues by the cost of investment. The value should be greater than or equal to 1.
  - (ii) **Payback Period:** This shall be calculated by dividing the investment value by the estimated savings for a particular year at full production level. The Payback should be within the life of the machine as per relevant depreciation policy. This method favours investment which generates sufficient cash inflow in initial years. However, it fails to consider time value of money. Since the life of most machines is taken as 20 years, the Payback should be within that period. It is emphasized that the factory units has to carry out the estimate for one year only.
- (d) For investment proposals valuing more than 5 crore, the financial evaluation is to be done by Internal Rate of Return (IRR) method. IRR is the discounted rate at which the net cash-flow from operations will equate the initial capital outlay over a certain period. IRR method takes into account time value of money. IRR can however, be misleading when choosing between mutually exclusive projects that have substantially different out-lays. Mathematically, the value of IRR is determined with the solution of the following equation through iterations.

**n**

$$\sum_{t=1}^n \frac{A_t}{(1+r)^t} - S = 0$$

**T = 1**

Where n = Total period in years in which cash flow is expected

**T** = Time under consideration

**A<sub>t</sub>** = Net Return in the year

**r** = Internal Rate of Return

In practice, IRR is to be computed by filling in the data and using spreadsheet software like Microsoft Excel.

- (e) For cases valuing above ₹ 50 crore Financial appraisal including sensitivity analysis from an external agency to be ensured while sending demand/DPR

### 17.3 General Points related to IRR Calculation

- (a) **Cash Flow:** IRR shall be calculated considering the net cash flow, i.e. sum of cash inflow (+ve cash flow) and cash outflow (-ve cash flow), for a period of 10 years. Net cash inflow in real terms is computed first and inflation is applied on that to arrive at net cash inflow in nominal terms for all the 10 years, which is finally used in IRR calculation. The year of first output from the new investment is to be treated as Year1 (Y1) and subsequent years as Y2, Y3 and so on. The investment (cash outflow) may occur either in a single year or in a period of two or more years. The year prior to Year1 is considered as Year-1 (Y-1), the year prior to Y-1 as Year-2 (Y-2) and so on.
- (b) **Rate of Inflation:** The annual rate of inflation based on monthly Wholesale Price Index (WPI) for 'All Commodities' as reported by the Economic Adviser, Ministry of Commerce and Industry is to be considered as the rate of inflation in the calculations. The rate as prevailing in the month of January is to be used in the next financial year beginning from April. For example, the inflation percentage for January 2013 is used for all proposals in the year 2013-14. This is computed by taking monthly WPI (all commodities) indices for Jan '13 & Jan '12 from the website OFFICE OF THE ECONOMIC ADVISER, Department for promotion of industry and internal trade <https://www.eaindustry.nic.in>.
- (c) **Hurdle Rate:** The IRR should be equal to or more than the 'hurdle rate' i.e. the minimum acceptable rate of return. As recommended by AFF, the hurdle rate for erstwhile OFB was be prevailing benchmark rate of interest plus 1% (100 basis points) to take into account a risk premium. The same can be used for YIL and units under YIL. The benchmark rate to be considered is the interest rate on government's short-term borrowing from the RBI or the Ways and Means Advances (WMA), which in turn is equal to the RBI's 'repo rate' (also called 'bank rate'). The repo rate is revised by RBI from time to time and can be ascertained from internet. For example, the repo rate was 9.5% in March 2012 and 7.5% in March 2013. The repo rate as on 1st April is to be used for the all proposals in that financial year. Thus, hurdle rate is equal to 1% above the repo rate as on 1<sup>st</sup> April of the year.
- (d) **Strategic Investments:** A proposal whose IRR is below the hurdle rate should normally be rejected. However, where for strategic considerations a proposal needs to be cleared, the same should be clearly stated along with the specific strategic issues. In cases where the demand for the final product is less than the machinery is capable of producing or does not cover the span of 10 years and IRR so calculated is below the recommended hurdle rate, the investment may be evaluated on strategic considerations. Strategic defence considerations do play a very important role for some investments in YIL. The possible strategic considerations can include:
- (i) Strategic significance of the product
  - (ii) End User Requirement
  - (iii) Item having constant threat of import ban / sanctions
  - (iv) Balancing facilities
  - (v) Manpower availability
  - (vi) Assured load over a long period of time

- (vii) Latest technology that improves quality, reduces unit cost and opens possibilities of future load.
- (viii) Item with long lead time.
- (e) The calculation of IRR considers many cost related data while assessing the viability of investment in future. The Value of Issues approximates the sale price of items when issued to the sole customer. In the assessment of net cash inflows and cash out flows therefore various working data are used, assuming that the trends projected during the product cycle based on past experience would follow a stable and consistent pattern. Therefore, anticipated load based on long-term plan and its dependability are important for IRR assessment.
- (f) Investments above ₹ 5 crores fall under two broad categories:  
 Category I:  
 Renewals and Replacements involving a single machine or a cluster of machines, investments in intermediate product or operation or for import substitution.  
  
 Category II:  
 The following types of investments are covered in this category:
  - Modernization involving purchase of a new plant (e.g. explosive production plant) or replacement of a large number of machines with one or more technically advanced machines having significant impact on production
  - Capacity augmentation of an existing product
  - A new product line
  - Greenfield projects

#### 17.4 Methodology for Category I:

- (a) Under this method, the savings in costs will be considered as cash in-flows. The key cost elements that need to be considered in projecting savings are - Manpower, Material, Energy, Consumables including Tools & Fixtures, Repairs & Maintenance, Rejection, Rework.
- (b) **Savings:** Savings under the above heads will have to be considered taking into the account the future output/ production level. For working out the savings, where the cost factors is significant shall only be considered in real terms.
- (c) **Projected Output and Product Mix:** While estimating future output, the constraints, if any, in terms of production or demand should be considered. If the demand for a final product is less than the capacity of the new machinery, the estimated output should not exceed the projected demand. In case an item is to be produced in more than one factory units, the proportionate production to be undertaken in the factory units, as decided by YIL, shall only be taken. If investment will lead to change in product mix, savings for each product need to be added finally in the calculations.
- (d) **Manpower:** While assessing saving in manpower, the concept of SMH shall, as far as possible, be avoided. Effort shall be made to project the saving in manpower in numbers. The gross change in manpower i.e. both industrial workers and other workers/staff is to be assessed. Factory Units shall then calculate unit manpower cost by dividing total expenditure in respective budget head with the number of employees in the last year and escalating by 5% to get the figure for current year. This is to be done for IEs and 'Other than IEs' separately. Multiplying the unit cost with decrease in number of manpower will give the saving in manpower.
- (e) **Material costs, Rejection, Energy, etc.:** Savings in material may be due to various reasons like reduction in rejection percentage, improvement in yield and usage of different material in the new machine. Rejection rate of new machine is to be ascertained. The difference between new and present rejection rates multiplied by projected output will give the quantity of rejection saved. The investment may also give higher yield percentage, especially in chemical and metallurgical plants. The change in yield rates multiplied by projected production will be an additional cash inflow. Where significant, savings in rework, energy (electricity & fuel), consumables, tools & jigs, repairs, etc expected to accrue due

to the investment in new machines should similarly be taken into account in the calculations. However, care should be taken to avoid double accounting of benefits. For example, if savings in material is on account of reduction in rejection rate, it should not be shown as savings in any other head (say yield or rework).

- (f) FOH and Depreciation shall not be considered as element of cost.
- (g) **Usable value:** Since the projections will be made for a ten-year period, it is necessary to arrive at a notional resale value of the machinery at the end of this period, although the machinery may have a much longer economic life. For this purpose, the Written down Value at the end of ten years, less 20% as obsolescence factor, may be considered as the notional resale value of the machinery sought to be purchased. This notional resale value will be an element of cash inflow. If the machine life is less than 10 years, only the scrap value has to be considered. The scrap value of the plant / machinery to be replaced will also constitute an element of cash inflow. **The scrap value is to be decided on the basis of market rate and past experience.**

### 17.5 Methodology for Category II:

- (a) Under this method, the cost of all plant and machinery irrespective of their category will form a part of the total investment cost i.e., outflow. The net inflow will be the differential of value of issues and cost of production for the period of forecast plus any notional resale value of investment. The value of issue will comprise of the cost of material, manpower, VOH and FOH. In case the product is available in the domestic market, the issue price for the purpose of computation will not exceed the domestic rate. Similarly in case of import substitution, the import price is to be considered as issue price if the same is lower than the proposed price.
- (b) Form 2A is the primary form and captures the volume, numbers and the rates. Form 2B works out the projected cash inflow in real terms. Form 2C calculates the IRR, using cash inflows in nominal terms.
- (c) The effect of increased/changed volumes of production over the years will be reflected for computation of inflows. After working out the year-wise net inflow in real terms, the same has to be escalated by the annual rate of inflation of 5% to arrive at the net inflow in nominal terms. The rate of discount, at which the Present Value of inflows equals the Present value of outflows, is the assessed IRR, found by solving the IRR equation, through iterations. The Payback period can also be worked out from the above data.
- (d) The forms for capture of data required for investment appraisal by IRR/Payback method as recommended by M/s. A.F. Ferguson are enclosed at Annexures of the report. Detailed methodology on Sensitivity Analysis is also given in the report.

### 17.6 Other aspects of Financial appraisal:

- (a) Capital investment proposals need to enclose detailed analysis sheet. IRR calculation will be erroneous if the basic data for the various cost elements of the new machine or plant are not ascertained correctly from the prospective suppliers.
- (b) In order to assess the effect of variations in various assumed parameters on the project feasibility, Sensitivity **Analysis of** the project can be done. The key parameters on which sensitivity analysis is done shall include at least any/all of the following depending on the case/proposal: (i) Investment (ii) Price of the product (iii) Cost of the product (iv) Manpower numbers and savings (v) Rejection/rework percentages and savings (vi) Energy cost (vii) Raw material cost (viii) Demand.
- (c) Procurement of machines as a module shall be done taking into account the existing available capacities for YIL as a whole. The plan finalization committee shall keep this in view.
- (d) When a project is for a product in more than one factory units under YIL, IRR is to be calculated product wise. For individual factories, turn-over investment ratios may be computed. YIL has the option of selecting factories from various competing factories. Sensitivity-analysis of the overall product related IRR be done by YIL with respect to various options available.

## CHAPTER-18

## GUIDELINES FOR TRAINING

**18.1 Introduction**

A comprehensive guideline for training in supplier's premises during pre-despatch inspection (PDI) and erection & commissioning of YIL personnel for operation and maintenance of critical Plant & Machinery of imported or indigenous origin has been laid down as under:

**18.2 Thrust areas of training:**

The thrust areas of training need in respect of various categories of P&M may vary based on criticality and familiarity of the technology involved. It would require careful analyzing and firming up by a Competent Committee. However, the broad areas of training needs would generally be on operation, process-control, and process-safety, maintenance consisting of mechanical, electrical, electronics, and hydraulics etc., based on the competency available within the Organization/Factory Units.

**18.3 Training at manufacturer's premises during assembly of P&M:**

- (a) The necessity of associating a training team at the time of machine building at Manufacturer's premises or at the premises of other firms as recommended by the supplier is essential for some of the P&M involving intricate assembly and interfacing of a variety of mechanical, electrical and electronics, hydraulic and pneumatic sub-systems to have first-hand information and exposure. This would help the training team to effectively identify and rectify the problems likely to be countered during operation/maintenance of P&M at the Factory Units. The category of machine under this group may be exclusive P&M viz. Extrusion Presses, ESR & LFVD Plants, Cold Swaging Plants, Plano Millers, Forging Presses, Nosing Press, complicated furnaces Electrical Substations etc. and other complicated ammunition manufacturing and chemical (explosive) process-plants. Such training necessarily shall be arranged at the manufacturer's premises/similar plants already supplied by the manufacturer in different places/premises for a period of 2 to 3 weeks for 3 to 8 personnel or as decided by the Competent authority, having sufficient experience in Maintenance, Production and Quality Control, possessing suitable technical qualifications with appropriate communication skill. The team shall be preferably headed by an officer not below the rank of AWM as the case may be.
- (b) Depending on the complicity of the P&M, indentor may be required to include the above training schedule in the tender, so that the tenderer may be able to include the cost of training in the tender along with the cost or free-of-cost. Once this has been done, further discussion may be made during the pre-bid conference (if specifically called for) with the manufacturer and after tender opening, which may be recorded in the TEC/TPC regarding the composition of training team and the duration for consideration of competent authority.

**18.4 Training of personnel during Pre-despatch inspection:**

In this category, the training is meant for those machines which are already working in the Factories and the training team is already conversant about certain features of the previous models/technology. Therefore, the thrust of training would be generally to update the training cum pre-despatch inspection team on the new development/features of the machines before/while carrying out pre-despatch inspection of P&M. The training may be concurrently imparted along with trial,

testing and proving of components at the supplier's premises, depending on the case. The duration of training cum PDI team may be for 3to5days(for reference purpose only and can be decided on case to case during technical specification creation stage),whereas, the composition may vary from 2 to 5 persons depending upon the quantum of activities involved in PDI. The above training schedule must be indicated in the tender / bid documents, so that the tenderer may be able to comply with the same in the tender along with cost or free-of-cost. Record of training imparted as per contract terms shall be submitted during payment release.

#### **18.5 Training of personnel during commissioning at user's premises:**

Training of this category is required for all types of P&M including those for which either exclusive/comprehensive training has already been catered or clubbed with PDI team or otherwise. The schedule of training and composition of team shall be spelt out specifically considering the type of P&M, technology etc. in the Tender/S.O. The trained personnel along with others may be associated at the time of erection and commissioning by the suppliers so as to acquaint themselves and gain proficiency in the use of various systems/sub-systems of P&M. It helps in absorption of technology and spreading the knowledge gained during training to operatives at different levels. Record of training imparted as per contract terms shall be submitted during payment release.

#### **18.6 Educational qualification & experience:**

Persons selected for training on a particular discipline of a P&M shall necessarily have basic qualifications like degree or diploma in the relevant field along with past working experience of at least 2 to 3 years on a similar P&M or minimum 10 years of working experience on a similar plants in respect of others (high-skilled/master-craftsman) having ITI/NCTVT certificate.

#### **18.7 Age-group of the persons selected:**

- (a) Generally, the younger age-group employees having sufficient period of service left are to be selected for training abroad. However, in cases where there are no incumbents having experience in a similar field, persons having left-over service of **3-4 years** may also be recommended for training abroad with approval of the competent authority, for reasons to be recorded in writing.
- (b) In the case of Pre-Dispatch Inspection, the above criteria of personnel may be reviewed by the competent authority considering necessity of pre-dispatch inspection as it requires thoroughly experienced and competent personnel for certifying technical acceptability of the machines in terms of geometrical accuracies, proving of cycle-time and accepting the machine and product as per SO.

#### **18.8 Training Report:**

The trained persons shall furnish a Comprehensive Training Report on the areas of training received for reference and guidance which would be retained at the Factory Units concerned, also at NADP & relevant OFILs. Factory Units concerned shall also mark copy of the same to HRD/YIL for record.

#### **18.9 Deployment of trained persons:**

The trained persons shall be deployed for a minimum period of three years on the same P&M after completion of the training programme.

**18.10 Methodology for dissemination of knowledge:**

The methodology to be adopted for dissemination of knowledge acquired by the trained personnel to other members of Factories or sister Factories is as follows:

- (i) A comprehensive and self-contained report may be prepared by the persons after completion of training. A copy of report may be kept with production as well as maintenance group of the Factory Units. A copy may be also kept at the Technical Library of the Factory Units for reference.
- (ii) Training material in the form of hard-copy/soft-copy may be collected from the Suppliers by the team during the training at the Suppliers' premises and kept in the Technical Library for reference.
- (iii) The trained Officer/Staff shall be engaged as faculty on the relevant topic at YITM etc. to dissipate their knowledge to others.
- (iv) A presentation by trained personnel may be made to all the Officers of the Factory Units so that they can have an overall view about the operations, maintenance, technology, applications, safety etc. of the P&M. The same presentation may be made to the group of employees engaged in the operation, maintenance etc. of P&M.

**18.11 Comprehensive Database on training of personnel:**

A Compendium/Data-base on "Operation & Maintenance of Critical P&M" of trained personnel shall be made machine/technology/ discipline-wise and displayed on Intranet for reference and sharing of knowledge with other DPSUs, Factories, NADP and OFILs, which will be formulated and coordinated by YIL HQ. For this purpose all concerned may furnish the required data direct to YIL HQ. on the following aspects:

- (i) Name of P&M
- (ii) Name & designation of the person trained.
- (iii) Training date & period
- (iv) Complete details of training, place, firm etc.
- (v) Training report after completion of training
- (vi) Specific developments, if any, at the time of Commissioning, production & maintenance.

**18.12 Proposal for Training Abroad:**

- a. The type of training, its location, composition of training team, qualification and experience of the team members, duration etc, shall be decided by relevant TPC which recommend the training and inspection and the supplier, if required.
- b. Factory Units shall forward the proposal of foreign deputation for training abroad/pre-dispatch inspection as per contract agreement, along with the following documents, at least 8 weeks in advance for further processing the case for clearance and approval of YIL.
  - (i) Bio-Data of Individual
  - (ii) Last 3 years details of training abroad
  - (iii) Vigilance Clearance of individual from factory units Vigilance Section,
  - (iv) Copy of TPC Minutes and SO indicating the details of composition of training team and duration of training;
  - (v) To and fro Budgetary Quotation for air fare for the destination.
  - (vi) Duly filled-in foreign deputation format as circulated by YIL.

**18.13 Guidelines for e-Training through Video Conferencing.**

Some of the P&M (like lab equipment of imported origin etc.) may involve imparting training through video conferencing through a suitable technology / mobile application. Such requirement needs to be clearly indicated with specific minimum hours of training and no. of man days / hours and suitable records (including video records) has to be maintained.

Central Vigilance Commission (CVC) was issuing guidelines on public procurement from time to time. However, CVC has now decided that for the sake of uniformity and to avoid multiplicity of authorities for issuance of guidelines on procurement related issues, updated Procurement Manuals may be issued by Department of Expenditure (Min. of Finance, Govt. of India) only, after taking into consideration the guidelines issued by the Commission. Accordingly, Department of Expenditure have updated and released i) Manual on Procurement of Goods; ii) Manual on Procurement of Works; and iii) Manual on Procurement of Consultancy & Other Services, wherein the guidelines issued by the Commission on public procurement has also been assimilated. The same are available on Commission's website i.e. [www.cvc.gov.in](http://www.cvc.gov.in) under the head "Guidelines" and sub-head "Tender Guidelines" and also on DOE's website [www.doe.gov.in](http://www.doe.gov.in). These manual (amended from time to time) may be referred for guidelines.

## APPENDIX ' A '

## STEPS IN PROCUREMENT OF P&amp;M:

| Sl | Single stage bidding (TE)                                                                                                       | Two stage bidding (EOI + TE)                                                                                                    |
|----|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| 1  | Review & finalize list of plants & machines for procurement annually or when asked by YIL for capacity creation / augmentation. | Review & finalize list of plants & machines for procurement annually or when asked by YIL for capacity creation / augmentation. |
| 2  | Prepare Demand/DPR with draft NIT, draft TE document and estimated cost.                                                        | Prepare Demand/DPR with draft PQ criteria, draft NIEOI, draft TE document and estimated cost.                                   |
| 3  | Sanction of Demand/DPR by PFC/Fy. Or PFC/ YIL or on file by concerned Project Section, YIL/Fy.                                  | Sanction of Demand/DPR by PFC/Fy. Or PFC/YIL or on file by concerned Project Section, YIL/Fy.                                   |
| 4  | Advertise NIT and upload TE in website.                                                                                         | Advertise NIEOI upload EOI including the PQ criteria in website.                                                                |
| 5  | -----                                                                                                                           | Receive applications, evaluate, shortlist prequalified firms, modify/broad-base tender specifications, issue TE documents.      |
| 6  | Public opening of technical bids, prepare technical CST. Evaluate bids and select substantially responsive offers. TEC meeting. | Public opening of technical bids, prepare technical CST. Evaluate bids and select substantially responsive offers. TEC meeting. |
| 7  | Open price bids, prepare commercial CST, finalise L1 and get approval of CFA / TPC.                                             | Open price bids, prepare commercial CST, finalise L1 and get approval of CFA / TPC.                                             |
| 8  | Issue SO or Prepare draft contract agreement, send to supplier, discuss and sign.                                               | Issue SO or Prepare draft contract agreement, send to supplier, discuss and sign.                                               |
| 9  | Actions like export permit, PBG and advance payment for making contract effective.                                              | Actions like export permit, PBG and advance payment for making contract effective.                                              |
| 10 | Pre-despatch inspection, receipt, erection and civil works, commissioning, trial runs and performance testing.                  | Pre-despatch inspection, receipt, erection and civil works, commissioning, trial runs and performance testing.                  |
| 11 | Warranty bond receipt and final payment.                                                                                        | Warranty bond receipt and final payment.                                                                                        |
| 12 | Complaints in warranty period and settlement                                                                                    | Complaints in warranty period and settlement                                                                                    |

**APPENDIX-‘B’**

**FORMAT FOR CAPEX (R)/ CAPEX (A) DEMAND**

STATEMENT SHOWING DETAILS OF MACHINERY ITEMS DEBITABLE TO DEPRECIATION/  
NEW GRANT FOR YEAR .....

PRODUCTION/TOOL ROOM/ MT VEHICLE/ MATERIAL HANDLING/ INSPECTION/ SERVICE/ FIRE  
FIGHTING EQUIPMENT

(STRIKE OUT WHICH ARE NOT APPLICABLE)

FOR .....PRODUCTION/TOOL

- DEMAND NO. .... DATE:
- F&A VETTING REFERENCE: ..... DATE:
- ORDNANCE FACTORY, ..... SECTION:
- CODE NO: ..... (TO BE GIVEN BY Units of YIL and YIL HQ)

| SL | REQD NO OF M/C TO BE<br>REPLACED | FULL DESCRIPTION OF<br>THE PROPOSED<br>MACHINE | JUSTIFICATION |
|----|----------------------------------|------------------------------------------------|---------------|
|    |                                  |                                                |               |

Vetted By

F&A

EXECUTIVE DIRECTOR

**COST DETAILS OF THE PROPOSED MACHINE**

| INDIGENOUS (RUPEES IN LAKHS) |                                   |    | IMPORTED (RUPEES IN LAKHS) |    |    |
|------------------------------|-----------------------------------|----|----------------------------|----|----|
| SL NO.                       | DETAILS OF COST ELEMENT :         | RE | DETAILS OF COST ELEMENT    | FE | RE |
| 1                            | BASIC MACHINE COST FOR 1 NO.      |    |                            |    |    |
| 2                            | COST OF ACCESSORIES & SPARES.     |    |                            |    |    |
| 3                            | COST OF TOOLING                   |    |                            |    |    |
| 4                            | PACKINGS, FREIGHT FORWARDING ETC. |    |                            |    |    |
| 5                            | EXCISE, SALES TAX, OCTROI         |    |                            |    |    |
| 6                            | ERECTION & COMMISSIONING          |    |                            |    |    |
| 7                            | ANY OTHER CHARGES                 |    |                            |    |    |
| 8                            | TOTAL                             |    |                            |    |    |
|                              |                                   |    |                            |    |    |

ESTIMATES ARE BASED ON:

A) BUDGETORY QUOTATION NO. ....

DATED. ....

B) IF NOT THE BASIS OF COST ESTIMATION

ESCALATION - .....

|     |                                                  |  |
|-----|--------------------------------------------------|--|
| 1.  | Name of the Unit                                 |  |
| 2.  | Demand No & Year                                 |  |
| 3.  | Details of Machine under replacement             |  |
| 3.1 | Nomenclature of the M/c with Model No            |  |
|     | (if any) with Supplier's name                    |  |
| 3.2 | Registration Number                              |  |
| 3.3 | Year of Purchase                                 |  |
| 3.4 | Original Cost                                    |  |
| 3.5 | Book Value (as on 31.3.2007)                     |  |
| 3.6 | Whether Imported or indigenous                   |  |
| 3.7 | Is it beyond economical repairs                  |  |
| 3.8 | Is it General Purpose M/c (GPM)                  |  |
|     | or Special Purpose Machine (SPM) or Plant        |  |
| 3.9 |                                                  |  |
|     | (a) The type of operation                        |  |
|     | (b) The components and end Stores for which used |  |
|     | (c) The number of machine hours engaged/ month   |  |

|      |                                                                                                                                                                                    |  |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|      | (d) The number of setting hour required/ month                                                                                                                                     |  |
| 3.10 | If SPM being used for production give                                                                                                                                              |  |
|      | (a) Components to be manufacture                                                                                                                                                   |  |
|      | (b) End Store Nomenclature                                                                                                                                                         |  |
|      | (c) Components produced/ 8 hour shift                                                                                                                                              |  |
| 4.0  | Replacement Criteria                                                                                                                                                               |  |
| 4.1  | Has the machine been utilized fully<br>through life span                                                                                                                           |  |
| 4.2  | In case the replacement is premature<br>Indicate reason, Separate note may be attached                                                                                             |  |
| 4.3  | Has the machine been examined by a Board of<br>Examiners for condemning the machine as BER (attach<br>two copies of the Board's proceeding duly accepted by<br>Executive Director) |  |
| 4.4  | Whether the machine cannot be met out of any<br>surplus available in other Ordnance Fys or Govt<br>Deptts.                                                                         |  |
| 4.5  | Estimate loss of production in financial<br>and physical terms if the machine is not replaced                                                                                      |  |
| 4.6  | What is the progressive total cost of :machine<br>demanded so far, indicate separately in FE and RE                                                                                |  |
| 4.7  | Whether the orders for the end store for which<br>component is to be manufactured on<br>this machine would continue for the next 5 years                                           |  |
| 4.8  | State approximate life of other machines<br>in years in the production line of which the subject<br>machine forms a part                                                           |  |
| 4.9  | Confirmation that there will not be any imbalance in<br>capacity of various M/cs. in the production line leading<br>to under utilization of the capacity of the new items          |  |
| 4.10 | Whether the new machines will be capable<br>of taking up production of futuristic items in case the<br>existing item becomes obsolescent if so, details of the                     |  |

|      |                                                                                                                                                                                                                                |  |
|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|      | items                                                                                                                                                                                                                          |  |
| 4.11 | Whether any updation of technology is involved in the new machines, if so a comparison from cost benefit angle eg.cost of operation vis-à-vis higher cost of procurement may added.                                            |  |
| 4.12 | Whether the concerned standard estimates will be revised in line with the advantages of the updated technology machines                                                                                                        |  |
| 5.0  | Details of Machines Proposed for Procurement                                                                                                                                                                                   |  |
| 5.1  | Nomenclature                                                                                                                                                                                                                   |  |
| 5.2  | Indigenous / Imported                                                                                                                                                                                                          |  |
| 5.3  | Reference of Budgetary Quotations (in respect of high cost items efforts should be made to obtain budgetary quotations from 2-3 manufactures)                                                                                  |  |
| 5.4  | Estimated cost (in lakhs of ₹. FE/RE)                                                                                                                                                                                          |  |
| 5.5  | Is the technology latest and most suitable?<br><br>N.B. The estimated cost should be indicated year as obtained from the least of the by taking into account of 10% escalation/ Budgetary quotations as mentioned against 5.3. |  |
| 5.6  | Likely sources of supply<br><br>N. B. At least five sources to be indicated including their models, if any                                                                                                                     |  |
| 5.7  | Is the replacement on like to like basis as far as capacity is concerned                                                                                                                                                       |  |
| 5.8  | If the capacity is higher is there no lower capacity model available                                                                                                                                                           |  |
| 5.9  | Indicate capacity of the proposed                                                                                                                                                                                              |  |

|      |                                                                                                                                                                                                                                                 |  |
|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|      | machine is terms of components                                                                                                                                                                                                                  |  |
| 5.10 | In case the estimated cost of the proposed machines exceeds the original cost of the machine by 10-15 times, the reason of variation is to be indicated (The reason of inflation is already accounted for in the price increase of 10-15 times) |  |
| 6.0  | Civil Works                                                                                                                                                                                                                                     |  |
| 6.0  | Whether building/accommodation is available for erection of the proposed machine                                                                                                                                                                |  |
| 7.0  | Disposal:                                                                                                                                                                                                                                       |  |
| 7.1  | It is to be confirmed that the existing machine will be disposed off on receipt and or successful commissioning of the replacement                                                                                                              |  |

**INFORMATION REQUIRED AGAINST REPLACEMENT / BETTERMENT DEMAND**

|    |                                                                                                                    |  |
|----|--------------------------------------------------------------------------------------------------------------------|--|
| 1. | Register No. of the Plant and Machine to be replaced together with                                                 |  |
|    | (a) Date of Original receipt                                                                                       |  |
|    | (b) Original Cost                                                                                                  |  |
|    | (c) Book Value & Residual Value                                                                                    |  |
|    | (d) Condition (Whether Beyond Economical repair) may be stated                                                     |  |
| 2. | State if the demand cannot be met from                                                                             |  |
|    | (a) German reparations machines offered or allocated &                                                             |  |
|    | (b) Known surpluses in other factories under YIL                                                                   |  |
| 3. | State with reasons if there is any urgency regarding delivery                                                      |  |
| 4. | Where the quantity is more than one state if purchase can conveniently be spared over more than one financial year |  |

**FORMAT : FORWARDINGS LETTER FOR DEMANDS**

To

**Director/Operations,  
YANTRA INDIA LIMITED,  
8th Mile, Ordnance Factory Units Ambajhari Estate,  
Amravati Road, Nagpur,  
Maharashtra-440021**

Sub: Procurement of P&M under RR.

The following documents are submitted for your kind consideration and approval of the proposal for procurement.

|    |                                                                                                                                                                                                                                                                         |  |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 1. | RR Demand No.                                                                                                                                                                                                                                                           |  |
| 2. | Annexure-A                                                                                                                                                                                                                                                              |  |
|    | Annexure-B                                                                                                                                                                                                                                                              |  |
| 3. | Justification                                                                                                                                                                                                                                                           |  |
| 4. | F&A concurrence No. & Date                                                                                                                                                                                                                                              |  |
| 5. | Budgetary Quotation                                                                                                                                                                                                                                                     |  |
|    | (a) Condemnation report                                                                                                                                                                                                                                                 |  |
|    | (b) Technical Inspection Report                                                                                                                                                                                                                                         |  |
|    | (c) Additional information required for processing of RR Demand of Vehicle                                                                                                                                                                                              |  |
|    | i. Authorised strength of MT vehicles including Staff Cars, Jeeps, Trucks, Ambulances .<br>ii. Number of MT Vehicles in the above category held at present by the factory units<br>iii. Vehicles replaced in last 5 years and the : details of disposal of BER vehicles |  |
| 6. | Cost benefit analysis and justification for costly machine                                                                                                                                                                                                              |  |
| 7. | Specification                                                                                                                                                                                                                                                           |  |
| 8. | Likely supplier                                                                                                                                                                                                                                                         |  |
| 9. | Inspection Trial Plan                                                                                                                                                                                                                                                   |  |

Encl: As sated above

FOR EXECUTIVE DIRECTOR  
Unit of YIL.

**APPENDIX 'C'****PROFORMAS FOR SENDING CAPEX(RR) PROPOSALS TO YILHQ****PROFORMA - 'A'****ITEMS DULY APPROVED IN THE RR PLAN OF PREVIOUS YEARS -****STATUS INDICATING SCHEDULE TILL RECEIPT OF MACHINE.**

Unit.....

| Sl No | Year of plan | Ref. Sl. No. | Nomenclature & Quantity | Approved cost of replacement | Demand No | Cash-Flow Materilisation during | Present position indicating reasons for hold up, if any |
|-------|--------------|--------------|-------------------------|------------------------------|-----------|---------------------------------|---------------------------------------------------------|
| 1     | 2            | 3            | 4                       | FE(5) :<br>RE(6)             | 7         | (8a)<br>(8b)                    | 9                                                       |

**PROFORMA - 'B'****RR PLAN OF P&M DULY APPROVED BY PFC AT FY LEVEL DURING YEAR .....**

Unit : .....

₹: in lakhs.....

| Session & End store for which new m/cs are needed | Capacity to be achieved in terms of end-store based on | Description of machine proposed for procurement | Quantity | Nomenc lature & Regd. No. of m/c to be replaced | End store against which existing m/c are used/purchased for | Cost (based on Budgetary cost)<br><br>FF :<br>RE<br><br>: | Remarks |
|---------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|----------|-------------------------------------------------|-------------------------------------------------------------|-----------------------------------------------------------|---------|
| 1                                                 | 2                                                      | 3                                               | 4        | 5                                               | 6                                                           | 7 : 8                                                     | 9       |

CMD/ YIL

Member/PFC

Member/PFC

Member/PFC

Finance

## PROFORMA - 'C'

**ADDITIONAL INFORMATION IN RESPECT OF ITEMS  
PROJECTED IN PROFORMA - 'B'**

Unit :.....

| SL.no.<br>of item<br>as per<br>'A' &<br>'B' | Year of<br>purchase | Residual<br>value<br>(₹. in<br>lacs.) | Whether<br>reconditio<br>ning/repair<br>possible | Possibility<br>of resiting<br>any other<br>similar m/c from<br>other shops to<br>meet projected<br>requirement | Cycle<br>time for<br>proposed<br>operation<br>on new<br>m/c to<br>justify the<br>quantity | Percentag<br>e of<br>utilisation<br>of m/cs<br>with<br>reference<br>to<br>productio<br>n on load | Confirmation<br>that capacity of<br>new m/c is<br>comparable<br>with m/cs under<br>replacement. |
|---------------------------------------------|---------------------|---------------------------------------|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| 1                                           | 2                   | 3                                     | 4                                                | 5                                                                                                              | 6                                                                                         | 7                                                                                                | 8                                                                                               |

## PROFORMA 'D'

**BUDGET ALLOTMENT vis-à-vis UTILISATION PATTERN For  
last three years against CAPEX(RR) GRANT**

Unit:-

1. Total .....Assessed as on

a) P &amp; M :

b) Civil Works/Buildings:

2. Details of Fund Utilisation:-

|                                                  | Year1 | Year2 | Year3 |
|--------------------------------------------------|-------|-------|-------|
| Fund allotted at the beginning of Financial year |       |       |       |
| Fund surrendered at the end of Financial year    |       |       |       |
| Fund utilised / expenses in the Financial year   |       |       |       |

3. Fund needed for Year .....

a) Committed liability as on .....:

b) Commitment likely to be made during the year .....:

c) Cash Flow expected: .....

## **APPENDIX 'D'**

### **FORMAT FOR DPR**

- 1.0 INTRODUCTION
- 2.0 PROCESS / TECHNOLOGY FEATURES IN BRIEF (EXISTING AND PROPOSED PLANT, POINTING OUT MAIN CHANGES AND BENEFITS)
- 3.0 PRODUCT SPECIFICATIONS
- 4.0 CAPACITY - EXISTING & PROPOSED WITH JUSTIFICATION
- 5.0 LOCATION AND LAYOUT
- 6.0 PLANT & MACHINERY
- 7.0 BUILDINGS / CIVIL WORKS
- 8.0 ANCILLARY FACILITIES
- 9.0 MATERIAL HANDLING EQUIPMENT
- 10.0 UTILITIES:
  - a. WATER
  - b. ELECTRICITY
  - c. STEAM
  - d. CHILLED WATER
  - e. COMPRESSED AIR
- 11.0 SAFETY
- 12.0 ENVIRONMENT PROTECTION
- 13.0 MANPOWER REQUIREMENT
- 14.0 TRAINING
- 15.0 PROJECT SCHEDULE
- 16.0 ESTIMATED COST OF THE PROJECT WITH BREAK-UP AND YEAR-WISE CASH OUT-GO:
- 17.0 FINANCIAL APPRAISAL (IRR)
- 18.0 MODE OF PROJECT EXECUTION AND SPECIAL STEPS NEEDED FOR SPEEDY COMPLETION

**APPENDIX 'E'****INSTRUCTIONS FOR FRAMING TENDER ENQUIRY**

1. A format for TE in line with that prescribed by MoD in DPM/DPP (which is in line with the provisions of GFR).
2. This new Format should now be adopted henceforth in all factories, especially for GTE cases. Suitable modifications may however be made for the particular case, as per the procedures contained in this manual.
3. The TE as per this new Format is divided into five Parts, each Part dealing with different aspects.
4. Part I contains General Instructions to the bidders. Generally, all these instructions should be mentioned as it is, though minor changes can be done to suit a particular case.
5. In Part II, the Technical Details would be different for various types of plant or equipment. As such only the broad guidelines for formulating this aspect have been stated here. The information may contain the following –
  - a. This should contain the purpose for which the plant or equipment is needed. It should be ensured that the requirements of the user as well as the maintenance sections are laid down in a comprehensive, structured and concrete manner in terms of functional characteristics and are broad-based.
  - b. Relevant technical parameters like performance, operating environment, etc can be specified as applicable. Examples are as under –
    - i. User requirements in terms of functional characteristics
    - ii. Specifications / Drawings, if applicable
    - iii. Technical details along with Essential Technical parameters
    - iv. Compliance chart for Technical evaluation
    - v. Requirement of training / on-job training
    - vi. Requirement of installation, Commissioning
    - vii. Requirement of Performance Test Run.
    - viii. Requirement of technical documentation.
    - ix. Type of future assistance on completion of warranty.
    - x. Earliest Acceptable Year of manufacture
6. Part III contains Standard clauses which might have a legal implication. Therefore, no deviation from the text given in the clauses nor deletion of any of these clauses has to be allowed. In case a deviation from these clauses has to be considered/allowed due to insistence of the Seller, then approval of YIL will be required. Para 15 on Pre-Contract Integrity Pact clauses may be included only in cases above ₹ 1 crores.
7. Part IV contains several Commercial clauses, which may or may not be relevant for a particular type of TE. Hence the title is given as Special Conditions of Contract. A conscious decision may be taken to incorporate the relevant clauses from this list based on the guidelines given in the Manual. The wordings of these clauses can also be appropriately modified to suit a particular case.

In Para 8 pertaining to INCOTERMS, only the applicable Term of Delivery may be mentioned as decided for that particular case.

8. In Part V, the Evaluation Criteria can be suitably amplified/ modified to suit the specific requirements of a particular case. Similarly, the Format of the Price Bid can be amended to include / exclude items as per requirements. Format of price bid is same as the template for price bid in e-procurement.

9. The draft TE applies both to indigenous and foreign procurement cases. The main difference will be in the selection of relevant 'Special Condition Clauses' from those given in Part-IV of the draft TE. This in turn will depend upon the guidelines contained in corresponding paras of various chapters.

## FORMAT FOR TENDER ENQUIRY

## YANTRA INDIA LIMITED

..... Unit, .....

Invitation of Bids for Supply of ..... (Title of Tender Enquiry) Tender Enquiry (TE) No  
 \_\_\_\_\_ Dated\_ \_\_\_\_\_

1. Executive Director , unit name (A Unit of YANTRA INDIA LIMITED, **Nagpur**) invites Bids in electronic mode only in Two Bid System (Technical Bid and Price Bid) through e-procurement website i.e., GeM/CPP Portal.
2. The details regarding for bidding through Electronic mode like system requirement, vendor enrolment, obtaining digital signature, terms & conditions etc are available on GeM/CPP Portal. Manual offers are not acceptable.
3. This TE is divided into five Parts as follows:
  - a. Part I – Contains Instructions for Bidders i.e. general information and instructions about the TE such as the time and date of opening of tender, Validity period of tender, etc., place of submission (for manual tender).
  - b. Part-II Contains the Technical specifications of the including, drawings etc. the tendered P&M/services including drawings etc.
  - c. Part III – Contains Standard Conditions of Contract, which will form part of the Contract with the successful Bidder.
  - d. Part IV – Contains Special Conditions of Contract applicable to this TE and which will also form part of the contract with the successful Bidder.
  - e. Part V – Contains Evaluation Criteria and Format for Price Bid.
4. This TE is being issued with no financial commitment and the Buyer reserves the right to change or vary any part thereof at any stage. Buyer also reserves the right to withdraw the TE, shall it become necessary at any stage.
5. Formats for EMD bank guarantee, PBG, ABG, IPBG, EPBG and Pre Contract Integrity Pact (as applicable) are enclosed.

Authorised Signatory

**PART I - INSTRUCTIONS FOR BIDDERS****1. Last date and time for submission of the Bids:**

\_\_\_\_\_ (DD / MM / YYYY)

**2. Date and Time for opening of Bids:**

\_\_\_\_\_ (DD / MM / YYYY)

Tenders received after above due time will not be opened.

**3. Manner of submitting the Bids:****(a) For TEs issued by electronic mode:**

- i. Bids shall be submitted by electronic mode only through GeM/CPPP by using valid digital signature certificate (class-III) after successful completion of enrollment procedure at.....(Fy) (EO). The bidder shall also furnish the complete contact details i.e., postal & e-mail address, phone no., fax no., contact person etc. The Indian bidders are required to furnish additional details like TIN number, GST number, bank details of EFT account etc. . As per latest GOI instruction all the tender enquiry uploaded on GeM/CPPP. The procedure of uploading of TE on GeM/CPPP available on the site.
- ii. EMD, if applicable, shall be submitted electronically. Till implementation of electronic payment system, they may be submitted to .....(Factory Units) on or before the tender opening date, but scanned copies must be attached with the online tender. EMD shall be submitted in favour of "The Executive Director, ....." payable at .....
- iii. Corrigendum, if any, will be published on this website only.
- iv. The e-tenders will be opened on above opening date & time after which Bidders can see all submitted tenders online through their account. The detailed help is available on the website.

**(b) For TEs issued by physical mode wherever applicable:**

- i. Sealed Bids shall be either dropped in the Tender Box marked as \_\_\_\_\_ or sent by registered post to ( Postal address of Fy ) so as to reach by above due date and time. Late tenders will be ignored. No responsibility will be taken for postal delay or non-delivery/ non-receipt of Bid documents. Bids sent by FAX or e-mail will not be considered.
- ii. Bids in double cover must be submitted in triplicate in Two parts (Technical Bid and Price Bid) in separate sealed covers (inner covers), super-scribing the Technical Bid or Price Bid, tender number and date of opening of tender on the covers. The outer cover shall bear the, tender number and date of tender opening. The tender shall be neatly arranged, plain and intelligible, typewritten with consecutively numbered pages in solid binding. They shall not contain any terms and conditions, printed or otherwise, which are not applicable to the tender.

- iii. Insertions, postscripts, additions and alterations shall not be recognized, unless authenticated by the bidder's signature.
  - iv. Only one tender shall be included in one cover. When more than one tenders are included in one cover, all tenders so enclosed in one cover will be liable to be ignored.
  - v. *Bids after opening of tenders shall be called as Late Tender. Such late offers will not be opened.*
  - vi. **Location of the Tender Box:** \_\_\_\_\_  
Only those Bids, found in the designated tender box will only be opened. Bids dropped in the wrong Tender Box will be rendered invalid.
  - vii. **Place of opening of the Bids:** \_\_\_\_\_  
The Bidders may depute their representatives, duly authorized in writing, to attend the opening of Bids. Rates and important commercial/technical clauses quoted by all Bidders will be read out in the presence of the representatives of all the Bidders. This event will not be postponed due to non-presence of your representative.
4. **Validity of Bids:** The Bids shall remain valid till ...6... months *from the last date of submission of the Bids.* (As per GeM Procedure)
  5. **Bidding Procedure:** Bids are invited under two (2) bid system. Only the Technical Bid shall be opened on the time and date mentioned above. Price Bids of only those bidders will be opened, whose Technical Bids are found compliant/suitable after technical evaluation by the Buyer. Date of opening of the Price Bids will be intimated in advance to the successful Bidders whose offers have been found technically acceptable.
  6. **Language of documents:** All Design Engineering Data, Drawings, Manuals, Literatures, Documents etc shall be in English/Hindi only and shall be as per standard engineering practice. Only metric/SI units shall be used in all drawing, documents etc.
  7. **Clarification regarding contents of the TE:** A prospective bidder who requires clarification regarding the contents of the bidding documents shall notify to the Buyer in writing about the clarifications sought not later than one month prior to the date of opening of the Bids. Any Corrigendum to tender shall be notified by the purchaser to all prospective bidders.
  8. **Pre Bid Conference (if planned by Factory Units):** A Pre Bid Conference shall be held at  
.....(venue) on .....(date) at.....(time), where bidders will be briefed about the tender conditions and issued clarifications.
  9. **Modification and Withdrawal of Bids:** No bid shall be modified/withdrawn after the deadline for submission of bids. Any withdrawal of a bid will result in forfeiture of bid security
  10. **Clarification regarding contents of the Bids:** During evaluation of bids, the Buyer may, at its discretion, ask the bidder for clarification of his bid. The clarification will be sought through RFI (e-portal) and e-mail (manual tender) and no change in prices or substance of the bid will be sought, No post-bid

clarification on the initiative of the bidder will be entertained.

11. **Rejection of Bids:** Bid is liable to be rejected if complete information is not given therein or if the particulars and data (if any) asked for in the schedule to the tender, are not fully filled in. Conditional tenders will be rejected. Canvassing by the Bidder in any form, unsolicited letter and post-tender correction may invoke summarily rejection with forfeiture of EMD.
12. **Right of Acceptance of Offer:** This Tender is being issued with no financial commitment and Purchaser reserves the right to change or vary any part thereof at any stage. The Purchaser reserves the right to reject any or all of the offers without assigning any reason whatsoever. The Purchaser also reserves the right to withdraw the Tender Enquiry, should it be so necessary at any stage.

### 13. Earnest Money Deposit (Bid Security):-

- a. Bidders are required to submit Earnest Money Deposit (EMD) for amount of along with their bids. Bids received without EMD shall be summarily rejected without technical evaluation. The EMD may be submitted in the form of an Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee in specified format from any of the Public sector Undertaking or three private bank namely (HDFC, ICICI, Axis Bank) or payment online in an acceptable form, safeguarding the purchaser's interest. EMD shall be in favour of “\_\_\_\_\_ (Fy Name) eg. METAL AND STEEL FACTORY ISHAPORE (A UNIT OF YANTRA INDIA LTD)”. ”.
- b. EMD is to remain valid for a period of forty-five days beyond the final bid validity period. EMD of the unsuccessful bidders will be returned to them at the earliest after expiry of the final bid validity and latest within one month after the award of the contract. The Bid Security of the successful bidder would be returned, without any interest whatsoever, after the receipt of Performance Security from them as called for in the contract.
- c. To safeguard against a bidder's withdrawing/ altering its bid during the bid validity period in the case of tender enquiry, EMD shall be obtained from the bidders except Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) or are registered with the or Department or Startups as recognized by Department of Industrial Policy & Promotion (DIPP), for similar Plant & Machinery. The bidders are required to furnish EMD along with their bids. Certificate in support of EMD exemption submitted by the bidder(s) shall be valid at least till the bid validity period.
- d. The EMD will be forfeited if the bidder withdraws or amends, impairs or derogates from the tender in any respect within the validity period of their tender.

### 14. Signing of tender:

- (a) The tender shall be signed by a competent authority (digitally sign in case of e- procurement) holding power of attorney to handle such job on behalf of tendering bidder and this fact must be stated explicitly.
- (b) Individual signing the tender or other documents connected with a contract must specify whether he signs as:
  - (i) 'Sole Proprietor' of the bidder or constituted attorney of such Sole Proprietor.
  - (ii) A partner of the bidder, if it be a partnership, in which case he must

have authority to quote & to refer to arbitration dispute concerning the business of the partnership either by virtue of the partnership agreement or a power of attorney;

(iii) Constituted attorney of the bidder if it is a company.

- (c) In case of (a)(ii) above, a copy of the partnership agreement or general power of attorney, in either, case, attested by a Notary Public shall be furnished or affidavit on stamped paper of all the partners admitting execution of the partnership agreement or the general power of attorney shall be furnished.
- (d) In case of the partnership bidders, where no authority to refer disputes concerning the business of the partnership has been conferred on any partner, the tender and all other related documents must be signed by every partner of the bidder.
- (e) A person signing the tender form or any documents forming part of the contract on behalf of another shall be deemed to warrantee that he has authority to bind such other persons and if, on enquiry, it appears that the persons so signing had no authority to do so, the purchaser may, without prejudice to other civil and criminal remedies, cancel the contract and hold the signatory liable for all costs and damages.
- (f) In case of manual TE, each page of the tender, schedule to tender and Annexure, if any, shall be signed by the bidder.

## 15. Technical Bid

- (a) The bidder shall carefully check the specifications and drawings and shall satisfy himself of the suitability of the equipment being offered and shall take full responsibility for the efficient performance of offered Plant and equipment as per tender specification.
- (b) The offer shall be complete in all respects along with supporting documents and technical literature like catalogue, test charts, list of customers of similar m/c, performance feedback reports from users etc. as per tender specification.
- (c) The offer shall comply to all TE conditions. However, deviations, if any, shall be clearly brought out by the bidders.
- (d) The bidder shall invariably attach with their offer a clause-wise compliance statement against all the parts (I) to (V) of the TE, in the specified format (see para - **Compliance to Tender Clauses**), stating where they meet requirement in toto and where and how they deviate giving full details and remarks if any.
- (e) The bidder shall certify in the technical bid that the price-bid contains item-wise price as specified in Technical Specification.
- (f) In order that no clarification is needed after opening of Price Bid of technically acceptable offers, it is essential that the un-priced copy of the price bid (REPEAT UNPRICED) along with other terms & conditions shall be enclosed with the Technical Bid. List of spares with quantity shall also be submitted separately along with technical bid.
- (g) The bidder shall inspect the site if considered necessary and shall satisfy himself of site conditions and shall collect himself any other information which he may require before submitting the tender. Claims and objections due to ignorance of site conditions will not be considered after submission of the tender.

- (h) Incomplete/ conditional quotations wrt TE conditions—are liable to be rejected.

## 16. Price Bid

- (a) In the Price bid, the bidder shall fill elements of cost of Plant and Equipment strictly as per the scope of supply & services specified in technical specification, the price bid template appropriately. If the work is of turn-key nature, the bidder will be responsible for complete execution of the plants including construction of buildings and civil/electrical/instrumentation/mechanical works as specified in the scope of work. Price bids through electronic mode will only be considered.
- (b) Rates for Spares shall be quoted separately item-wise and not to be included in the price of the machine. The price quoted for spares by the bidders will not be taken into account for deciding the ranking of the bidders.
- (c) For all plants and equipments, accessories, spares etc. of import origin,— prices shall be quoted for delivery on FOB basis indicating the Port of shipment as well as for delivery on CIF basis indicating the port of entry i.e. ----- (in India) along-with the charges for transportation and insurance separately, directly by the Original Equipment Manufacturer (OEM) or the foreign supplier, if authorized by the concerned Foreign Govt. However, order if any, will be on FOB basis only and all taxes, duties, fees or charges including Bank charges outside India for supplies, services and spares ex-import including transportation, seaworthy packing, preservation till FOB is the responsibility of the vendor.
- (d) In case, foreign plants suppliers stipulate that purchases can be made through their Indian counterpart/ collaborator (not agent), purchase can be made against Rupee payment only for those plants/machines against offer from Indian bidders, but the import clearance shall be arranged by the bidder and he shall arrange inspection/ training in India and also provide after sale services.
- (e) For indigenous P&M, prices shall be quoted in Rupees for delivery ex-works. GST if applicable, shall be indicated separately and distinctly. The freight charges, if any, shall be quoted separately. However, order if any, will be on F.O.R basis wherein freight charges, insurance charges, taxes and duties etc. will be paid on actual against documentary proof.
- (f) In case of Global TE for turn-key supply of plants, bidding may be done by a foreign bidder in collaboration with an Indian bidder. In such cases, OEM, the technology provider shall be the prime bidder. In case of collaboration for bidding, a copy of collaboration agreement or MOU is to be submitted, clearly defining the responsibility for the scope of work with reference to NIT/TE and subsequent liabilities of the contract. The foreign supplier (technology holder) shall have to be responsible for design, engineering and supply of imported equipments, quality certification for indigenous equipments, supervision of erection & commissioning and process guarantee of the whole plant. Payment can be made in foreign exchange to foreign bidders only and in Indian Rupees to Indian bidders, as per respective share of works.

## 17. Technical Capacity:

- (a) The bidder shall satisfy the purchaser that he possesses the necessary

technical experience and qualification and that he has at his disposal suitable modern facilities and staff of specialized nature to ensure that his contract work is of best quality and workmanship, according to the latest engineering practice. The bidder shall furnish necessary particulars in support of the same with the bid.

- (b) In this regard, the bidder shall submit a detailed statement of similar plant ~~o~~built by him of similar or higher capacity and similar technology in the past and name and full address of the customers with order No., date of supply and performance report thereof.

#### 18. Financial Capacity:

- i. The bidder shall produce satisfactory units proof that he is financially in a position to fulfil the contractual obligations offered to be undertaken by him, e.g. showing average annual turnover during last three years, values of orders executed in-the past, etc.
- ii. In the case of Indian bidder, the following shall also be submitted with their technical bid.
  - (a) Copies of last three years annual report indicating profits and losses.
  - (b) Copies of Partnership deeds.
  - (c) Copy of certificate of incorporation and Articles of Association.
  - (d) Copies of ownership documents in respect of manufacturing plant.
  - (e) General power of attorney in favour of any signatory, other than the owner/head of the bidder.
  - (f) Affidavit that the bidder has not debarred for a period not exceeding three years commencing from the date of debarment.

#### 19. Legal Capacity:

The bidder shall satisfy the purchaser that he is competent and authorized to submit tender and/or to enter into a legally binding contract with the purchaser. To this effect, the bidder shall render documentary evidence that his signature on the tender bid, submitted by him is legally binding upon himself, or company as the case may be.

#### 20. Compliance to Tender Clauses:

Bidders are required to furnish clause by clause compliance of TE clauses bringing out clearly the deviations from TE, if any. The Bidders are advised to submit the compliance statement in the following format along with Technical Bid :-

| Sl | Para of TE clauses / | Details | Compliance:<br>Yes / No | In case of non-compliance,<br>deviation to be indicated |
|----|----------------------|---------|-------------------------|---------------------------------------------------------|
|    |                      |         |                         |                                                         |

## PART II – TECHNICAL SPECIFICATIONS

### A. Schedule of Requirements:

i. Short description (Name) of Plant / Machine:

ii. Detailed description and quantity:

.....  
 .....

### B. Technical Details of the Plant / Machine Required:

(a) Specifications, drawings, material of construction, capacity, etc as applicable

(b) Requirement of installation/commissioning

(c) Requirement of foundation/civil works

(d) Requirement of training/on-job training

(e) Requirement of Technical documentation

(f) Requirement of Pre-Despatch Inspection (PDI)

(g) Requirement of Performance Test Runs (PTR) for Final Acceptance

(h) Any other details, as considered necessary, e.g. battery limit, contour map, soil study report, climate conditions, STEC rules, etc. to be furnished for the guidance of the Bidders in case of plants.

(i) Requirement of redundancy at each stage/operation, supply of connected standby pumps, etc in case of plants.

(j) Scope of Works / Responsibility of the Supplier (for turn key projects)

(k) Scope of Works / Responsibility of the Purchaser (for turn key projects)

*General guidelines on technical specification are given in the Chapter – “Framing of Specifications”. Factories may also ask for some extra details specifically for a plant/machine from the Bidders. Following is an example in case of procurement of a big plant.*

### C. Documents /details to be submitted by the Bidder with Technical Bid:

(a) Process description for the offered plant as a whole.

(b) Special features and advantage of the offered plant.

(c) Process flow diagrams.

(d) Layout of all buildings along with major activities in each building. Each building shall be numbered for easy reference.

(e) Building wise layout of all major equipments and instruments.

(f) Line plan drawing of all individual buildings to be designed and supplied by the vendor showing dimension, wall thickness and roof structure, details of road with illumination details, etc.

(g) List of major equipments, service requirements, controls and indicative list of equipments. Each of the above should be numbered.

(h) The cycle time of processing at each stage / operation. Bidder should clearly indicate the redundancy in capacity and the availability of standby equipments like pumps at each stage/operation.

*(i) List of all major instruments along with brief description of their utilization and effectiveness in process and process control. This list should be enumerated process-wise as far as possible so as to facilitate a comparison with the layout of the plant and utilities showing general arrangement of the plant, equipment and also the periodicity desired for calibration.*

*(j) List of spares with part no. and quantity used in entire plant.*

*(k) Safety features process wise and plant as a whole.*

*(l) Requirement of manpower for operating the plant as a whole per shift and per day. Requirement of operating, maintenance and supervisory personnel to be mentioned separately.*

*(m) Descriptive flow diagram showing the links between the above numbered plant/ equipments etc as well as the instrument layout.*

*(n) Quantitative flow diagram describing consumption of raw material and also for utility items separately.*

*(o) Guaranteed consumption of raw material and utilities i.e. steam, water, electricity, etc for processing one Metric Ton of output.*

*(p) Requirement of steam, cooling water and process water (average and maximum)*

*(q) Installed electric power load; average and maximum demand of power separately for ancillary facilities for generation of utilities like compressed air, instrument air, chilled water/ brine etc. for the plant.*

*(r) Pollution control measures indicating the composition and quantities of effluents and waste per MT output from the plant along with scheme for treatment and disposal including air pollutants.*

*(s) List of specific exclusion from scope of supply*

### PART III – STANDARD CONDITIONS OF CONTRACT

The Bidder is required to give confirmation of their acceptance of the Standard Conditions of the Tender Enquiry mentioned below which will automatically form part of the Contract concluded with the successful Bidder (i.e. Seller in the Contract) as selected by the Buyer. Failure to do so may result in rejection of the Bid submitted by the Bidder.

1. **Law:** The Contract shall be considered and made in accordance with the laws of the Republic of India. The contract shall be governed by and interpreted in accordance with the laws of the Republic of India.
2. **(i) Effective Date of the Contract:** The contract shall come into effect on the date of signatures of both the parties on the contract (Effective Date) and shall remain valid until the completion of the obligations of the parties under the contract. The delivery period of the goods and performance of the services shall commence from the effective date of the contract.  
**(ii) Commencement Date:** In case of imported items, the delivery obligations of the supplier shall start with reference to the Commencement Date (instead of the effective date), which will be the date on which the latest of the below mentioned events has occurred.
  - i. Submission of export licence from foreign government by the supplier.
  - ii. Submission of Performance Bank Guarantee by the supplier.
  - iii. Other event(s) as mutually decided.**(iii) Non-occurrence of the Commencement Date:** If the Commencement Date has not occurred, within six (6) months from the date of signature (or within such other period as may be agreed between the Parties), the purchaser may terminate the Contract by written communication to the supplier.
3. **Arbitration:** All disputes or differences arising out of or in connection with the Contract shall be settled by bilateral discussions. Any dispute, disagreement or question arising out of or relating to the Contract or relating to construction or performance, which cannot be settled amicably, may be resolved through arbitration. The standard clause of arbitration will be applicable, depending on the type of Seller, as given below.

**(A) FOR INDIAN SUPPLIERS (OTHER THAN PUBLIC ENTERPRISES/ GOVT. DEPARTMENTS):-**

- (a) All the disputes and differences arising out of or in any way touching or concerning this agreement (except those for which specific provision has been made therein) shall be referred to Sole Arbitrator to be appointed by Director General Ordnance Factories, Government of India. The Arbitrator so appointed shall be a Government servant who had not dealt with the matters to which this agreement relates and in course of his duties had not expressed views on all or any of the matter in disputes or differences. For the time being or a Govt. Servant appointed by him the appointee shall not be Govt. Servant who had dealt with the matters to which this agreement relates and that in the course of his duties as Govt. Servant he had not expressed views on all or any of the matter in dispute or difference. The Award of the Sole Arbitrator shall be final and binding on the parties.
- (b) The Arbitration shall be as per Arbitration Act 1996 or any statutory modification thereof.
- (c) The venue of Arbitration shall be ..... (place of factory units)

(B) FOR PUBLIC ENTERPRISES/ GOVT. DEPARTMENTS:

In the event of any dispute or difference relating to the interpretation and application of the provisions of this contract, such dispute or difference shall be referred by either party for Arbitration to the Permanent Arbitration Machinery set up in the Department of Public Enterprises i.e. to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Govt. of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the disputes to the disputes, provided however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/ Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.

(Ref- Min. of HI & PE OM No. 1(24)/ 2005-DPE (PMA) dt. 22/01/2004)

(C) FOR FOREIGN SUPPLIERS:-

(a) All disputes of differences arising out of or in connection with the present Contract, including the cases connected with the validity of the present Contract or any part thereof, shall be settled by bilateral discussions.

(b) Any dispute, disagreement or any question arising out of or relating to the Contract or relating to the construction or performances (except as to any matters the decision or determination whereof is provided for by these conditions) which cannot be settled amicably shall within 60 days or such longer period as may be mutually agreed upon from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question still exists will be referred to the Arbitration Tribunal consisting of three Arbitrators.

(c) Within 60 (Sixty) days of the receipt of the notice, one Arbitrator shall be nominated in writing by the SELLER and one Arbitrator shall be nominated in writing by the BUYER.

(d) The third Arbitrator, who shall not be citizen or domicile of the country of either of the parties or of any other country unacceptable to any of the parties, shall be nominated by mutual consent of the parties within 90 (Ninety) days of the receipt of the notice mentioned above failing which the third Arbitrator may be nominated under the provisions of UNCITRAL by the President of the International Chamber of Commerce at the request of either party but the said nomination would be after consultation with both the parties and shall preclude any citizen or domicile of any country as mentioned above from being so nominated. The Arbitrator nominated under this clause shall not be regarded nor would act as Umpire.

(e) The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be mutually agreed to between the parties.

(f) The Arbitration proceedings shall be conducted in India in English language under the Indian Arbitration and Conciliation Act, 1996 (or any statutory modification thereof) and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

(g) The decision of the majority of the Arbitrators shall be final and binding on the parties to this contract.

(h) Each party shall bear its own cost of preparing and presenting its case. The cost of Arbitration including the fees and expenses of the third Arbitrator shall be shared equally by the SELLER and the BUYER, unless otherwise awarded by the Arbitration Tribunal.

(i) The event of a vacancy caused in the office of any of the Arbitrators, the party which

nominated such Arbitrator shall be entitled to nominate another in his place and the Arbitration proceedings shall continue from the stage they were left by the retiring Arbitrator.

(j) In the event of one of the parties failing to nominate its Arbitrator within 60 (Sixty) days as above or if any of the parties does not nominate another Arbitrator within 60 (Sixty) days of the place of Arbitrator falling vacant, then the other party shall be entitled after due notice of at least 30 (Thirty) days to request the President of the International Chamber of Commerce to nominate another Arbitrator as above.

(k) If the office of the third Arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

(l) The parties shall continue to perform their respective obligations under this contract during the pendency of the Arbitration Proceedings except in so far as such obligations are the subject matter of the said arbitration proceedings.

**Note** - The provisions with regard to appointment of an Arbitrator by the International Chamber of Commerce, Paris shall only be resorted to in cases of International Commercial Arbitration. Similarly, the UNCITRAL provisions will only apply with regard to appointment of Arbitrator and fixation of fees of the Arbitrator. The procedure to be adopted during arbitration will be as provided in the Indian Arbitration & Conciliation Act, 1996.

4. **Penalty for use of Undue influence:** The Seller undertakes that he has not given, offered or promised to give, directly or indirectly, any gift, consideration, reward, commission, fees, brokerage or inducement to any person in service of the Buyer or otherwise in procuring the Contracts or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the present Contract or any other Contract with the Government of India for showing or forbearing to show favour or disfavour to any person in relation to the present Contract or any other Contract with the Government of India. Any breach of the aforesaid undertaking by the Seller or any one employed by him or acting on his behalf (whether with or without the knowledge of the Seller) or the commission of any offers by the Seller or anyone employed by him or acting on his behalf, as defined in Bhartiya Nyaya Sanhita 2023 or the Prevention of Corruption Act, 1986 or any other Act enacted for the prevention of corruption shall entitle the Buyer to cancel the contract and all or any other contracts with the Seller and recover from the Seller the amount of any loss arising from such cancellation. A decision of the Buyer or his nominee to the effect that a breach of the undertaking had been committed shall be final and binding on the Seller. Giving or offering of any gift, bribe or inducement or any attempt at any such act on behalf of the Seller towards any officer/employee of the Buyer or to any other person in a position to influence any officer/employee of the Buyer for showing any favour in relation to this or any other contract, shall render the Seller to such liability/ penalty as the Buyer may deem proper, including but not limited to termination of the contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the Buyer.
5. **Agents / Agency Commission:** The Seller confirms and declares to the Buyer that the Seller is the original manufacturer of the stores/provider of the services referred to in this Contract and has not engaged any individual or bidder, whether Indian or foreign whatsoever, to intercede, facilitate or in any way to recommend to the Government of India or any of its functionaries, whether officially or unofficially, to the award of the contract to the Seller; nor has any amount been paid, promised or intended to be paid to any such individual or bidder in respect of any such intercession, facilitation or recommendation. The Seller agrees that if it is established at any time to the satisfaction of the Buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that the Seller has engaged any such individual/bidder, and paid or intended to pay any amount, gift, reward, fees, commission or consideration to such person, party, bidder or

institution, whether before or after the signing of this contract, the Seller will be liable to refund that amount to the Buyer. The Seller will also be debarred from entering into any supply Contract with the Government of India for a minimum period of five years. The Buyer will also have a right to consider cancellation of the Contract either wholly or in part, without any entitlement or compensation to the Seller who shall in such an event be liable to refund all payments made by the Buyer in terms of the Contract along with interest at the rate of 2% per annum above one-year LIBOR rate. The Buyer will also have the right to recover any such amount from any contracts concluded earlier with the Government of India.

6. **Access to Books of Accounts:** In case it is found to the satisfaction of the Buyer that the Seller has engaged an Agent or paid commission or influenced any person to obtain the contract as described in clauses relating to Agents/Agency Commission and penalty for use of undue influence, the Seller, on a specific request of the Buyer, shall provide necessary information/ inspection of the relevant financial documents/information.
7. **Non-disclosure of Contract documents:** Except with the written consent of the Buyer/ Seller, other party shall not disclose the contract or any provision, specification, plan, design, pattern, sample or information thereof to any third party.

8. **Pre-Contract Integrity Pact Clause:**

An "Integrity Pact" would be signed between the Buyer and the Bidder for purchases exceeding ₹ 1 crores with Integrity Pact Bank Guarantee (IPBG) as follows.

An "Integrity Pact" would be signed between the Buyer and the Bidder for purchases exceeding ₹. 1 Crs. This is a binding agreement between the Buyer and Bidders for specific contracts in which the Buyer promises that it will not accept bribes during the procurement process and Bidders promise that they will not offer bribes. Under this Pact, the Bidders for specific services or contracts agree with the Buyer to carry out the procurement in a specified manner. The Pre-Integrity Pact will be as per Format enclosed.

9. **Liquidated Damages (LD):**

- (a) In the event of seller's failure to have the plant / machines or any part/installment thereof delivered by the date/dates specified in the contract, the buyer may at his discretion withhold any payment until the whole of the plant / machines have been supplied and the buyer may also deduct from the seller as agreed, Liquidated Damages and not by way of penalty, the sum of 0.5% of the contract price of the delayed supplies for each week or part of a week for which the delay has occurred, subject to maximum of 5% of the value of delayed supplies.
- (b) For delay in completion of any works or services attributable to the supplier, which leads to delay in commissioning and final acceptance of the plant / machines, LD will be imposed @ 0.5% of the full contract price of the plant / machines for each and every week and part of a week of delay in commissioning and final acceptance, subject to maximum of 5% of the full contract price. This LD will be in addition to the LD against delay in delivery of supplies.
- (c) The sum of LD for, (a and b ) i.e. for delays in supplies as well as works & services, will be subject to overall ceiling of 10% of full contract price excluding taxes & duties.
- (d) Liquidated Damages are to be calculated on the basic cost (excluding taxes & duties)

- (e) LD shall be levied for the period for which the supplier was responsible for the delay in delivery/execution i.e. LD shall be waived if the reasons for delay are not attributable to the supplier.
10. **Termination of Contract:** The Buyer shall have the right to terminate this Contract in part or in full in any of the following cases :-
- (a) The Seller has failed to perform a substantial obligation under the Contract after having been served a notice of failure and make good by Purchaser within a reasonable period, or the delivery of the material is delayed for causes not attributable to Force Majeure for more than six months after the scheduled date of delivery.
  - (b) The Seller is declared bankrupt or becomes insolvent.
  - (c) The delivery of material is delayed due to causes of Force Majeure by more than six months, provided Force Majeure clause is included in contract.
  - (d) The Buyer has noticed that the Seller has given or offered to give, directly or indirectly, to any person any bribe, gift, gratuity, commission or other thing of value as an inducement or reward for doing or forbearing to do any action in relation to this Contract, e.g. if the Seller has utilized the services of any Indian/Foreign agent in getting this contract and paid any commission to such agent.
  - (e) As per decision of the Arbitration Tribunal.
11. **Notices:** Any notice required or permitted by the contract shall be written in the English language and may be delivered personally or may be sent by FAX or registered mail/airmail, addressed to the last known address of the party to whom it is sent.
12. **Transfer and Sub-letting:** The Seller has no right to give, bargain, sell, assign or sublet or otherwise dispose of the Contract or any part thereof, as well as to give or to let a third party take benefit or advantage of the present Contract or any part thereof.
13. **Patents and other Industrial Property Rights:** The prices stated in the present Contract shall be deemed to include all amounts payable for the use of patents, copyrights, registered charges, trademarks and payments for any other industrial property rights. The Seller shall indemnify the Buyer against all claims from a third party at any time on account of the infringement of any or all the rights mentioned in the previous paragraphs, whether such claims arise in respect of manufacture or use. The Seller shall be responsible for the completion of the supplies including spares, tools, technical literature and training aggregates irrespective of the fact of infringement of the supplies, irrespective of the fact of infringement of any or all the rights mentioned above.
14. **Amendments:** No provision of present Contract shall be changed or modified in any way (including this provision) either in whole or in part except by an instrument in writing made after the date of this Contract and signed on behalf of both the parties and which expressly states to amend the present Contract.
15. **Taxes and Duties:**
- (i) **In respect of Foreign Bidders:** All taxes, duties, levies and charges which are to be paid for the delivery of goods, including advance samples, shall be paid by the parties under the present contract in their respective countries.
  - (ii) **In respect of Indigenous bidders:**
    - i. **General**

- (a) If Bidder desires to ask for GST, the same must be specifically stated. In the absence of any such stipulation, it will be presumed that the prices include all such charges and no claim for the same will be entertained.
- (b) If reimbursement of any Duty/Tax is intended as extra over the quoted prices, the Bidder must specifically say so. In the absence of any such stipulation it will be presumed that the prices quoted are bidder and final and no claim on account of such duty/tax will be entrained after the opening of tenders.
- (c) If a Bidder chooses to quote a price inclusive of any duty/tax and does not confirm inclusive of such duty/tax so included is bidder and final, he shall clearly indicate the rate of such duty/tax and quantum of such duty/tax included in the price. Failure to do so may result in ignoring of such offers summarily.
- (d) If a Bidder is exempted from payment of any duty/tax upto any value of supplies from them, he shall clearly state that no such duty/tax will be charged by him up to the limit of exemption which he may have. If any concession is available in regard to rate/quantum of any Duty/tax, it shall be brought out clearly. Stipulations like, the said duty/tax was presently not applicable but the same will be charged if it becomes leviable later on, will not be accepted unless in such cases it is clearly stated by a Bidder that such duty/tax will not be charged by him even if the same becomes applicable later on. In respect of the Bidders, who fail to comply with this requirement, their quoted prices shall be loaded with the quantum of such duty/tax which is normally applicable on the item in question for the purpose of comparing their prices with other Bidders.
- (e) Any change in any duty/tax upward/downward as a result of any statutory variation in GST taking place within contract terms shall be allowed to the extent of actual quantum of such duty/tax paid by the supplier. Similarly, in case of downward revision in any duty/tax, the actual quantum of reduction of such duty/tax shall be reimbursed to the Buyer by the Seller. All such adjustments shall include all reliefs, exemptions, rebates, concession etc. if any obtained by the Seller.

## ii. Customs Duty -

- (a) For imported stores offered against forward delivery, the Bidder shall quote prices thereof exclusive of customs duty. The Bidder shall specify separately the C.I.F. prices and total amount of customs duty payable. They will also indicate correctly the rate of customs duty applicable along with Indian Customs Tariff Number. Customs duty as actually paid will be reimbursed on production of necessary documents i.e. (i) Triplicate copy of the bill of entry; (ii) copy of bill of lading; (iii) a copy of foreign principal's invoice. However, if the Bidder imports the stores in question against his own commercial quota Import Licenses, he will also be required to submit in addition the triplicate copy of bills of entry etc. a certificate from his Internal Auditor on the bill itself, to the effect that the following items/quantity in the bill of entry related to the stores imported against Defence Buyer contract number..... dated.....
- (b) Subsequent to the reimbursement of customs duty, the Bidder will submit to the concerned Payment Authority a certificate to the effect that he has not obtained any refund of customs duty subsequent to the payment of duty to the Customs authority by him. In addition, he shall also submit to the Paying Authority concerned a certificate immediately after a period of three months from the date of payment of the duty to customs authorities to the effect that he has not applied for refund of the customs duty subsequent to the payment of duty to the customs

authorities by him.

- (c) In case the Bidder obtains any refund of customs duty, subsequently to the payment of the same by him to the customs authorities and reimbursement of the customs duty to him by the Payment Authority, he shall forthwith furnish the details of the refund obtained and afford full credit of the same to the Buyer.

**iii. GST**

- (a) Where the GST is payable on ad-valorem basis, the Bidder shall submit along with the tender, the relevant form and the Manufacturer's price list showing the actual assessable value of the stores as approved by the concerned authorities.
- (b) Bidders shall note that in case any refund of GST is granted to them by concerned authorities in respect of Stores supplied under the contract, they will pass on the credit to the Buyer immediately along with a certificate that the credit so passed on relates to the GST, originally paid for the stores supplied under the contract. In case of their failure to do so, within 10 days of the issue of the GST refund orders to them by the concerned Authorities the Buyer would be empowered to deduct a sum equivalent to the amount refunded by the concerned Authorities without any further reference to them from any of their outstanding bills against the contract or any other pending Government Contract and that no disputes on this account would be raised by them.
- (c) The Seller is also required to furnish to the Paying Authority the following certificates: Certificate with each bill to the effect that no refund has been obtained in respect of the reimbursement of GST made to the Seller during three months immediately preceding the date of the claim covered by the relevant bill. (b) Certificate as to whether refunds have been obtained or applied for by them or not in the preceding financial year after the annual Audit of their accounts also indicating details of such refunds/applications, if any. (c) A certificate along with the final payment bills of the Seller to the effect whether or not they have any pending appeal/protest for refund or partial refund of GST already reimbursed to the Seller by the Government pending with the concerned authorities and if so, the nature, the amount involved, and the position of such appeals. (d) An undertaking to the effect that in case it is detected by the Government that any refund from concerned Authority was obtained by the Seller after obtaining reimbursement from the Paying Authority, and if the same is not immediately refunded by the Seller to the Paying Authority giving details and particulars of the transactions, Paying Authority will have full authority to recover such amounts from the Seller's outstanding bills against that particular contract or any other pending Government contracts and that no dispute on this account would be raised by the Seller.
- (d) Unless otherwise specifically agreed to in terms of the contract, the Buyer shall not be liable for any claim on account of fresh imposition and/or increase of GST on raw materials and/or components used directly in the manufacture of the contracted stores taking place during the pendency of the contract.

**iv. GST**

- (a) If it is desired by the Bidder to ask for GST to be paid as extra, the same must be specifically stated. In the absence of any such stipulation in the bid, it will be presumed that the prices quoted by the Bidder are inclusive of GST and no liability of-GST will be developed upon the Buyer.
- (b) On the Bids quoting GST extra, the rate and the nature of GST applicable at the time of supply shall be shown separately.-GST will be paid to the Seller at the rate at which it is liable to be assessed or has actually been assessed provided the

transaction of sale is legally liable to GST and the same is payable as per the terms of the contract.

**v. Local Taxes**

- (a) Normally, materials to be supplied to Government Departments against Government Contracts are exempted from levy of town duty, Octroi Duty, Terminal Tax and other levies of local bodies. The local Town/Municipal Body regulations at times, however, provide for such Exemption only on production of such exemption certificate from any authorized officer. Seller shall ensure that stores ordered against contracts placed by this office are exempted from levy of Town Duty, Terminal Tax or other local taxes and duties. Wherever required, they shall obtain the exemption certificate from the Buyer, to avoid payment of such local taxes or duties.
- (b) In case where the Municipality or other local body insists upon payment of these duties or taxes the same shall be paid by the Seller to avoid delay in supplies and possible demurrage charges. The receipt obtained for such payment shall be forwarded to the Buyer without delay together with a copy of the relevant act or bylaws/notifications of the Municipality of the local body concerned to enable him to take up the question of refund with the concerned bodies if admissible under the said acts or rules.

**16. ERV clause:**

1. Exchange rate variation shall be admissible to all offers received from Indian manufacturers for supply of P&M having import content, if
  - a) The delivery period is more than one year and,
  - b) The rate of exchange variation is beyond the band of  $\pm 2.5\%$ .
2. The import components and various currencies (of the import origin) for ERV purpose shall be declared at the time of submission of bid itself in the price-bid in following format

-

| Currency | Total cost of imported material (in FE) | Time schedule* within which materials will be imported from placement of SO (in months) |
|----------|-----------------------------------------|-----------------------------------------------------------------------------------------|
|          |                                         |                                                                                         |

*\* ERV shall be admissible up to this schedule from the date of SO. In case the bidder does not provide the schedule, it shall be admissible up to the midpoint of the DP.*

To convert foreign currency into Indian Rupee, the RBI/SBITT selling rate for foreign currency prevailing on date of submission of techno-commercial bids will be considered. The ERV reckoning date will be the last date of submission of techno-commercial bids.

3. For computation of ERV, the exchange rate as prevalent on the date of import by the manufacturer or the date as per schedule above whichever is lower shall be considered.
4. The bidder shall submit following documents in support of claim on account of ERV along with the bill -
  - a) Copies of import orders and relevant invoice
  - b) A bill of ERV claims enclosing worksheet
  - c) Banker's certificate/debit advice for foreign exchange paid

## PART IV - SPECIAL CONDITIONS OF CONTRACT

The Bidder is required to give confirmation of their acceptance of Special Conditions of the TE mentioned below which will automatically form part of the Contract to be concluded with the successful Bidder (i.e. Seller in the Contract) as selected by the Buyer. Failure to do so may result in rejection of Bid submitted by the Bidder.

### 1. Performance Security / Security Deposit:

- iv. Successful bidder will be required to submit performance security within 30 days of effective date contract for due performance of contract. The amount of performance security will be 5% of contract value in Indian Rupees or Foreign Currency stipulated in contract. Performance Security will be forfeited and en-cashed by the Buyer in the event of breach of contract by the Seller.

PSD may be submitted in the form of Account Payee Demand Draft (DD), Fixed Deposit Receipt (FDR), Banker's Cheque or Bank Guarantee (BG) in specified format safeguarding the purchaser's interest in all respects. Because of limited validity period of demand draft and banker's cheque, they shall be deposited in the Govt. fund and the same amount will be refunded to bidders, as applicable.

In case of procurement cases valuing more than ₹. 100 Crs, PSD will be submitted in addition to IPBG.

- a. Failure to submit performance security may entail cancellation of contract and EMD will be forfeited for unregistered bidders, whereas in case of others the concerned registering agency will be informed for appropriate action.
- b. **Indigenous suppliers:** The performance security will be in the form of demand draft or fixed deposit receipt or bank guarantee on non-judicial stamp paper in the specified format. The Performance Bank Guarantee (also called Performance Bond) shall be submitted from a public sector bank/Private sector banks authorized to conduct government business (HDFC, ICICI & Axis Bank) and shall be valid up to 60 days beyond the expiry of warranty period.
- c. **Foreign suppliers:** The Seller will be required to furnish a Performance Security by way of a Bank Guarantee from Seller's Bank through an internationally recognised first class Bank in favour of the Executive Director, to be confirmed by an Indian public sector bank. Performance Bank Guarantee shall be valid up to 60 days beyond the expiry of warranty period. The Performance Bank Guarantee shall be considered open upon receipt by the Buyer's Bank.
- d. In case any claims or any other contract obligations are outstanding, the Seller will extend the Performance Bank Guarantee as asked for by the Buyer till such time as the Seller settles all claims and completes all contract obligations. The Performance Bank

Guarantee will be subject to encashment by the Buyer, in case the conditions regarding adherence to delivery schedule, settlement of claims and other provisions of the contract are not fulfilled by the Seller. The format of PBG is enclosed.

2. **Terms of Payment for Indigenous P&M (For F.O.R Supply):** It will be mandatory for the Bidders to indicate their bank account numbers and other relevant e-payment details so that payments could be made through ECS/NEFT mechanism. The payment will be made as per the following terms, on production of the requisite documents:

- (a) 90% value of material plus 100% Taxes, Duties if any, less LD due to delayed supply, if any, will be paid after acceptance in Pre-dispatch inspection of machine at Firm's works and on receipt of machine in safe condition at Purchaser's end against submission of PSD BG mounting to 5% valid till two months after the commissioning. Freight charges will be payable on actual against documentary evidence but not exceeding as quoted by the firm and accepted by purchaser.
- (b) Balance 10% value of supply and including training charges at firm's premises, if any, plus 100% Erection & Commissioning (E&C) supervision charges after commissioning and final acceptance of machine at purchaser's end against submission of Warranty Bank Guaranty amounting to 10% of contract value and valid till two months after warranty period

3. **Terms of Payment for Imported P&M (For F.O.B Supply):**

(a) For machines for which functional PDI at Bidder's premises is possible:

- (i) Payment will be made through DBT or irrevocable Letter of Credit only for 100% value of the order established on a scheduled bank in India. In case of payment through confirmed LC, the charges of confirmation will be borne by the contractor. Purchaser will establish LC only three months prior to the actual date of delivery/ shipment. In case contractor insists on establishment of LC immediately after conclusion of contract/ placement of order irrespective of delivery/ shipment schedule, LC will be established by the purchaser immediately after conclusion of contract for a period of three months with a provision in LC that cost of further extension of validity of LC will be borne by the beneficiary and the issuing bank will be advised accordingly while amending the LC.
- (ii) If any extension of the Letter of Credit (LC) is required due to the fault of the supplier, the supplier will have to pay for such extension.
- (iii) 10% payment for supply and services including training charges at firm's premises, if any, will be paid after acceptance in Pre Despatch Inspection (PDI) of machine at Firm's works against dispatch documents i.e. bill of lading / airway bill, acceptance certificate by PDI team, etc. against submission of Warranty Bond amounting to 5% of contract value and valid till two months after warranty period.
- (iv) Balance 10% value of supply and including training charges at firm's premises, if any, plus 100% Erection & Commissioning (E&C) supervision charges after commissioning and final acceptance of machine at purchaser's end.

- (b). For machines like furnaces, heavy duty presses and plants, for which functional PDI at bidder's premises is not possible:

The payment terms at sl (a) above will be modified to the extent that 80% payment shall be made against bidder's Guarantee Certificate and self inspection certificate for equipments, systems, subassemblies, etc instead of PDI certificate and balance 20% after commissioning and final acceptance.

**Payment Terms** for contracts involving Turnkey projects where stage payments are contemplated:

..... (To be defined as per complexity of case, by the Fy TPC or as per OFB's guidelines.)

4. **Advance Payments:** If required by bidder, advance payment to be made for cases with estimate value more than 5 crore maximum up to 30% (of total contract value), against an unconditional Bank Guarantee called Advance Bank Guarantee (ABG) for 110% of advance amount (format attached). The percentage of advance payment will be based on the DP of the contract.

Accordingly, the following advance payment can be allowed vis a vis the delivery period of the contract.

| Sl. No. | Advance Payment              | Adv. BG              | DP of Contract |
|---------|------------------------------|----------------------|----------------|
| 01.     | 30% of Contract Value (Max ) | 110% of Adv. Payment | 1 Year         |
| 02.     | 20% of Contract Value (Max)  |                      | 2 year         |
| 03.     | 15% of Contract Value (Max)  |                      | 3 Years        |

Following documents is required for release of advance payment:

- e. Acceptance of Supply Order
- f. Performance Security deposit as per Supply Order.
- g. Ink signed copy of proforma invoice.
- h. Bank Guarantee for advance payment.

This advance payment will be adjusted at the time of payment after successful joint receipt inspection.

Any advance made to suppliers will be interest free within original delivery period of the contract, but shall carry interest beyond this period if delay is due to the contractor.

Also in case of Seller fails to perform a substantial obligation under the Contract, buyer reserved the rights to recover the said amount already paid by the Buyer, and in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India (or Base Rate of State Bank of India in the absence of Prime Lending Rate), while in case of a Bidder from a country other than India with interest thereon at 2% higher than the LIBOR.

If the recovery amount is more than the Bank Guaranty submitted for advance payment then, balance amount will be recovered from the pending bill of other supply orders.

5. Stage payments:

When stage payments are considered e.g. for turn key projects and for procurement of machines from government controlled autonomous institutions like CMTI, following shall be ensured:

- (a) Stages (milestones) against which payments are to be made shall be clearly defined.
- (b) Necessary provision shall be incorporated in the contract ensuring purchaser's ownership on the stages up to which work is completed and payment is made.
- (c) Recovery of advance amount paid already shall be made proportionately from the stage payments.

Decision on no. of stages in case of foreign purchases may be decided mutually by the purchaser and seller.

#### 6. Documents for releasing Payment:

a. **Indian Sellers:** The payment of 80%/90% bills will be made on submission of the following documents by the Seller to the Purchaser along with the bill:

- i. Ink-signed copy of Commercial invoice / Seller's bill.
- ii. Acceptance certificate in Pre-Despatch Inspection
- iii. JRI report after receipt of P&M.
- iv. Claim for statutory and other levies to be supported with requisite documents / proof of payment such GST challan, -Warranty Bond (Bank guarantee).
- v. Details for electronic payment viz Account holder's name, Bank name, Branch name and address, Account type, Account number, IFSC code, MICR code (if these details are not incorporated in supply order/contract).
- vi. Any other document / certificate that may be provided for in the Supply Order / Contract.
- vii. Provisional certificate of receipt by Purchaser.

*(Note – From the above list, the documents that may be required depending upon the peculiarities of the procurement being undertaken, may be included in TE.)*

In addition to the existing entries, the bidder shall submit following documents in support of claim on account of ERV along with the bill -

a) Copies of import orders and relevant invoice

b) A bill of ERV claims enclosing worksheet

c) Banker's certificate/debit advice for foreign exchange paid

b. **Foreign Sellers:** Paid shipping documents are to be provided to the Bank by the Seller as proof of despatch of goods as per contractual terms so that the Seller gets payment from LC. The Bank will forward these documents to the Buyer for getting the goods/stores released from the Port/Airport. Documents will include:

- i. Clean on Board Airway Bill/Bill of Lading
- ii. Original Invoice
- iii. Packing List
- iv. Certificate of Origin from Seller or Seller's Chamber of Commerce.
- v. Certificate of Quality and current manufacture from OEM.
- vi. Insurance policy of 110% if CIF / CIP contract
- vii. Certificate of Conformity & Acceptance at PDI/PDI waiver certificate from purchaser, if any.
- viii. Any other document / certificate that may be provided for in the Supply Order / Contract.

Final payment shall be made against the successful commissioning & final

acceptance certificate and submission of warranty bond.

**7. Risk Purchase clause:**

- c. Shall the stores or any installment thereof not be delivered within the time or times specified in the contract documents, or if defective delivery is made in respect of the stores or any installment thereof, the Buyer shall after granting the Seller 45 days to cure the breach, be at liberty, without prejudice to the right to recover liquidated damages as a remedy for breach of contract, to declare the contract as cancelled either wholly or to the extent of such default.
- d. Shall the stores or any installment thereof not perform in accordance with the specifications / parameters provided by the SELLER during the check proof tests to be done in the BUYER's country, the BUYER shall be at liberty, without prejudice to any other remedies for breach of contract, to cancel the contract wholly or to the extent of such default.
- e. In case of a material breach that was not remedied within 45 days, the BUYER shall, having given the right of first refusal to the SELLER be at liberty to purchase, manufacture, or procure from any other source as he thinks fit, other stores of the same or similar description to make good:-
  - i. Such default.
  - ii. In the event of the contract being wholly determined the balance of the stores remaining to be delivered there under.
- f. Any excess of the purchase price, cost of manufacturer, or value of any stores procured from any other supplier as the case may be, over the contract price appropriate to such default or balance shall be recoverable from the SELLER. Such recoveries shall not exceed % of the value of the contract."

**8. Force Majeure clause:**

- g. Neither party shall bear responsibility for the complete or partial nonperformance of any of its obligations (except for failure to pay any sum which has become due on account of receipt of goods under the provisions of the present contract), if the non- performance results from such Force Majeure circumstances as Flood, Fire, Earth Quake and other acts of God as well as War, Military operation, blockade, Acts or Actions of State Authorities or any other circumstances beyond the parties' control that have arisen after the conclusion of the present contract.
- h. In such circumstances the time stipulated for the performance of an obligation under the present contract is extended correspondingly for the period of time of action of these circumstances and their consequences.
- i. The party for which it becomes impossible to meet obligations under this contract due to Force Majeure conditions, is to notify in written form the other party of the beginning and cessation of the above circumstances immediately, but in any case not later than 10 (Ten) days from the moment of their beginning.
- j. Certificate of a Chamber of Commerce (Commerce and Industry) or other competent authority or organization of the respective country shall be a sufficient proof of commencement and cessation of the above circumstances.
- k. If the impossibility of complete or partial performance of an obligation lasts for more than 6 (six) months, either party hereto reserves the right to terminate the

contract totally or partially upon giving prior written notice of 30 (thirty) days to the other party of the intention to terminate without any liability other than reimbursement on the terms provided in the agreement for the goods received.

9. **Export License: The Bidders are to confirm that they have requisite export license from their Government to export the specified goods to India or shall be able to obtain the same within reasonable time (say three months).**

**10. Delivery Period:**

- l. Time is the essence of the contract. The bidder shall quote his best and earliest delivery so that machine is available at site at the earliest. The time schedule for the delivery of the plant and equipment, civil works, engineering erection and putting into commission as specified in technical specification shall be indicated suitably in the tender.
- m. Bidder will submit a BAR CHART, showing detailed activities for execution of the order and their time schedule, for consideration of the purchaser. The bidder will be responsible for co-ordinated delivery and erection of the complete plant, equipment and materials both from outside India and from indigenous sources and he shall ensure deliveries in the sequence in which they will be required for erection at site.
- n. Delivery quoted shall be guaranteed. The Contract can be cancelled unilaterally by the Buyer in case items are not received within the contracted delivery period. Extension of contracted delivery period will be at the sole discretion of the Buyer, with applicability of LD clause.

**11. Terms for Delivery:**

The applicable rules & regulations for transportation of goods will be as per the contemporary version of International Commercial Terms (INCOTERMS) evolved by International Chamber of Commerce, Paris. Delivery Date is defined by the delivery terms as given below:

| Sl | Terms of delivery         | Date of delivery                                                                                                                               |
|----|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| a  | By Post Parcel            | The date of postal receipt.                                                                                                                    |
| b  | Dispatch by Air           | The date of Air-way Bill.                                                                                                                      |
| c  | FOB Port of Shipment      | The date on which the Seller delivers the goods on vessel's board at the specified port of shipment. This date is reflected in Bill of Lading. |
| d  | FCA Port of shipment      | The date on which the Seller delivers the goods to the buyer-designated carrier at the named place.                                            |
| e  | F.O.R.                    | The date on which the delivery is made at the destination mentioned in the contract.                                                           |
| f  | Delivery at Site / OF.... | The date on which the delivery is made at the site / OF.... mentioned in the contract.                                                         |

**12. Consignee details:**

- o. Indigenous item: Executive Director, (Factory Units's name)
- p. Imported item:
  - i. Port Consignee.....(Address of EHQ)
  - ii. Ultimate consignee.....(Address of Factory Units)

**13. Transportation: The following Transportation clause will form part of the contract placed on successful Bidder –**

- q. Indian bidders: The stores shall be delivered F.O.R,.....(Factory Units's name)
- r. Foreign bidders:

**CIF/CIP:** The stores shall be delivered CIF/CIP \_\_\_\_\_ (Port of destination) (INCOTERMS 2010, or latest version). Seller will bear the costs and freight necessary to bring the goods to the port of destination. The Seller also has to procure marine insurance against the Buyer's risk of loss of or damage to goods during the carriage. The Seller will contract for insurance and pay the insurance premium. Seller is also required to clear the goods for export. The date of issue of the Bill of Lading shall be considered as the date of delivery. No part shipment of goods would be permitted.

Trans-shipment of goods would not be permitted. In case it becomes inevitable to do so, the Seller shall not arrange part-shipments and/or transshipment without the express/prior written consent of the Buyer. The goods shall be shipped by Indian vessels only (or, if not available, by vessels belonging to the conference lines in which India is a member country). However, the Seller can still utilize the services of the Govt of India Freight Forwarding Agent details for which will be provided by the Buyer. Seller will be required to communicate the following information invariably by telex/fax/signed to Port Consignee well in advance before the Ship sails the port of loading:

- i. Name of the Ship
- ii. Port of Loading and name of Country.
- iii. ETA at port of Discharge.
- iv. Number of Packages and weight.
- v. Nomenclature and details of major equipment.
- vi. Special instructions, if any stores of sensitive nature requiring special attention.

OR

**FOB:** The stores shall be delivered FOB ..... (INCOTERMS 2020, or latest version). The stores shall be delivered to the Buyer by Indian Ships only. Shipping arrangements shall be made by the Chartering Wing, Ministry of Shipping. Notice about the readiness of Cargo for shipment shall be given by the supplier from time to time at least 6 (six) weeks in advance for finalizing the shipping arrangement, through Fax/Telex and courier, to the Chief Controller of Chartering (the head of Chartering Wing). Within 3 (three) weeks of receipt of the advance notice, as above, the said Chief Controller of Chartering / Shipping Coordination Officer will advise the supplier, through Fax/Telex and courier when and on board what vessels, these goods or such part thereof are to be delivered. If the advice for shipping arrangement is not furnished to the Seller within 3 (three) weeks as aforesaid or if the vessel arranged is scheduled to arrive at the specified port of loading later than 15 (fifteen) days of the date of readiness of cargo, as aforesaid, the Seller may arrange for such transport on alternative carriers with the prior

written consent of the Buyer. Where the Seller is required under the contract to deliver the goods on FOB basis and to arrange on behalf and at the expense of the Buyer for ocean transportation on Indian flag vessels or vessels of conference lines in which India is a member country, the Seller may arrange for such transportation on alternate carriers if the specified Indian flag vessels or conference vessels are not available to transport the goods within the time period(s) specified in the contract, with the prior written consent of the Buyer. Shall the goods or any part thereof be not delivered on the nominated vessel (except in case where prior written consent of the Buyer was obtained), the Seller will be liable for all payments and expenses that the Buyer may incur or be put to, by reason of such non-delivery including dead and extra freight, demurrage of vessels and any other charges, whatsoever incurred by the Buyer. The date of issue of the Bill of Lading shall be considered as the date of delivery. No part shipment of goods would be permitted. Trans-shipment of goods would not be permitted. In case it becomes inevitable to do so, the Seller shall not arrange part-shipments and/or transshipment without the express/prior written consent of the Buyer. The contact details of Chief Controller of Chartering are: Ministry of Shipping, Chartering Wing, Transport Bhavan, Parliament Street, New Delhi-110011 (Telegraphic Address:

TRANSCHART, NEW DELHI-1, Telex "VAHAN" In 31-61157 OR 31-61158, Phone +91 11 2371 9480, Fax +91 11 2371 8614).

OR

**FCA** - The delivery of the goods by air transport shall be FCA \_\_\_ Airport (INCOTERMS 2010, or latest version). The despatch of goods shall be made through Air India to port consignee. The Buyer shall advise full details of its freight forwarder to the Seller no later than 60 days prior to the delivery of the first consignment; otherwise the Seller may nominate the freight forwarder which shall be at the Buyer's expense. Any delay in advising or delay by the freight forwarder shall be at the responsibility of the Buyer. The date of issue of the Air Way Bill (AWB) shall be considered as the date of delivery.

**14. Air lift: The following Airlift clause will form part of the contract placed on successful Bidder –**

Shall the Buyer intend to airlift all or some of the stores, the Seller shall pack the stores accordingly on receipt of intimation to that effect from the Buyer. Such deliveries will be agreed upon well in advance and paid for as may be mutually agreed.

**15. Packing: The following Packing and Marking clause will form part of the contract placed on successful Bidder –**

- a. The Contractor shall provide packing and preservation of the equipment and spares/goods contracted so as to ensure their safety against damage in the conditions of land, sea and air transportation, transshipment (if inevitable), storage and weather hazards during transportation, subject to proper cargo handling. The Seller shall ensure that the stores are packed in containers, which are made sufficiently strong, and with seasoned wood. The packing cases shall have hooks for lifting by crane/fork lift truck. Tags with proper marking shall be fastened to the special equipment, which cannot be packed.
- b. The Contractor must ensure that sturdy packing is used to withstand rough handling during transit by rail/road. In case the contractor fails to meet the qualitative requirements for packing, he must make good all losses arising out of

his failure to meet contractual obligations. The contractor will be responsible for internal damages if any, when outwardly there is no damage to the package.

- c. For imported machines, the packing must be such that it is able to withstand the vagaries of weather, shipping and roughness of handling by port labour, cranes and fork-lifts. The consignments as far as possible must be shipped in containers (FCL/LCL).
- d. One copy of the packing list/ invoice in English and pre-despatch inspection certificate shall be inserted in each cargo package, and the full set of the packing lists shall be placed in Case No.1 painted in a yellow colour.

#### 16. Marking:

- a. **Indigenous Supplies:** The following markings on two opposite faces and top side shall be stenciled in legible ink on the packing cases containing the consignments at the time of dispatch:
  - vii. Contract No & Date:
  - viii. Name of the consignee:
  - ix. Full address of consignee:
  - x. Total No of packages & Sl No of package:
  - xi. Up right arrow.
  - xii. Gross weight:
  - xiii. Special marking for case.
  - xiv. Brief nomenclature of equipment:
  - xv. Slings position.
- b. **Imported Supplies:** The Seller shall mark each package with indelible paint in the English language as follows:-
  - xvi. EXPORT
  - xvii. Contract No & Date:
  - xviii. Consignee:
  - xix. Port / airport of destination:
  - xx. Ultimate consignee:
  - xxi. SELLER:
  - xxii. Total No of packages & Sl No of package:
  - xxiii. Gross/net weight:
  - xxiv. Overall dimensions/volume:
  - xxv. Up right arrow.
  - xxvi. Special marking for case.
  - xxvii. Brief nomenclature of equipment:
  - xxviii. Slings position
- c. If necessary, each package shall be marked with warning inscriptions: <Top>, "Do not turn over", category of cargo, etc.
- d. **Despatch of components as per input drawings:** The delivery of input components shall adhere to the mutually agreed schedule. The supplier shall intimate the requirement of input component in synchronizing with the readiness of the machine. The input components being supplied shall be duly inspected as per specified parameters before despatch.

#### 17. Pre-Despatch Inspection: The following Pre-Despatch Inspection clause will form part of the contract placed on successful Bidder –

- e. The Buyer's representatives will carry out Pre-Despatch Inspection (PDI) of the machines/equipment in order to check their compliance with specifications in accordance with its usual standard procedures. Upon successful completion of such PDI, the Seller and Buyer will issue and sign a Certificate of Conformity.
  - f. The Seller shall intimate the Buyer at least 45 days (Indigenous)/ 90 days (Imported m/c) before the scheduled date of PDI. The time required for completing visa formalities by the Seller shall not be included in this notice. The Buyer will send his authorized representative(s) to attend the PDI.
  - g. The list of Buyer's representatives together with their particulars including name, title, date and place of birth, passport numbers including date of issue and date of expiry, address, etc. shall be communicated by the Buyer in advance to apply for the necessary authorizations and clearances to be granted.
  - h. The Buyer reserves the right not to attend the PDI or to request for postponement of the beginning of the PDI by a maximum of one month from the date fixed for such PDI in order to allow his representative(s) to attend such tests, in which cases he shall inform in writing the Seller within 15 days before the date of the beginning of the PDI. Shall the Buyer request for such postponement, liquidated damages, if any, shall not apply. In case the Buyer informs the Seller within the period mentioned hereinabove that he cannot attend the PDI or in case the Buyer does not come at the postponed date requested by him for performance of the PDI as mentioned above, the Seller shall be entitled to carry out said tests alone as scheduled. The Certificate of Conformity and the Acceptance Test Report will be signed by the Seller's QA representative alone and such documents bearing the sole signature of the Seller's QA representative shall have the same value and effect as if they have been signed by both the parties. In case Buyer does not elect to attend the PDI, the Buyer shall intimate the Seller in writing that it does not wish to attend the PDI.
  - i. The Seller shall provide all reasonable facilities, access and assistance to the Buyer's representative for safety and convenience in the performance of their duties in the Seller's country.
  - j. PDI of the P&M shall be carried out at supplier premises. All costs associated with the stay of the Buyer's Representative(s) in the country where the PDI is to be carried out, including travel expenses, boarding and lodging, accommodation, daily expenses, shall be borne by the Buyer.  
  
In case, supplier desires PDI to be carried out at other places also, then the supplier will take the responsibility of arranging the same at his cost.
  - k. In case, the m/c is rejected during the 1<sup>st</sup> PDI, the cost of subsequent PDIs shall be borne by the supplier. The expenditure for subsequent PDI(s) shall be initially be incurred by the buyer and will be deducted from the supplier's 1<sup>st</sup> claim.
2. Joint Receipt Inspection: When boxes or containers received by the Buyer are opened for assembly/installation, joint checking will be done by Buyer and Seller for conformance to quantity and description mentioned in the invoice. In case of any discrepancy, the Seller shall make good the same at his cost.

**18. Insurance:**

- a. Where delivery of imported goods is required by the purchaser on CIF basis, the supplier shall arrange and pay for marine/air insurance, making the purchaser as the beneficiary. The Insurance Policy shall be for 110% value of goods for coverage

on “all risks” basis including war risks and strike clauses. The date of insurance shall be dated prior to the date of shipment. The insurance policy shall mention the name of ship, merchandise details, number of packages, name of vessel, number of voyages, port of shipment, port of destination/destination warehouse and the details on Insurance documents shall not contradict the stipulation in Bill of Lading or Invoice. The insurance policy shall be forwarded to the purchaser sufficiently before despatch of the consignment.

- b. Where delivery is on FOB/FCA basis, marine/air insurance shall be the responsibility of the purchaser.
- c. In case of turn-key supply of plant/machines, if any supplies or part thereof are damaged during the process of erection and commissioning of the plant/machines until the final acceptance, the same will have to be replaced at site by the supplier free of all costs to the purchaser, including the erection and commissioning cost in the event of the plant/machines having been erected.
- d. In the above case, the supplier shall be responsible for insurance of the plant/machines during erection and commissioning. In this connection, the supplier shall arrange “Erection All Risks Insurance” of sufficient amount along with coverage for construction/erection equipment as well as third party claims in respect of property damage or bodily injury. The supplier shall also be responsible for insurance for personnel engaged by them in the erection work.

**19. Guarantee:**

The supplier shall guarantee among other things the following:

- e. Satisfaction of technical and other parameters mentioned in the specification and contract.
- f. Quality and strength of materials used in the manufacture of the equipment considering the applicable codes of practice and regulation.
- g. Adequate factors of safety for all parts of the equipment to withstand the mechanical and/ or electrical stresses developed therein under specific operating conditions.
- h. Performance data furnished/ specified for the equipment shall be actually obtainable when the equipment is installed and tested at site.

**20. Warranty:**

- i. The supplier shall warrant that the plant/machine (including associated works constructed by the supplier) will be free from defects in design, material or workmanship. Supplier’s obligations under the warranty shall involve repair, rectification and making good at site any defect, imperfection or fault attributable to defective design, material or workmanship. If the plant/machine is found to have a Defect that can be assumed to be present also in some other portion of the plant/machine, the Supplier shall investigate whether such further Defect is present, and shall make good any further Defects found.
- j. The supplier shall furnish PBG / Warranty Bond for 10% of contract price valid for two months after warranty period, as security for its warranty obligations.
- k. The following Warranty clause will form part of the contract with the successful bidder:
  - 1. The contractor/seller hereby warrants that the plant/equipment sold/supplied to the purchaser under this contract shall be of the best quality

and workmanship and new in all respects and shall be strictly in accordance with the specifications and particulars contained/mentioned in the said contract.

2. The contractor/seller further warrants that the plant/equipment would continue to conform to the specified description and quality and would be free from any non- conformity with the requirements of the contract (hereafter referred to as a 'defect') due to faulty design, materials or workmanship, for a period called 'warranty period' or 'defects liability period' as defined below:
  - 12 (twelve) months from the date of commissioning and acceptance of the plant/equipment at the purchaser's site, in case of turn-key supply contracts, or
  - 12 (twelve) months from commissioning and final acceptance of the plant/equipment at the purchaser's site or 18 (eighteen) months from the date of delivery for indigenous equipment or 21 months from date of delivery for imported equipments, whichever is earlier, in case of other contracts.
3. If the commissioning/acceptance of the plant/equipment is delayed due to fault of contractor/seller, the warranty period will automatically get correspondingly extended.
4. Notwithstanding the fact that the purchaser (or his representative) may have inspected and/or approved the plant/equipment, if any defect is discovered in the plant/equipment during the aforesaid warranty period and the decision of the purchaser in that behalf shall be final and binding on the contractor/seller, the purchaser shall be entitled to call upon the contractor/seller to rectify such defect.
5. Defects shall be notified by the purchaser to the contractor/seller in writing without undue delay after the defects are noticed, and in any event not later than thirty (30) days after the expiry of the warranty period.
6. Upon receipt of notice from the purchaser about any defect that occurs during the warranty period, the contractor/seller shall respond immediately and make good the defect within a reasonable period, or such specific period as may be allowed by the purchaser at the request of the contractor/seller, without any charges and costs to the purchaser.
7. If the plant/equipment is found to have a defect that can be assumed to be present also in some other portion of the plant/equipment, the seller/contractor shall investigate whether such further defect is present, and shall make good any further defects found.
8. If a defect appears, requiring immediate action due to the risk of resultant damage, and if the contractor/seller cannot make immediately good the defect, the purchaser is entitled to apply all necessary measures to prevent or limit damage.
9. This warranty is not applicable if the defect is attributable to normal wear and tear or incorrect operation or negligence or willful damage on the part of the purchaser.
10. Parts replaced or repaired under the above provisions shall be subject to the same warranty from the contractor/seller, and under the same conditions as apply for the rest of the plant/equipment, for a period of one (1) year after

such replacement or repair has been effected. The warranty period for the rest of the plant/equipment shall be extended only by the time during which it was out of operation as a result of defects covered by the above provisions. Nothing contained in this clause shall however extend the warranty period by a period beyond two (2) years after the commissioning and acceptance of the plant/equipment.

11. Defective parts which have been replaced shall be made available to the seller/contractor without cost. However, the seller/contractor shall be responsible for lifting the defective parts and transporting the same at his cost from purchaser's place within mutually agreed time period.
  12. In case of failure on the part of the contractor to fulfil any warranty obligations, the contractor/seller shall pay to the purchaser such compensation, as may arise from the breach of the warranty herein contained."
21. **After sales support:** The contractor shall provide after sales service of the equipments for at least ten years after the expiry of warranty period, which will comprise of the following:
- a. To render free technical advice on any matter of the equipment.
  - b. To quote and supply all spare parts/accessories/sub-assemblies at a reasonable price and delivery schedule.
  - c. To make available the services of suitable specialists on reasonable terms.
22. **Guarantee to provide Spares:**
- a. The Vendor shall be committed to make available spares for the estimated life of machines or 10 years from completion of warranty period which is lesser.
  - b. Acceptance of tender for the supply of machine against this TE will be subject to bidders certifying that they have adequate servicing and spare parts facilities in respect of the machine tendered for by them or that they shall arrange to provide such facilities simultaneously with the supply of the machine.
  - c. Bidders shall also undertake that supplies of necessary maintenance equipment and spare parts will be made available for life of the machine on a continuous basis.
  - d. The successful bidder shall warranty that before going out of production of the spare parts he will give adequate advance notice to the purchaser so that the later may order his requirements of spares in one lot, if he so desires.
  - e. The successful bidder shall further guarantee that if he goes out of production of spare parts, then he will make available blueprints, drawings of the spare parts and specifications of materials at no cost to the purchaser as and when required in connection with the machine to enable the purchaser to fabricate or procure spare parts from other sources.
  - f. In case spares are also ordered with the machine, bidder will undertake to offer spares for delivery along with the main equipment only and not before.
23. **Manufacturer's Recommended List of Spares (MRLS). -**

Bidders are requested to provide MRLS to sustain the equipment for a period of three years after warranty period in following format.

EQUIPMENT: .....

Original Equipment Manufacturer (OEM): .....

| Manuf<br>a<br>cturer'<br>s Part<br>No | Sourc e<br>of<br>Suppl y | Nome<br>n<br>clatur<br>e | Nos<br>fitted in<br>one<br>equipm<br>e nt | Spare<br>Parts<br>List<br>(ISPL)<br>as<br>per TE | Unit<br>Cost | Recommende<br>d scale for<br>spare parts |      | Total Cost     |                                                  | R<br>E<br>M<br>A<br>R<br>K<br>S |
|---------------------------------------|--------------------------|--------------------------|-------------------------------------------|--------------------------------------------------|--------------|------------------------------------------|------|----------------|--------------------------------------------------|---------------------------------|
|                                       |                          |                          |                                           |                                                  |              | Unit                                     | Cost | As per<br>T.E. | As per<br>Reccommen<br>ded list of<br>spare<br>s |                                 |
|                                       |                          |                          |                                           |                                                  |              |                                          |      |                |                                                  |                                 |
| Total Cost                            |                          |                          |                                           |                                                  |              |                                          |      |                |                                                  |                                 |

Notes:

- Maintenance spares/stores like lubricants, sealing compound, gases shall be given separately giving source of supply.
- In 'Remarks' column following information (if applicable) be given
  - If an item has a shelf / operational life it may be indicated.
  - Matching set of components be indicated.
  - Items which cannot be manufactured in India due to sophisticated design/technology may be indicated.
  - (e) If a component/ assembly is common to other similar equipment offered by the OEM earlier these shall be indicated.
- Modules / assemblies shall be listed and their components shall be included under them so as to relate each item of spare to their module / assembly.

## PART V – EVALUATION CRITERIA & PRICE BID FORMAT

- Evaluation Criteria** - The broad guidelines for evaluation of Bids will be as follows:
  - Only those Bids will be evaluated which are found to be comply all TE criteria, both technically and commercially. Offers received without EMD shall be summarily rejected, if the bidder does not meet the valid EMD exemption criteria.
  - The Technical Bids submitted by the Bidders will be evaluated by the Buyer with reference to the TE Conditions of the plant or machine aAccordingly, "Comparative Statement of Tenders" shall be prepared. Comprehensive analysis of the techno-commercial offers will form the basis for subsequent decision.
  - The Price Bids of only technical suitable Bidders will be opened
  - When the competition is only among the Indian suppliers, the F.O.R Prices at destination, less levies, taxes and duties levied by Central /State / Local Governments such as GST etc. on final product, will be the basis for ranking of quotations.
  - When tenders are received from consortia of foreign and Indian bidders, the

- ranking of bids (consortia) shall be assessed on CIF basis for foreign supplies plus custom duty and other duties / levies such as anti-dumping duty which cannot be claimed as input tax credit, & services and ex-works basis for Indigenous supplies & services, offloading the taxes and duties.
- f. When the competition is only among foreign suppliers, the landed price (CIF) at the destination (designated port) shall form the basis for ranking the bids.
  - g. All the foreign quotes will be brought to a common denomination in Indian Rupees by adopting the exchange rate as BC Selling rate of the State Bank of India on the date of the opening of Price Bids.
  - h. When the competition is amongst domestic and foreign suppliers, the CIF cost quoted by the foreign suppliers plus custom duty and other duties / levies such as anti-dumping duty which cannot be claimed as input tax credit, shall be the basis for comparison with the basic cost offered by the domestic suppliers, after offloading the GST etc. and other local taxes and levies, if any, offers of foreign suppliers are compared with the offers of domestic suppliers on the basis of the CIF cost of foreign supplier. However, difficulties in comparing the offers arise when the foreign supplier indicates only the FOB/ FCA cost. There is no standard formula for arriving at the CIF cost in such cases, and it will not be appropriate to add a notional additional cost as a percentage of FOB/ FCA cost to arrive at the CIF cost. To avoid such a situation, it should be clearly mentioned in the tender that quote on CIF basis is essential to enable evaluation of the offers of foreign vendors. Similarly the domestic vendors should also clearly indicate in their offer separately the basic cost, GST etc. and other local taxes & levies (if any) to enable a proper evaluation of their offer, providing only an all-inclusive rate will make the offer invalid.
  - i. However, order if any, on foreign bidders will be on FOB basis and on indigenous bidders on F.O.R basis including GST and other local levies, Transportation Charges etc.
  - j. For ranking of offers, price of complete scope of supply as detailed in technical specifications excluding the price of spares and taxes & duties will be considered.
  - k. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price will prevail and the total price will be corrected. If there is a discrepancy between words and figures, the amount in words will prevail for calculation of price.
  - l. The Buyer reserves the right to evaluate the offers received by either loading offers appropriately or by using Discounted Cash Flow method at a discounting rate of 10%. In case cash flow involves more than one currency, the same will be brought to a common denomination in Indian Rupees by adopting exchange rate as BC Selling rate of the State Bank of India on the date of the opening of Price Bids.
  - m. The Lowest Acceptable Bid will be considered further for placement of Supply Order after complete clarification and price negotiations, if required with the lowest (L1) bidder.
  - n. The consideration of taxes and duties in evaluation process will be as follows:
    - i) The Bidders are required to spell out the rates of Customs duty, GST and local levies in unambiguous terms; otherwise their offers will be loaded with the maximum rates of duties and taxes for the purpose of comparison of prices.
    - ii) In case of failure to indicate rates of Customs duty, GST and local levies clearly, it

will be presumed that the prices quoted are firm and final and no claim on account of such duties will be entertained after the opening of tenders. Such offers are also liable to be ignored summarily.

- o. Any other criteria as applicable to suit a particular case.

## 2. Price Preference Policy

**Public Procurement (Preference to Make in India) Policy:** Provisions contained in Public Procurement (Preference to Make in India), Order 2017 issued by DIPP, Ministry of Commerce & Industries vide letter No.P-45021/2/2017-B.E-II dated 15-06-2017 along with MoD I.D No.59011/8/2015-D(HAL-II) dated 19-07-2017 and subsequent amendment issued by DIPP dated 28.05.2018 shall be followed. No such restrictive clauses shall be mentioned in terms and conditions of tender enquiries including matter like turnover, production capability and financial strength for the bidders that would be advantageous to the foreign manufactured goods at the cost of domestically manufactured goods.

Further details can be accessed on DIPP website.

## 3. Price Bid Format:

- (A) The model Price Bid Format is given below:

| Sl | Item                                                           | Unit | Qty | Price | Total Price |
|----|----------------------------------------------------------------|------|-----|-------|-------------|
| 1  | Machine                                                        |      |     |       |             |
| 2  | Accessories                                                    |      |     |       |             |
| 3  | Erection works<br>(mechanical/ electrical/<br>instrumentation) |      |     |       |             |
| 4  | Supervision of Erection<br>and Commissioning                   |      |     |       |             |
| 5  | Civil Works                                                    |      |     |       |             |
| 6  | Training                                                       |      |     |       |             |
| 7  | Technical documents                                            |      |     |       |             |
| 8  | Spares                                                         |      |     |       |             |

Bidders are required to fill price bid template correctly, attaching relevant documents (in pdf) in support of required information sought in tender.

- (B) Is-GST extra? If yes, mention the following –

- Total value of items on which-GST is leviable:
- Rate of GST (item-wise if different-GST is applicable):
- Total value GST payable:

- (C) Any other Taxes / Duties / Overheads / Other costs:

- (D) Grand Total:

[Note: The format or template for price bid is dependent on scope of supply.]

**Annexure to NOTICE INVITING EOI**  
**(Information for Submitting EOI by Interested Parties)**

**Bidder's Profile & Qualification Criteria for Stage-1:**

1. The interested parties (Bidders) must have the following qualification criteria for selection for Stage-2 (issue of tender documents):

**Financial Criteria:**

- a. Bidder must have average annual turnover of minimum ₹. \_\_\_\_\_ during last three years.
- b. The bidder shall produce satisfactory units proof that he is financially in a position to fulfill the contractual obligations offered to be undertaken by him, e.g. showing average annual turnover during last three years, values of orders executed in the past, etc.

## FORMAT FOR EMD BANK GUARANTEE

(To be submitted on non judicial stamp paper of appropriate value purchased in the name of the issuing Bank)

1. Whereas ..... (hereinafter called the "tenderer") has submitted their offer dated.....for the supply of ..... (hereinafter called the "tender") against the Purchaser's tender enquiry No.....

2. KNOW ALL MEN by these presents that WE ..... of ..... having our registered office at..... are bound unto .....

(hereinafter called the "Purchaser") in the sum of ..... for which payment will and truly to be made to the said Purchaser, the Bank binds itself, its successors and assigns by these presents. Sealed with the Common Seal of the said Bank this..... day of .....20.....

3. CONDITIONS OF THIS OBLIGATION ARE:

(i) If the tenderer withdraws or amends, impairs or derogates from the tender in any respect within the period of validity of this tender.

(ii) If the tenderer having been notified of the acceptance of his tender by the Purchaser during the period of its validity:-

- a. If the tenderer fails to furnish the Performance Security for the due performance of the contract.
- b. Fails or refuses to accept/execute the contract.

4. WE undertake to pay the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided t hat in its demand the Purchaser will note that the amount claimed by it is due to it owing to the occurrence of one or both the two conditions, specifying the occurred condition or conditions.

5. This guarantee will remain in force upto and including 45 days after the period of tender validity and any demand in respect thereof should reach the Bank not later than the above date.

.....

(Signature of the authorized officer of the Bank)

.....

Name of the officer

.....

Designation of the officer

.....

Seal, name & address of the Bank and address of the Branch

## FORMAT FOR PERFORMANCE BANK GUARANTEE

From

Bank: .....

To

Ordnance Factory Units .....

(A Unit of YANTRA INDIA LIMITED)

Dear Sir,

- 1 Whereas you (the "PURCHASER") have entered into a contract No..... dated (hereinafter referred to as the "said Contract") with M/s .....(hereinafter referred to as the "SELLER") for supply of goods as defined in the said Contract and whereas the SELLER has undertaken to produce a bank guarantee for .....% of total contract value amounting to ..... (amount of the guarantee in figures and words) to secure its obligations to the PURCHASER in accordance with the said Contract.
- 2 We.....(the Bank) hereby expressly, irrevocably and unreservedly undertake and guarantee as principal guarantor on behalf of the SELLER that, we will pay you on your demand declaring the SELLER to be in default under the said Contract, without demur or contest, all and any sum up to a maximum of Rupees..... only. Your written demand shall be conclusive evidence to us that such repayment is due under the terms of the said Contract.
- 3 We undertake to effect payment upon receipt of such written demand, notwithstanding any dispute or disputes raised by the SELLER in any suit pending before any Court, Tribunal, Arbitrator or any other authority, our liability under this present being absolute and unequivocal.
- 4 We shall not be discharged or released from this undertaking and guarantee by any arrangements or variations made between you and the SELLER, indulgence to the SELLER by you or by any alterations in the obligation of the SELLER or by any forbearance whether as to payment, time, performance or otherwise.
- 5 In no case shall the amount of this guarantee be increased.
- 6 This guarantee shall remain in full force and effect until two months beyond the warranty period as specified in the contract i.e. up to \_\_\_\_\_ (expiry date) [<sup>^</sup>or until the PURCHASER has signed the Final Acceptance Certificate (FAC) and has received the contractually agreed Warranty Bond as per the said Contract]. In case of delay in fulfillment of obligations by the SELLER, the expiry date shall be extended by us as per intimation from the SELLER.

- 7 Unless a demand or claim under this guarantee is made to us in writing on or before the aforesaid expiry date or extended expiry date, all your rights under this guarantee shall be forfeited and we shall be discharged from the liabilities hereunder.
- 8 This guarantee shall be continuing guarantee and shall not be discharged by any change in the constitution of the Bank or in the constitution of the SELLER.
- 9 We lastly undertake not to revoke this guarantee during its currency except with the previous consent of the PURCHASER in writing.

Yours faithfully,

For \_\_\_\_\_ Bank

(Authorised Signatory)

Seal of the Bank

Place :

Date :

*^To be inserted if so agreed to and stipulated in the contract.*

**FORMAT FOR ADVANCE BANK GUARANTEE**

From :

Bank \_\_\_\_\_

To

Ordnance Factory Units .....

(A Unit of YANTRA INDIA LIMITED)

Sir,

With reference to contract No. \_\_\_\_\_ dated. \_\_\_\_\_ (hereinafter referred to as "the said Contract") concluded between the Executive Director, Ordnance Factory Units ....., (hereinafter referred to as "the Purchaser") and M/s \_\_\_\_\_ (hereinafter referred to as the "the Contractor") for the supply of \_\_\_\_\_, as detailed in the said Contract and in consideration of the Purchaser having agreed to make an advance payment in accordance with the terms of the said Contract to the Contractor, we \_\_\_\_\_ (hereinafter called "the Bank") hereby irrevocably undertake and guarantee to you that if the Contractor fails to supply the goods/services in accordance with the terms of the said Contract for any reason whatsoever or fails to perform the said Contract in any respect or should whole or part of the advance payment at any time becomes repayable to you for any reason whatsoever, we shall, on demand and without demur pay to you all and any sum up to a maximum of ₹ \_\_\_\_\_ (Rupees \_\_\_\_\_ only) i.e. 110% of advance amount paid to the Contractor in accordance with the provisions contained in Clause \_\_\_\_\_ of the said Contract.

2. We further agree that if the Contractor fails to complete delivery of goods/service as per original time schedule stipulated in the said Contract, interest on the amount of advance payment corresponding to delayed delivery shall be payable to the Purchaser as per the clause \_\_\_\_\_ of the said Contract under this Guarantee.

3. We further agree that the Purchaser shall be the sole judge as to whether the Contractor has failed to deliver the goods/services in accordance with the terms of the said Contract or has failed to perform the said Contract in any respect or the whole or part of the advance payment made to Contractor has become repayable to the Purchaser.

4. We further hereby undertake to pay the amount due and payable under this Guarantee without any demur merely on a demand from the Purchaser stating the amount claimed. Any such demand made on the Bank shall be conclusive and binding upon us as regards the amounts due and payable by us under this Guarantee. However, our liability under this Guarantee shall be

restricted to the above mentioned amount. [<sup>^</sup>With each delivery and payment relating to this Guarantee, our obligation will be reduced automatically by \_\_\_\_% of invoice value, upon presentation to us a photocopy of the invoice and a certificate from the Purchaser about receipt of goods/services as per the invoice.]

5. We further agree that the Guarantee herein contained shall remain in full force and effect until three months beyond the scheduled date of final delivery of goods/services as per the said Contract i.e. up to \_\_\_\_\_ (date of validity). In case of delay in fulfillment of obligations by the Contractor, the date of validity shall be extended by us as per intimation from the Contractor.

5. We further agree that any change in the constitution of the Bank or the constitution of the Contractor shall not discharge our liability hereunder.

6. We further agree that the Purchaser shall have the fullest liberty without affecting in any way our obligations hereunder with or without our consent or knowledge to vary any of the terms and conditions of the said Contract or to extend the time of delivery from time to time or to postpone for any time or from time to time any of the powers exercisable by the Purchaser against the Contractor and either to forbear or enforce any of the terms and conditions relating to the said Contract and we shall not be relieved from our liability by reason of any such variation or any indulgence or forbearance shown or any act or omission on the part of the Purchaser or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of so relieving us.

7. We lastly undertake not to revoke the Guarantee during its currency except with the prior consent of the Purchaser in writing.

Yours faithfully,

For \_\_\_\_\_ Bank

(Authorised Signatory)

Seal of the Bank

Place :

Date :

<sup>^</sup>To be inserted if so agreed to and stipulated in the contract.

---

---

## FORMAT FOR WARRANTY BOND

To

Ordnance Factory Units .....

(A Unit of YANTRA INDIA LIMITED)

Bank Guarantee No. ....Dated:.....

Bank Guarantee Amount .....

Sir,

1. In consideration of Executive Director, Ordnance Factory Units ..... (hereinafter referred to as PURCHASER) having entered into a CONTRACT with M/S ..... (hereinafter referred to as CONTRACTOR) bearing the contract number..... dated ..... (hereinafter referred to as CONTRACT) for supply of (hereinafter referred to as the "Plant/Machinery") we, ..... (the Bank) hereby irrevocably undertake and guarantee to you to pay you all or any sum up to a maximum of ....., being 5% of the total price of CONTRACT to secure warranty obligations of the CONTRACTOR as per the CONTRACT.

2. In terms of the CONTRACT, the CONTRACTOR has guaranteed that the said Plant/Machinery has been built fully in accordance with the specification and will operate as provided in the CONTRACT.

3. We hereby guarantee that we shall pay to you on demand and without demur the above mentioned sum, within three days of receipt of your written demand stating that there is breach of the warranty provisions of the CONTRACT on the part of the CONTRACTOR.

4. This guarantee shall be valid until two months after the warranty period as per the Contract, i.e. up to ..... (date), except in respect of defects that occurred prior to expiry of such date and notified to the CONTRACTOR as per contractual terms. Written request will be made by the CONTRACTOR to renew/extend the Guarantee prior to its expiry to cover extended warranty for defects.

5. We undertake to effect payment upon receipt of such written demand, notwithstanding any dispute or disputes raised by the SELLER in any suit pending before any Court, Tribunal, Arbitrator or any other authority, our liability under this present being absolute and unequivocal.

6. We further agree that decision of the PURCHASER as to whether there is breach of the warranty provisions of the CONTRACT on the part of the CONTRACTOR shall be final, binding and conclusive so far as we are concerned. Any approval or acceptance by the PURCHASER of the Plant/Machinery or materials or components incorporated therein shall not in any way limit the liability of the CONTRACTOR.

7. We shall not be discharged or released from the guarantee by any arrangement made between the PURCHASER and the CONTRACTOR with or without our assent or by any alteration in the obligations undertaken in the said CONTRACT or any forbearance regarding payment, time, performance or otherwise. In any case, our guarantee is limited and shall not exceed the above mentioned amount.

8. This guarantee is being furnished for release of 10% of the total contract price to the CONTRACTOR, after adjusting any amount due to the PURCHASER if any, as per the CONTRACT.

9. This guarantee shall not be discharged due to change in the constitution of either the Bank or the CONTRACTOR. 10. We, .....Bank, lastly undertake not to revoke this guarantee during its currency except with the previous consent of the PURCHASER in writing.

Yours faithfully,

for \_\_\_\_\_ Bank

(Authorised Signatory)

Seal of the Bank

Place:

date :

## APPENDIX-'L'

## FORMAT FOR LETTER OF CREDIT (LC)

## FOREIGN SUPPLIER IN FE

ISSUE OF A DOCUMENTARY CREDIT (PER S.W.I.F.T TO .....)

|    |                             |                                                                       |
|----|-----------------------------|-----------------------------------------------------------------------|
| 1  | FORM OF DOC CREDIT (40A)    |                                                                       |
| 2  | DOC CREDIT NUMBER           |                                                                       |
| 3  | EXPIRY (31D)                | DATE 30 MONTHS AFTER DATE OF ISSUING L/C PLACE .....                  |
| 4  | APPLICANT BANK (51)         | STATE BANK OF INDIA                                                   |
| 5  | APPLICANT (50)              | EXECUTIVE DIRECTOR, ORDNANCE FACTORY ...../YIL                        |
| 6  | BENEFICIARY (59)            | .....                                                                 |
| 7  | AMOUNT (32B)                | CURRENCY .....                                                        |
|    |                             | AMOUNT .....                                                          |
| 8  | MAXIMUM CREDIT AMOUNT (39B) | NOT EXCEEDING                                                         |
| 9  | AVAILABLE WITH/BY (41A)     | (CONTRACTOR'S BANK)                                                   |
| 10 | DRAFTS AT (42C)             | AT SIGHT                                                              |
| 11 | DRAWEE (42A)                |                                                                       |
| 12 | PARTIAL SHIPMENT (43B)      | ALLOWED                                                               |
| 13 | TRANSHIPMENT (43T)          | NOT ALLOWED                                                           |
| 14 | LOADING IN CHARGE (44A)     |                                                                       |
| 15 | TRANSPORT TO (44B)          | PORT OF DISCHARGE / AIRPORT OF DESTINATION.                           |
| 16 | LAST DATE OF SHIPMENT 44C)  | ..... MONTHS AFTER CONTRACT EFFECTIVE DATE.                           |
| 17 | DESCRIPTION OF GOODS (45A)  | CONTRACT NO. ....<br>Dated ..... AS PER PACKING LIST (INCOTERMS 2020) |

|    |                             |                                                                                                                                                                                                           |
|----|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18 | DOCUMENTS REQUIRED<br>(46A) | AS PER CONTRACT                                                                                                                                                                                           |
| 19 | ADDITIONAL COND. (47A)      | (1) L/C ESTABLISHMENT CHARGES ALLOWED FOR THE INITIAL PERIOD OF 3 MONTHS WILL BE BORNE BY THE PURCHASER, FOR THE REMAINING MONTHS WILL BE BORNE BY THE CONTRACTOR AS FOLLOWS:                             |
|    |                             | - L/C establishment charges of @ .....                                                                                                                                                                    |
|    |                             | - L/C establishment charges shall be deducted pro rata from the proceeds of L/C                                                                                                                           |
|    |                             | (2) LD AND INTEREST ON ADVANCE AS PER INTIMATION OF APPLICANT SHALL BE DEDUCTED FROM PAYMENT TO CONTRACTOR AND CREDITED BACK TO PURCHASER'S ACCOUNT                                                       |
| 20 | DETAILS OF CHARGES (71B)    | ALL CHARGES OUTSIDE OF INDIA ARE TO THE ACCOUNT OF BENEFICIARY                                                                                                                                            |
| 21 | PRESENTATION PERIOD (48)    | UP TO 180 DAYS AFTER SHIPMENT DATE                                                                                                                                                                        |
| 22 | CONFIRMATION (49)           | CHARGES ARE TO BE BORNE BY THE CONTRACTOR.                                                                                                                                                                |
| 23 | REIMBURSING BANK (53)       |                                                                                                                                                                                                           |
| 24 | INSTRUCTIONS (78)           | I. Documents must be forwarded to us by courier in one lot.<br><br>II. We hereby engage that payments made under and in compliance with all the terms and conditions of this credit will be duly honoured |

|    |                        |                                                                                                                                                                                                                                                                                             |
|----|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                        | <p>by us upon presentation of the stipulated documents.</p> <p>III. Paying bank may claim reimbursement telegraphically from the reimbursing bank for value 3 days after their authenticated telex/swift advice to the issuing bank of any conform drawing presented under this credit.</p> |
| 25 | ADVICE THROUGH (57)    |                                                                                                                                                                                                                                                                                             |
|    | SEND TO REC. INFO (72) | <p>PHONE (BEN)..... ( TEL NO).....FAX</p> <p>(BEN) .....(FAX NO).....</p> <p>CONTACT PERSON .....</p>                                                                                                                                                                                       |
| 26 | OTHER INSTRUCTION (73) |                                                                                                                                                                                                                                                                                             |

## FORMAT FOR LETTER OF CREDIT

## FOR INDIAN SUPPLIER IN RUPEE

ISSUE OF A DOCUMENTARY CREDIT : (PER S.W.I.F.T TO .....)

|    |                             |                                                                       |
|----|-----------------------------|-----------------------------------------------------------------------|
| 1  | FORM OF DOC CREDIT (40A)    |                                                                       |
| 2  | DOC CREDIT NUMBER           |                                                                       |
| 3  | EXPIRY (31D)                | DATE 30 MONTHS AFTER DATE OF ISSUING L/C PLACE .....                  |
| 4  | APPLICANT BANK (51)         | STATE BANK OF INDIA                                                   |
| 5  | APPLICANT (50)              | EXECUTIVE DIRECTOR, ORDNANCE FACTORY ...../YIL                        |
| 6  | BENEFICIARY (59)            | .....                                                                 |
| 7  | AMOUNT (32B)                | CURRENCY .....                                                        |
|    |                             | AMOUNT .....                                                          |
| 8  | MAXIMUM CREDIT AMOUNT (39B) | NOT EXCEEDING                                                         |
| 9  | AVAILABLE WITH/BY (41A)     | (CONTRACTOR'S BANK)                                                   |
| 10 | DRAFTS AT (42C)             | AT SIGHT                                                              |
| 11 | DRAWEE (42A)                |                                                                       |
| 12 | PARTIAL SHIPMENT (43B)      | ALLOWED                                                               |
| 13 | TRANSHIPMENT (43T)          | NOT ALLOWED                                                           |
| 14 | LOADING IN CHARGE (44A)     |                                                                       |
| 15 | TRANSPORT TO (44B)          | PORT OF DISCHARGE / AIRPORT OF DESTINATION.                           |
| 16 | LAST DATE OF SHIPMENT 44C)  | ..... MONTHS AFTER CONTRACT EFFECTIVE DATE.                           |
| 17 | DESCRIPTION OF GOODS (45A)  | CONTRACT NO. ....<br>Dated ..... AS PER PACKING LIST (INCOTERMS 2020) |
| 18 | DOCUMENTS REQUIRED (46A)    | AS PER CONTRACT                                                       |

|    |                          |                                                                                                                                                                                                                                                                       |
|----|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 19 | ADDITIONAL COND. (47A)   | (1) L/C ESTABLISHMENT CHARGES ALLOWED FOR THE INITIAL PERIOD OF 3 MONTHS WILL BE BORNE BY THE PURCHASER, FOR THE REMAINING MONTHS WILL BE BORNE BY THE CONTRACTOR AS FOLLOWS:                                                                                         |
|    |                          | - L/C establishment charges of @ .....                                                                                                                                                                                                                                |
|    |                          | - L/C establishment charges shall be deducted pro rata from the proceeds of L/C                                                                                                                                                                                       |
|    |                          | (2) LD AND INTEREST ON ADVANCE AS PER INTIMATION OF APPLICANT SHALL BE DEDUCTED FROM PAYMENT TO CONTRACTOR AND CREDITED BACK TO PURCHASER'S ACCOUNT                                                                                                                   |
| 20 | DETAILS OF CHARGES (71B) | ALL CHARGES OUTSIDE OF INDIA ARE TO THE ACCOUNT OF BENEFICIARY                                                                                                                                                                                                        |
| 21 | PRESENTATION PERIOD (48) | UP TO 180 DAYS AFTER SHIPMENT DATE                                                                                                                                                                                                                                    |
| 22 | CONFIRMATION (49)        | CHARGES ARE TO BE BORNE BY THE CONTRACTOR.                                                                                                                                                                                                                            |
| 23 | REIMBURSING BANK (53)    |                                                                                                                                                                                                                                                                       |
| 24 | INSTRUCTIONS (78)        | <p>I. Documents must be forwarded to us by courier in one lot.</p> <p>II. We hereby engage that payments made under and in compliance with all the terms and conditions of this credit will be duly honoured by us upon presentation of the stipulated documents.</p> |

|    |                        |                                                                                                                                                                                                                                 |
|----|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                        | <p>III. Paying bank may claim reimbursement telegraphically from the reimbursing bank for value 3 days after their authenticated telex/swift advice to the issuing bank of any conform drawing presented under this credit.</p> |
| 25 | ADVICE THROUGH (57)    |                                                                                                                                                                                                                                 |
|    | SEND TO REC. INFO (72) | <p>PHONE (BEN)..... (TEL NO).....FAX</p> <p>(BEN) .....(FAX NO).....</p> <p>CONTACT PERSON .....</p>                                                                                                                            |
| 26 | OTHER INSTRUCTION (73) |                                                                                                                                                                                                                                 |

## MODEL TENDER TERMS FOR PAYMENT

**Applicable for:** Explosive plant projects being procured on turn-key basis including civil works under Global TE involving partly foreign component (payment in FE) and partly Indian component (payment in RE).

**1.0 Advance Payment:**

1.1 Normally payment is made after receipt of goods at the site. However, under special circumstances, interest-free advance payment can be considered for up to 15% contract value.

1.2 There will be no advance payment for Training and Supervision of Erection & Commissioning services.

1.3 Advance payment shall be made only after submission of Bank Guarantee for 110% of advance amount and will be deducted proportionately from subsequent payment.

1.4 Advance payment shall be without interest within the original delivery period. In case the delivery of the plant is delayed due to reasons for which the contractor is responsible, interest will be charged on the outstanding amount of the advance payment during the extended delivery period. The rate of interest will be equal to 12-month LIBOR + 100 basis points for payment in foreign currency and SBI's Base rate plus 200 basis points for payment in Indian Rupee, reckoned on the date of release of advance payment.

1.5 In case of Machinery and Equipment advance, the contractor shall ensure insurance and hypothecation of the same to the purchaser (employer).

**2.0 Mode of Payment:**

2.1 Payment for Indian parts of the plant in Indian Rupees will be deposited directly to the nominated bank account of the supplier in India.

2.2 Payment for imported parts of the plant in foreign exchange will be made through DBT or irrevocable and divisible Letter of Credit to be established on a scheduled PSU bank in India. In case the supplier wants the LC to be confirmed, the charges of confirmation will have to be borne by them.

2.3 Purchaser will establish LC only three months prior to the actual date of delivery/shipment. If any extension of the Letter of Credit (LC) is required due to the fault of the supplier, the supplier will have to pay for such extension.

2.4 In case supplier insists on establishment of LC immediately after conclusion of contract/ placement of order irrespective of delivery/ shipment schedule, LC will be established by the purchaser immediately after conclusion of contract for a period of three months with a provision in LC that cost of further extension or validity of LC will be borne by the beneficiary and the issuing bank will be advised accordingly while amending the LC.

2.5 If supplier insists on opening of LC along with the order for full period of contract and does not accept to bear the LC charges beyond three months, the additional cost involved in keeping the LC valid for the period beyond three months will be loaded on the supplier's quoted price, while evaluating the bids. In case the contract period is extended for reasons for which the supplier is responsible, the cost of maintaining the LC in the extended period will have to borne by the supplier.

### 3.0 **Conditions of Payment:**

3.1 Payment for 90% / 80% value of foreign equipment and spares less advance payment if any will be made after despatch on pro rata basis on submission of the following documents:

- (a) Invoices in 6 copies (original and 5 copies) covering the value of goods delivered.
- (b) 6 copies of packing list.
- (c) 1 copy of non-negotiable Bill of Lading or airway bill.
- (d) Certificate of inspection and acceptance of Purchaser's PDI team or of the Contractor.
- (e) Certificate from the contractor confirming that the original shipment documents have been despatched in accordance with the requirement of the contract to the Port Consignee.
- (f) Certificate of Origin issued by contractor or its Chamber of Commerce.
- (g) Certificate from contractor indemnifying against third party rights.
- (h) Certificate that the equipment and spares are new, unused and from current production.

Note: 90% payment is applicable for inspection & acceptance certificate of Purchaser's representative and 80% payment is applicable for such certificate from the Contractor (when functional PDI by Purchaser is not possible).

3.2 Payment for 90% / 80% basic price of Indian equipment and spares less advance payment if any plus 100% Taxes, Duties, if any, will be made on pro rata basis on receipt of the items at site and against submission of the following documents:

- (a) Invoices in 6 copies (original and 5 copies) covering value of goods delivered.
- (b) 6 copies of packing list.
- (c) Certificate that the equipment and spares are new, unused and from current production.
- (d) Certificate of inspection and acceptance of Purchaser's PDI team or of the Contractor.
- (e) Certificate of receipt at factory units from the Purchaser or his representative.
- (f) Documentary proof of actual payment regarding claim for ED, sales tax or any other taxes paid in India.
- (g) Certificate of Contractor indemnifying against third party rights.

Note: 90% payment is applicable for inspection & acceptance certificate of Purchaser's representative and 80% payment is applicable for such certificate from the Contractor (when functional PDI by Purchaser is not possible).

3.3 Payment for 90% price of Design & Documentation less advance payment if any will be released in two stages – (i) 50% less advance amount if any, on receipt of initial documents like design specifications, Approved For construction drawings, layouts, etc and (ii) 40% on receipt of final documents like As Built drawings of the Plant, Operation Manuals, Maintenance Manuals and electronic copies of all documents – on submission of:

- (a) Six copies of commercial invoices (original and 5 copies).
- (b) Signed certificate from the Contractor stating that all initial / final (*as applicable*) design and documentation required as per the Contract have been delivered to the Purchaser as on date of the certificate.
- (c) Certificate of receipt from the Purchaser or his representative.

3.4 Payments for up to 90% of value of civil works less advance payment if any will be made in stages, i.e. after execution of identifiable, measurable and verifiable milestones, on submission of commercial invoices, certified by the CONTRACTOR. For construction of buildings, the stages are (i) Site clearance and excavation for foundation -10%, (ii) Plinth level - 20%, (iii) Superstructure up to roof level - 30%, (iv) Roof - 20% and (v) Finished building - 10%. For other erection works at site like mechanical, piping, electrical and instrumentation, payment can be made progressively in monthly/quarterly intervals on submission of invoices with copies of measurement records. Each claim for payment will be released within one month after verification by designated official of the Purchaser.

3.5 Payment for 90% amount for Training in contractor' premises in foreign country will be released after completion of training on submission of:

- (a) Six copies of commercial invoices (original and five copies)
- (b) Certificate signed by the Purchaser for completion of training as per the contract.

3.6 Balance 10% or 20% payment for above items along with 100% value of Supervision of Erection & Commissioning (E&C) charges will be made, after commissioning and final acceptance of the plant, on receipt of Commercial Invoices with Final Acceptance Certificate and Warranty Bond for 5% of contract value.

FORMAT FOR PRE-CONTRACT INTEGRITY PACT

Ref: Tender Enquiry No ..... Dated .....

**General**

1. Whereas the Executive Director/Ordnance Factory Units \_\_\_\_\_, represented by \_\_\_\_\_, hereinafter referred to as the Buyer and the first party, proposes to procure (Name of the **Store/** Equipment), hereinafter referred to as Defence Stores, and M/s \_\_\_\_\_, represented by, **Mr/Mrs** \_\_\_\_\_ **Chief Executive Officer/ Authorized Signatory** (Designation which term, unless expressly indicated by the contract, shall be deemed to include its successors and its assignees), hereinafter referred to as the Bidder/Seller and the second party, is willing to offer/has offered the stores.

2. Whereas the Bidder is a private company/public company/partnership/registered export agency, constituted in accordance with the relevant law in the matter and the Buyer **is a Defence Public Sector Undertaking under Ministry of Defence, A Unit of YANTRA INDIA LIMITED, Government of India Enterprise.**

**Objectives**

3. Now, therefore, the Buyer and the Bidder agree to enter into this pre-contract agreement, hereinafter referred to as Integrity Pact, to avoid all forms of corruption by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

3.1 Enabling the Buyer to obtain the desired defence stores at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

3.2 Enabling bidders to abstain from bribing or any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices and the Buyer will commit to prevent corruption, in any form, by their officials by following transparent procedures.

#### **Commitments of the Buyer**

4. The Buyer Commits itself to the following:-

4.1 The Buyer undertakes that no official of the Buyer, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the Contract.

4.2 The Buyer will, during the pre-contract stage, treat all Bidders alike, and will provide to all Bidders the same information and will not provide any such information to any particular Bidder which could afford an advantage to that particular Bidder in comparison to other Bidders.

4.3 All the officials of the Buyer will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

5. In case of any such preceding misconduct on the part of such official(s) is reported by the Bidder to the Buyer with full and verifiable facts and the same is prima facie found to be correct by the Buyer, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Buyer and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the Buyer the proceedings under the contract would not be stalled.

#### **Commitments of Bidders**

6. The Bidder commits himself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of his bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commits himself to the following:-

6.1 The Bidder will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Buyer, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the Contract.

6.2 The Bidder further undertakes that he has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Buyer or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the Contract or any other Contract with the YIL for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the YIL.

6.3 The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.

6.4 The Bidder will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.

6.5 The Bidder further confirms and declares to the Buyer that the Bidder is the original manufacturer/integrator/ authorized government sponsored export entity of the defence stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the Buyer or any of its functionaries, whether officially or unofficially to the award of the contract to the Bidder, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.

6.6 The Bidder, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the Buyer or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.

6.7 The Bidder shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the Buyer as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The Bidder also undertakes to exercise due and adequate care lest any such information is divulged.

6.8 The Bidder commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.

6.9 The Bidder shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

## **7. Previous Transgression**

7.1 The Bidder declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India, that could justify bidder's exclusion from the tender process.

7.2 If the Bidder makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

## **8. Earnest Money/Security Deposit**

8.1. Every bidder, while submitting commercial bid, shall deposit an amount\* \_\_\_\_\_ as Earnest Money/Security Deposit, with the buyer through any of the following instruments: - (i) Bank Draft or a Pay Order in favour of the Buyer,

(ii) A confirmed guarantee by an Indian Nationalized Bank, promising payment of the guaranteed sum to the **Buyer**, on demand within three working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the Buyer shall be treated as conclusive proof for payment. A model Bank guarantee format is enclosed. **Note:** - *In case of foreign supplies, the vendor may, if required, furnish the Bank Guarantee from a first class International Bank provided the same is confirmed/ verified by the State Bank of India.*

(iii) Any other mode or through any other instrument (to be specified in the RFP).

\* At present, the amount of EMD/SD is ₹. 1 crore in cases where the cost as estimated by the Buyer is above ₹. 100 crore and up to ₹. 300 crore and ₹. 3 crore if above ₹. 300 crore.

**Note:** - *The option of all acceptable instruments needs to be retained. However, the Buyer should consider the validity of the instrument and the need for revalidation while obtaining the same.*

8.2. The Earnest Money/Security Deposit shall be valid up to a period of five years or the complete conclusion of contractual obligations to complete satisfaction of both the bidder and the buyer, whichever is later. In case there are more than one bidder, the Earnest Money/Security Deposit shall be refunded by the buyer to those bidder(s) **whose bid does not qualify (do not qualify) after the stages of TEC/ TPC, as constituted by the Buyer, immediately after a recommendation is made by the TEC/ TPC on bid(s)** after an evaluation.

8.3 In the case of successful bidder a clause would also be incorporated in the Article pertaining to Performance Bond in the Purchase Contract that the provisions of Sanctions for Violation shall be applicable for forfeiture of Performance Bond in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of this pact.

8.4 The provisions regarding Sanctions for Violation in Integrity Pact include forfeiture of Performance Bond in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of Integrity Pact.

8.5 No interest shall be payable by the Buyer to the Bidder(s) on Earnest Money/Security

Deposit for the period of its currency.

## **9. Company Code of Conduct**

9.1 Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behavior) and a compliance program for the implementation of the code of conduct throughout the company.

## **10. Sanctions for Violation**

10.1 Any breach of the aforesaid provisions by the Bidder or any one employed by him or acting on his behalf (whether with or without the knowledge of the Bidder) or the commission of any offence by the Bidder or any one employed by him or acting on his behalf, as defined in Bhartiya Nyaya Sanhita 2023 or the Prevention of Corruption Act 1988 or any other act enacted for the prevention of corruption shall entitle the Buyer to take all or any one of the following actions, wherever required:-

(i) To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the Bidder. However, the proceedings with the other Bidder(s) would continue.

(ii) The Earnest Money/Security Deposit/Performance Bond shall stand forfeited either fully or partially, as decided by the Buyer and the Buyer shall not be required to assign any reason therefore. (iii) To immediately cancel the contract, if already signed, without giving any compensation to the Bidder.

(iii) To recover all sums already paid by the Buyer, and in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Prime Lending Rate of **State Bank of India (or Base Rate of State Bank of India in the absence of Prime Lending Rate)**, while in case of a Bidder from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the Bidder from the Buyer in connection with any other contract for any other defence stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.

(iv) To encash the advance bank guarantee and performance bond/warranty bond, if furnished by the Bidder, in order to recover the payments, already made by the Buyer, along with interest.

(v) To cancel all or any other Contracts with the Bidder.

(vii) To debar the Bidder from entering into any bid from any Defence Public Sector Undertaking of India for a minimum period of five years, which may be further extended at the discretion of the Buyer.

(vi) To recover all sums paid in violation of this Pact by Bidder(s) to any middleman or agent or broker with a view to securing the contract.

(vii) If the Bidder or any employee of the Bidder or any person acting on behalf of the Bidder, either directly or indirectly, is closely related to any of the officers of the Buyer, or alternatively, if any close relative of an officer of the Buyer has financial interest/stake in the Bidder's firm, the same shall be disclosed by the Bidder at the time of filing of tender. Any failure to disclose the interest involved shall entitle the Buyer to rescind the contract without payment of any compensation to the Bidder.

The term 'close relative' for this purpose would mean spouse whether residing with the YIL Employee or not, but not include a spouse separated from the YIL Employee by a decree or order of a competent court; son or daughter or step son or step daughter and wholly dependent upon YIL Employee, but does not include a child or step child who is no longer in any way dependent upon the YIL Employee or of whose custody the YIL Employee has been deprived of by or under any law; any other person related, whether by blood or marriage, to the YIL Employee or to the YIL Employee's wife or husband and wholly dependent upon YIL Employee.

(viii) The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Buyer, and if he does so, the Buyer shall be entitled forthwith to rescind the contract and all other contracts with the Bidder. The Bidder shall be liable to pay compensation for any loss or damage to the Buyer resulting from such rescission and the Buyer shall be entitled to deduct the amount so payable from the money(s)

due to the Bidder. (xi) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the Buyer with the Bidder, the same shall not be opened.

10.2 The decision of the Buyer to the effect that a breach of the provisions of this Integrity Pact has been committed by the Bidder shall be final and binding on the Bidder, however, the Bidder can approach the monitor(s) appointed for the purposes of this Pact.

## **11. Fall Clause**

11.1 The Bidder undertakes that he has not supplied/is not supplying the similar systems or subsystems at a price lower than that offered in the present bid in respect of any other Ministry/Department or DPSU of the Government of India and if it is found at any stage that the similar system or sub-system was supplied by the Bidder to any other Ministry/Department or DPSU of the Government of India at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the Bidder to the Buyer, if the contract has already been concluded.

11.2 The Bidder shall strive to accord the most favoured customer treatment to the Buyer in respect of all matters pertaining to the present case.

## **12. Independent Monitors**

12.1 The Buyer has appointed Independent Monitors for this Pact in consultation with the Central Vigilance Commission (Names and Addresses of the Monitors to be given)

12.2 As soon as the Monitor notices, or believes to notice, a violation of this Pact, he will so inform **the DOO (C&S)/ YANTRA INDIA LIMITED, 8th Mile, Ordnance Factory Units Ambajhari Estate, Amravati Road, Nagpur, Maharastra-440021.-**

## **13. Examination of Books of Accounts**

In case of any allegation of violation of any provisions of this Integrity Pact or payment of commission, the Buyer or its agencies shall be entitled to examine the Books of Accounts of the

Bidder and the Bidder shall provide necessary information of the relevant financial documents in English and shall extend all possible help for the purpose of such examination.

#### 14. Law and Place of Jurisdiction

This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the Buyer i.e. ***the nearest location from the seat of the Buyer of a High Court or a Bench of High Court.***

#### 15. Other Legal Actions

The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

#### 16. Validity

16.1 The validity of this Integrity Pact shall be from date of its signing and extend up to 5 years or the complete execution of the contract to the satisfaction of both the Buyer and the Bidder/Seller, whichever is later.

16.2 Should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

17. The Parties hereby sign this Integrity Pact at..... on dt.....

BUYER

Witness

1.

2. \_

BIDDER

Witness

1. \_\_\_\_\_

2. \_\_\_\_\_

## FORMAT FOR INTEGRITY PACT BANK GUARANTEE (IPBG)

*(For submitting EMD as per Pre-contract Integrity Pact)*

To

Executive Director

\_\_\_\_\_

\_\_\_\_\_

Guarantee No: \_\_\_\_\_

Amount of Guarantee: Guarantee cover up to: \_\_\_\_\_

1. Whereas .....(hereinafter called the "Bidder") has submitted their offer dated..... (hereinafter called the "Bid") to the President of India acting through the Executive Director, ..... (hereinafter called the "Buyer") for the supply of ..... against Tender Enquiry No..... dated ..... and

2. Whereas the Buyer has stipulated that a Bank Guarantee is to be furnished by the Bidder as Earnest Money Deposit with the Bid.

3. KNOW ALL MEN by these presents that WE ..... having our registered office at ..... (hereinafter called the "Bank") are bound unto the Buyer in the sum of ₹ .....(in words, Rupees ..... ) for which payment will and truly be made to the said Buyer and the Bank binds itself, its successors and assigns by these presents, sealed with the Common Seal of the said Bank this..... day of .....20.....

4. We undertake to pay the Buyer the above guaranteed amount on demand within 3 (three) working days, without any demur and without seeking any reasons whatsoever, upon receipt of a written request for payment from the Buyer stating the occurrence of one or more of the below

mentioned conditions. The demand for payment by the Buyer shall be treated as conclusive proof for payment.

5. The Buyer shall be entitled to demand the guaranteed amount due to occurrence of any one of the following conditions:

(A) If the Bidder or any one employed by him or acting on his behalf violates any of the provisions of the Pre Contract Integrity Pact signed by the Bidder with the Buyer.

(B) If the Bidder withdraws or amends their Bid in any respect during the period of validity of the Bid.

(C) If the Bidder having been notified of the acceptance of his tender/Bid by the Buyer during the period of its validity,

a) Fails to furnish the Performance Security for the due performance of the contract. b) Fails or refuses to accept/execute the contract.

6. This guarantee shall be valid up for a period of five years i.e. \_\_\_\_\_(date). The validity period of this guarantee shall be extended from time to time by the Bidder as required by the Buyer upto complete conclusion of contractual obligations to complete satisfaction of both the bidder and the buyer or a period of five years, whichever is later.

7. This guarantee will not be revoked during the above period except with the previous consent of the Buyer in writing and the Bank's liability under this guarantee shall not be discharged by any variation in the terms of the commercial offer.

8. No interest shall be payable by the Buyer to the Bidder on the guarantee for the period of its currency.

Place: ..... Date: .....

..... (Signature of the authorized officer of the Bank) Name and designation of the officer  
Seal, name & address of the Bank and address of the Branch

## FORMATS FOR TEC/TPC MINUTES

**(A) Model format for preparation of Minutes of Factory Units/YIL TEC recommendation**

1. Nomenclature and quantity of the machine:
2. Demand No. and Year. Ref CAPEX Plan and concerned A&F concurrence :
3. Factory Units/YIL sanction/clearance, reference and date:
4. Estimated cost FE & RE:
5. Mode of tendering, justification and authority to the same along with a copy of factory units /YIL TPC minutes.
6. Date of issue of tender enquiry, due date of opening, names of the firms to whom TE's were issued (for Manual tender only) not applicable for tender uploaded on GeM.
7. Details of offers received including firms responded, regretted and not responded.
8. Date of TEC meeting and details of offers considered technically acceptable and reason for accepting deviation, if any.
9. Details of offers not considered technically acceptable along with reasons duly linking with relevant clause of tender specification.
10. Specific comments in respect of offers not considered technically acceptable as to whether the same may meet factory units's requirement from functional point of view, if not firm-wise comments specifying the limitation of offers vis-à-vis functional necessity.
11. Whether the requirement still exists keeping in view the present & anticipated product-mix and production load.
12. Whether factory units/YIL(whichever is applicable) is satisfied with the performance of similar m/c. supplied by the firms.The basis on which factory units considers their performance satisfactory units to be clarified.
13. Clause-wise technical CST in respect of the all offers on equitable basis, to be attached.
14. Clause-wise deviation statement to be attached, if Fy./YIL proposes discussion/negotiation with the bidders on certain points.
15. Any other points needing elucidation relevant to the case but not covered in the above format.
16. Recommendation of Fy's/YIL TEC headed by GM/ED/CMD (whichever is applicable as per latest delegation of financial power) duly associating concerned A&F deptt.

SIGNATURE

SIGNATURE

SIGNATURE

**(B) Model format for preparation of Minutes of Factory Units/YIL TPC recommendation**

1. Nomenclature and quantity of the m/c.
2. Demand No. and year.
3. Fy./YIL (Whichever is applicable) approval and date reference authorising procuring entity (Fy./YIL whichever is applicable)-for opening of price bids.
4. Date of Factory Units TPC meeting.
5. In case of imported offer –
  - i) Country of origin.
  - ii) Rate of exchange taken for arriving at FE requirement.
  - iii) Whether custom duty exempted if not rate to be given.
  - iv) Confirmation that order will be placed on foreign principal only and that there is no involvement of Indian Agent requiring payment of agency commission.
6. Financial CST in respect of technically acceptable offers taking scope of supply on equitable basis.
7. Whether the cost of recommended offer is considered reasonable, if so justification for the same.
8. Whether re-tendering of item is considered advantageous to get cheaper offers.
9. Whether scope of supply can be reduced to the barest minimum without affecting the inescapable necessity.
10. Payment terms accepted by firm and recommended by factory units. Whether other commercial terms and conditions are acceptable to the factory units.
11. Cost comparison of recommended offer with the estimated cost. In case of wide variation, indicate specific reasons and also state whether there has been any revision in scope of supply.
12. Cost details of the recommended offer vis-à-vis sanctioned cost and details of additional fund if any for the total purchase.
13. Validity of recommended offers.
14. Any specific/special issue where approval of YIL is needed.
15. A Statement of Case (SOC) shall be attached, giving chronological history of the case from demand approval stage onwards.
16. Recommendation of factory units/YIL (Whichever is applicable) TPC headed by GM/ ED/CMD (whichever is applicable as per latest delegation of financial power) including concerned A&F deptt.

SIGNATURE

SIGNATURE

SIGNATURE

APPENDIX ' R'

**(A) MODEL AMENDMENT LETTER FOR EXTENSION OF DELIVERY PERIOD FOR FOB/FAS/CIF CONTRACT (FOR CONTRACT PLACED OTHER THAN GEM) .**

Registered Acknowledgement Due

Address of the purchaser

-----  
-----  
-----

To

M/s .....  
.....

**Sub:** This office contract no..... dated ..... placed on you for supply of

.....

**Ref:** Your letter no..... dated .....

Dear Sirs,

You have failed to deliver the goods / entire quantity of the goods within the contract deliver period/delivery period as last extended up to\_\_\_\_\_. In your above referred letter, you have asked for extension/ further extension of time for delivery. In view of the circumstances stated in your above referred letter, the time of delivery is extended from \_\_\_\_\_(last delivery period) to

2. Please note that in terms of clause..... of the contract, a sum equivalent to .....% (..... per cent) of the delivered price of the delayed goods for each week of delay or part thereof (subject to the ceiling as provided in the aforesaid clause) beyond the original contract delivery date/the last unconditionally re-fixed delivery date (as & if applicable) viz. **zzz** will be recovered from you as liquidated damages.

3. The above extension of delivery date will also be subject to the further condition that, notwithstanding any stipulation in the contract for increase in price on any ground, no such increase, whatsoever, which takes place after **zzz** shall be admissible on such of the said goods as are delivered after the said date. But, nevertheless, the purchaser shall be entitled to the benefit of any decrease in price on any ground (including the impact of the price variation clause, if incorporated in the contract), which takes place after the expiry of the above mentioned date namely **zzz**.

4. You are also required to extend the validity period of the performance guarantee for the subject contract from ..... (present validity date) to ..... (required extended date) within fifteen days of issue of this amendment letter.

5. Please intimate your unconditional acceptance of this amendment letter within ten days of the issue of this letter failing which the contract will be cancelled at your risk and expense without any further reference to you.

All other terms & conditions of the contract remain unaltered.

Yours faithfully,  
(.....)  
for and on behalf of.....

Copy to :

.....  
.....  
.....

(All concerned)

*Original delivery date or the last unconditionally re-fixed delivery date (as the case may be) NB : The entries which are not applicable for the case under consideration are to be deleted.*

**B) MODEL AMENDMENT LETTER FOR EXTENSION OF DELIVERY PERIOD FOR CONTRACT OTHER THAN FOB/FAS/CIF CONTRACT (FOR CONTRACT PLACED ON GEM).**

Registered Acknowledgement Due

Address of the purchase office

-----  
-----  
-----

To

M/s .....

.....

**Sub:** This office contract no..... dated ..... Placed on you for supply of .....

**Ref:** Your letter no..... dated .....

Dear Sirs,

You have failed to deliver the goods / entire quantity of the goods within the contract deliver period/delivery period as last extended up to \_\_\_\_\_. In your above referred letter, you have asked for extension/ further extension of time for delivery. In view of the circumstances stated in your above referred letter, the time of delivery is extended from (last delivery period) to (presently agreed delivery period).

1. Please note that in terms of clause..... of the contract, a sum equivalent to .....% (..... per cent) of the delivered price of the delayed goods for each week of delay or part thereof (subject to the ceiling as provided in the aforesaid clause) beyond the original contract delivery date/the last unconditionally re-fixed delivery date (as & if applicable) viz. zzz will be recovered from you as liquidated damages.

2. The above extension of delivery date will also be subject to the following further conditions:-

i) That no increase in price on account of any statutory increase in or fresh imposition of custom duty, excise duty, sales tax or on account of any other tax or duty leviable in respect of the goods specified in the said contract, which take place after zzz shall be admissible on such of the said goods as delivered after the said date.

ii) That notwithstanding any stipulation in the contract for increase in price on any ground, no such increase whatsoever, which takes place after zzz shall be admissible on such of the said goods as are delivered after the said date.

iii) But nevertheless, the purchaser shall be entitled to the benefit of any decrease in price on account of reduction in or remission of custom duty, excise duty, sales tax or on account of any other tax or duty or any other ground whatsoever, including the impact of price variation clause (if incorporated in the contract), which takes place after the expiry of the above mentioned date namely zzz.

3. You are also required to extent the validity period of the performance guarantee for the subject contract from .....(existing date) to ..... (required extended date) within fifteen days of issue of this letter.

4. Notwithstanding to above, it is iterated that referred contract is placed on GeM, therefore, all the standard terms & condition of GeM for “ Extension of Delivery Date & Liquidated Damage” shall prevail in case of any conflict to above.

5. Please intimate your unconditional acceptance of this amendment letter, to reach this office within ten days of issue of this letter, failing which the contract will be cancelled at your risk and expense without any further reference to you.

6. All other terms & conditions of the contract remain unaltered.

Yours faithfully,  
(.....)  
for and on behalf of.....

Copy to :

.....  
.....  
.....

(All concerned)

*zzz Original delivery date or the last unconditionally re-fixed delivery date (as the case may be) NB : The entries which are not applicable for the case under consideration are to be deleted.*

FORMAT FOR PROPRIETARY ARTICLE CERTIFICATE / SINGLE KNOWN SOURCE  
CERTIFICATE

Description of Machine: \_\_\_\_\_

It is certified that:

(i) The above mentioned equipment/machine is manufactured by M/S

.....

(ii) No other make or model is acceptable for the following reasons:

.....

(iii) Concurrence of concerned Account & Finance deptt. to the proposal obtained vide:-

.....

(iv) Approval of the competent authority vide: .....

CO/User Section

GO/User Section

DO/User Section

Finance Member

CO/EO

GO/EO

(Whichever is applicable as per latest DFP)

APPROVED/ NOT APPROVED

CMD(YIL)/ Executive Director  
(Whichever is applicable as per latest DFP)

**CARGO PARTICULARS INTIMATION FORM****MINISTRY OF SHIPPING****CHARTERING WING****(SHIPPING CO-ORDINATION COMMITTEE)**

Particulars of Cargo for which shipping space is required to be arranged by Ministry of Shipping (Chartering Wing) on behalf of Ministry/Department/PSU.

| Sl No | Name of Supplier with full Postal Address including Telephone/Telex/fax No. | Contract No. & Date. | Name of the Consignee with Telegraphic Postal Address. | Particulars of Cargo - *whether ship loads or Parcel if the later, size of parcel. |      |        | Period of shipment. | Loading Port. | Discharge port. |
|-------|-----------------------------------------------------------------------------|----------------------|--------------------------------------------------------|------------------------------------------------------------------------------------|------|--------|---------------------|---------------|-----------------|
|       |                                                                             |                      |                                                        | Descr<br>iption                                                                    | Qty. | Lable* |                     |               |                 |
|       |                                                                             |                      |                                                        |                                                                                    |      |        |                     |               |                 |
|       |                                                                             |                      |                                                        |                                                                                    |      |        |                     |               |                 |
|       |                                                                             |                      |                                                        |                                                                                    |      |        |                     |               |                 |
|       |                                                                             |                      |                                                        |                                                                                    |      |        |                     |               |                 |

Note : This form should be filled in and sent in duplicate (Both for Bulk and Liner Cargo) to the Chief Controller of Chartering, Ministry of Surface Transport, Chartering Wing, New Delhi, together with two copies of Purchase / Sale Contract.

**CIRCULARS OF MINISTRY OF SHIPPING (1/2)**

TELEGRAM: TRANSCHART  
TELEX: VAHN IN 31-61157/ 31-  
61158/31-61159

FAX NO: 3718614/3352726  
TELEPHONE: 3710356/3710039/  
3718390/3719480

**GOVERNMENT OF INDIA MINISTRY OF SURFACE TRANSPORT (CHARTERING WING)**

No. SC-11021/3/99-ASO-I VOL.III

Dated. the 15<sup>th</sup> November, 2001

**OFFICE MEMORANDUM**

Subject: Ocean Transportation of cargo under the control of Government/ Public Sector Undertakings review of .. The policy regarding.

The undersigned is directed to say that as per the existing policy of Government of India all import contracts are to be finalised on FOB (free on Board/ FAS (Free alongside Ship) basis and those for exports on C&F (Cost and Freight)/ CIF (Cost Insurance, freight) basis in respect of Government owned/controlled cargoes on behalf of Central Government Departments/State Government Departments and Public Sector Undertakings under them. In case of any departure therefrom, prior permission is required to be obtained from the Chartering Wing of Ministry of Shipping. These instructions about FOB/FAS purchases and C&F/CIF sales and entering into contracts where the element of foreign exchange expenditure is minimum already stand incorporated in the General Financial Rules of the Government.

2. Based on the difficulties/problems, intimated by certain Government Departments/Public Sector Undertakings for exporting their cargoes in the changed context of economic liberalization, Government has undertaken a thorough review of the above policy at various levels. It has now been decided by the Government that:-

(i) The present policy for placing import contract on FOB/FAS basis and Centralised shipping arrangements through Ministry of Shipping(Chartering Wing) notified vide this Ministry's O.M.

No.SC-11011/1/94-ASO.II/Vol.III dated 27<sup>th</sup> February, 1996 in respect of government owned/controlled cargoes on behalf of Central Government Departments/State Government Departments and Public Sector Undertakings under them will continue.

ii) The policy of centralized shipping arrangements through Chartering wing has been relaxed in case of exports. Government Departments/PSUs are free to finalize export contracts on FOB/FAS basis without seeking prior clearance from Ministry of Shipping(Chartering Wing).

3. It is requested that above decision taken by the Government of India may kindly be brought to the notice of all the Public Sector Undertakings/Projects/Autonomous Bodies/Purchasing & Selling Organisations under the administrative control of Ministries and Departments concerned and they may be advised to follow the prescribed procedure described above. They may also be instructed to send two copies of Import contracts alongwith cargo particulars like weight, volume, loading port, discharging port, loading rate, discharging rate, period of shipments, parcel size and any other specific condition relating to shipment of cargoes etc. to this Ministry as soon as the same are finalised for taking further necessary action with regard to the shipping arrangements in respect of import cargoes.

4. A copy of the instructions issued may please be endorsed to this Ministry.

5. Hindi version is also enclosed.

Sd/-

(T.V. SHANBHAG)

CHIEF CONTROLLER OF CHARTERING

To

(1) All Ministries/Departments of  
Government of India .....2 copies

(2) The Chief Secretary to all the State  
Governments including the Union Territories.

**CIRCULARS OF MINISTRY OF SHIPPING (2/2)**

Government of India Ministry of Surface Transport (Chartering Wing)

No. SC-18013/1/98-ASO.II New Delhi,  
1998

the 11th February,

**OFFICE MEMORANDUM**

Sub: Govt. Departments / Public Sector Projects/Undertakings Contracting of FOB/FAS import and CIF exports – shipping arrangement through the Ministry of Surface Transport (Chartering Wing) from various sectors-procedure regarding.

The undersigned is directed to say that as per general policy of Government of India, all import contracts have to be concluded on FOB/FAS and those for exports on CIF basis in respect of Government owned and controlled cargoes and shipping arrangements are centralized with Chartering Wing of Ministry of Surface Transport. For any departure from the above policy, prior approval of this Ministry is required. The policy provides for grant of waivers in suitable cases where it is found it is not possible to follow the said policy.

2. The shipping arrangements are being made by Chartering Wing, Ministry of Surface Transport by using Indian flag vessels and if no suitable Indian vessels are available in the required position, foreign flag vessels are chartered. Shipping arrangements in respect of Government general liner cargoes are being made by this Ministry through respective Government of India's freight forwarders like M/s. Schenker International, Humburg, M/s. OPT, USA etc. Shipment of general liner cargo is not restricted to Indian flag vessels and it is shipped by any vessel belonging to Conference member lines which are operating from various sectors.

3. The Government of India has an agreement with India-Pakistan- Bangladesh-Ceylone and Burma Freight Conference (INDPAKCON) FMC Agreement No.7690) covering the trade from US Atlantic and Gulf ports to India through the vessels belonging to the Member lines of this Conference only and as per the agreement all Government of India/State Government Departments/PSUs/Projects cargoes are to be shipped only through the vessels of Member Lines belonging to this Conference.

4. Similarly, the Government of India has another agreement with India- Pakistan Bangladesh Conference (IPBC) covering the trade from ports in the United Kingdom including Northern Ireland, North Continent of Europe (Germany, Holland, Belgium, Norway, Sweden, Denmark, Finland) and from parts on the continental sea boards of the Mediterrean (i.e. French and Western Italian Port) to ports in India. It is obligatory on the part of Government to ship all Government liner cargoes through the vessels belonging to this Conference.

5. In order to ensure smooth and timely shipment of governmental general liner cargoes, the Government of India, Ministry of Surface Transport has appointed freight forwarding agents from various areas as mentioned below:

6. M/s . Schenker International Deutschland GmbH Postfach 11 03 13  
20403 Hamburg  
Dei den Muhren 5  
20457 Hamburg.

Tel : (040) 36135-537

Fax : (040) 36135-509

Tlx : 21700 sh d

(In respect of government general liner cargoes emanating from UK/North Continent as indicated in para (2) above).

2. M/s OPT Overseas Project Transport Inc., (A Thyssen Haniel Logistic Co.)  
46, Sellers St., Kearny, N.J. 07032, USA

Tel : (201) 998-771, TLX : 673-3586, FAX : (201) 998-7833

(In respect of cargoes emanating from US Gulf, Canada & South America)

3. Embassy of India,  
2-11, Kudan Minami 2-chome  
Chiyoda-ku  
TOKYO 102

TLX : 2324886, INDEMB J Phone : 03 (3262) 2391

FAX : 03 (3234) 4866

(In respect of government general liner cargoes emanating from Japan)

4. Embassy of India  
San-2-1 Bokwang-Doong, Yongsan-ku  
(Behand Bewling Centre)  
Seoul, South Korea (CABLE IND EMBASSY, SEOUL, SOUTH KOREA)

Telex : K211641, Tele. 793-4142, 704159

(In respect of cargoes emanating from South Korea)

5. Shipping Corporation of India Ltd.  
Shipping House  
245, Madame Cama Road  
Mumbai

Tlx : 011-2214/2371 SCI IN) Phone : 2026666/2026785

(In respect of cargoes being shipped from all other areas which are not covered from (1) to (4) above).

6. In order to ensure compliance with the transportation agreement with INDPACKON, IPBC, M/s Opt, USA and M/s Schenker International, Hamburg, all the Public Sector Undertakings, Projects are requested to prescribe in their purchase contracts that all booking must be made through Government of India's respective freight forwarders as indicated above and the same may also be incorporated in the letter of credit to ensure shipping arrangements through the vessels of Members of the Conference and appointed freight forwarders.

7. It has been brought to the notice of this Ministry that some of the Public Sector Undertakings are not following the above policy and shipping arrangements are made through other than GoI appointed freight forwarders. It has been further brought to the notice of this Ministry that some of the Indian freight forwarding companies are claiming to have been appointed as freight forwarders by M/o Surface Transport which is not correct. Therefore, it is advised that Government of

India and State Government Departments and Public Sector Undertakings should ensure (as indicated above) only and should not entertain any other freight forwarder in this regard.

8. It is requested that the above may kindly be brought to the notice of all the Public Sector Undertakings/projects/purchase and selling organizations under the administrative control of the Ministries/Departments concerned and they may be advised to follow the prescribed procedure for arranging shipment of their cargoes through Chartering wing (Transchart) of this Ministry and incorporate the prescribed shipping clauses in the import/export contracts.

Sd/-  
(T.V. SHANBHAG)  
CHIEF CONTROLLER OF CHARTERING

(1) All Ministries/Departments of  
Government of India .....2 copies

APPENDIX 'V'

FORMAT FOR TAKING OVER CERTIFICATE (TOC)

CONTRACT No. PURCHASER :

CONTRACTOR : M/s .....

I, the undersigned hereby certify that CONTRACTOR *\*(and his INDIAN / FOREIGN COLLABORATOR)* have supplied and erected all equipment in accordance with the CONTRACT and the same are found satisfactory units in preliminary checks. The plant/equipment has been taken over by the PURCHASER.

DATE OF TAKING OVER: .....

This certificate is issued without prejudice to final acceptance tests, warranty and other obligations of the CONTRACTOR as per the CONTRACT.

Remark: Minor defaults or deficiencies that do not hinder the start up and the actions to be taken by the CONTRACTOR to remedy the same along with corresponding deadlines are recorded by the PARTIES in the attached list.

SIGNATURE OF REPRESENTATIVE OF THE PURCHASER

DATE OF SIGNATURE: .....

*\* To be deleted if not applicale.*

FORMAT FOR FINAL ACCEPTANCE CERTIFICATE (FAC)

CONTRACT No. : ..... PURCHASER : ..... CONTRACTOR :

M/s .....

I, the undersigned hereby certify that CONTRACTOR *\*(and his INDIAN / FOREIGN COLLABORATOR)* have completed commissioning of the plant/equipment and the performance testing has shown that the plant/equipment has attained the minimum performance levels as per the CONTRACT.

This certificate is issued without prejudice to warranty and other obligations of the CONTRACTOR as per the CONTRACT.

Remark: Minor adjustments or additions or replacements or other pending obligations to be completed by the CONTRACTOR, which do not hinder the plant/equipment from being operated, and the deadlines for completing the same are recorded by the PARTIES in the attached list.

ACCEPTANCE DATE: .....

SIGNATURE OF THE PURCHASER

DATE OF SIGNATURE: .....

*\* To be deleted if not applicable.*

## FORMAT FOR OBTAINING PERMISSION FOR FOREIGN NATIONALS

*[for Visit to YIL Units or YIL Hqrs]*

|    |                                                                                                                                                                                                   |  |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 1  | Name & Sex                                                                                                                                                                                        |  |
| 2  | Nationality                                                                                                                                                                                       |  |
| 3  | Date of Birth                                                                                                                                                                                     |  |
| 4  | Name & Nationality of Parents                                                                                                                                                                     |  |
| 5  | Present Address                                                                                                                                                                                   |  |
| 6  | Permanent Address                                                                                                                                                                                 |  |
| 7  | Passport No & Date,<br>Place of issue,<br>Period of validity.                                                                                                                                     |  |
| 8  | Occupation                                                                                                                                                                                        |  |
| 9  | Whether previously in India? If so Date, Place &<br>Purpose of Previous Visit                                                                                                                     |  |
| 10 | a. Whether area to be visited is sensitive/ non-sensitive?<br>b. If any protective or sensitive area is to be visited the justification thereof.                                                  |  |
| 11 | a. Whether Foreigners are Visiting Ordnance Factories for their own work or for Govt/OFB work? (Please indicate either their own work/OFB/Govt work)<br>b. Purpose of visit. c. Duration of visit |  |

Encl: Copies of Passports of Foreign Nationals and Firm's letter.

EXECUTIVE DIRECTOR

ORDNANCE FACTORY, .....

Note: Under YIL's power, permission can be given for duration of less than three months at a time

## FORMATS FOR IRR CALCULATION

## METHOD-I

| FORM NO. 1A<br>(ASSUMPTIONS / OPERATING PARAMETER FORM)              |                                                                                          |                  |                   |            |    |    |    |    |    |    |    |    |     |
|----------------------------------------------------------------------|------------------------------------------------------------------------------------------|------------------|-------------------|------------|----|----|----|----|----|----|----|----|-----|
| Name of the Project / Proposal :                                     |                                                                                          |                  |                   |            |    |    |    |    |    |    |    |    |     |
| Name of the Factory Units : <span style="float: right;">Date:</span> |                                                                                          |                  |                   |            |    |    |    |    |    |    |    |    |     |
| Sl. No.                                                              | Cost Head                                                                                | Units            | Before Investment | Projection |    |    |    |    |    |    |    |    |     |
|                                                                      |                                                                                          |                  |                   | Y1         | Y2 | Y3 | Y4 | Y5 | Y6 | Y7 | Y8 | Y9 | Y10 |
| 1                                                                    | Manpower<br>a) Direct/Indirect (IEs)<br>b) Others                                        | Nos<br>Nos       |                   |            |    |    |    |    |    |    |    |    |     |
| 2                                                                    | Operating parameter relating to materials<br>a) Rejection %<br>b) Yield %<br>c) Rework % |                  |                   |            |    |    |    |    |    |    |    |    |     |
| 3                                                                    | Energy consumption a) Power cost b) Fuel cost                                            | ₹. In lakhs p.a. |                   |            |    |    |    |    |    |    |    |    |     |
| 4                                                                    | Consumables (please specify)                                                             | ₹. In lakhs p.a. |                   |            |    |    |    |    |    |    |    |    |     |
| 5                                                                    | Tools & Jigs (if not included in 4)                                                      | ₹. In lakhs p.a. |                   |            |    |    |    |    |    |    |    |    |     |
| 6                                                                    | Repairs & maintenances cost p.m.                                                         | ₹. In lakhs p.a. |                   |            |    |    |    |    |    |    |    |    |     |

|    |                                                                                           |
|----|-------------------------------------------------------------------------------------------|
| 1. | ITEM NO.                                                                                  |
| 2. | ORIGINATING DIVISION:                                                                     |
| 3. | PROPOSAL/SUBJECT IN BRIEF : Submission of Proposal for Financial Closure of Project ..... |
| 4. | BACKGROUND AND JUSTIFICATION:                                                             |

A) Project was sanctioned vide YIL letter No.....dated..... as per the following details:

|       | FE | RE | Total |
|-------|----|----|-------|
| P&M   |    |    |       |
| CW    |    |    |       |
| Total |    |    |       |

B) Capacities to be created were as below:

| Factories involved | Description of end products | Capacity to be established |
|--------------------|-----------------------------|----------------------------|
|                    |                             |                            |
|                    |                             |                            |

C) Revised Sanction/Revised Capacity, if any

D) PRESENT STATUS:

(a) The project was physically closed on..... vide YIL Memorandum No. .... dtd..... and YIL Decision vide U.O. No. .... dt .....

(b) Physical Achievement:

(i) P l a n t & Machinery All the Plant & Machinery under the project have been received, erected and commissioned to the tune of 100% and entered in Machinery Block Register.

(ii) Civil Works:

The scope of works under the project have been completed to the tune of 100% and taken in charge.

E) FINANCIAL ACHIEVEMENT

| Sanctioned Amount<br>(2) |    |       | Expenditure<br>booked till<br>date (2) |    |       | Liability (3) |    |       | Completion<br>cost (4) | Remarks if<br>any |
|--------------------------|----|-------|----------------------------------------|----|-------|---------------|----|-------|------------------------|-------------------|
| FE                       | RE | Total | FE                                     | RE | Total | FE            | RE | Total | (2) + (3)              |                   |
| P&M                      |    |       |                                        |    |       |               |    |       |                        |                   |
| CW                       |    |       |                                        |    |       |               |    |       |                        |                   |
| Total                    |    |       |                                        |    |       |               |    |       |                        |                   |
| Sanctioned Amount<br>(2) |    |       | Expenditure<br>booked till<br>date (2) |    |       | Liability (3) |    |       | Completion<br>cost (4) | Remarks if<br>any |

| FE    | RE | Total | FE | RE | Total | FE | RE | Total | (2) + (3) |  |
|-------|----|-------|----|----|-------|----|----|-------|-----------|--|
| P&M   |    |       |    |    |       |    |    |       |           |  |
| CW    |    |       |    |    |       |    |    |       |           |  |
| Total |    |       |    |    |       |    |    |       |           |  |

F) TIMES OVER RUN WITH REASONS FOR DELAY

G) COST OVER RUN WITH REASONS THERE OF (IF ANY) H) PRODUCTION

ACHIEVEMENT

| Factory Units | Description of end products | Capacity created | Capacity achieved till date | Remarks |
|---------------|-----------------------------|------------------|-----------------------------|---------|
|               |                             |                  |                             |         |
|               |                             |                  |                             |         |

VIEWS OF FINANCE DIVISION

8. POINTS REQUIRING ATTENTION/SANCTION OF YIL:

9. This issues with the approval of ...../

(PROJECT OFFICER)

For YIL

## ECS MANDATE FORM

Customer's option to receive payments through e-Payment (ECS/ EFT/ DIRECT CREDIT/ RTGS/ NEFT/ Other payment mechanism as approved by RBI.)

1. Customer's name: .....

2. Particulars of Bank Account –

|   |                                                                                |  |
|---|--------------------------------------------------------------------------------|--|
| a | Bank name                                                                      |  |
| b | Branch name                                                                    |  |
| c | Address                                                                        |  |
| d | Telephone numbers                                                              |  |
| e | IFSC code                                                                      |  |
| f | 9 Digit code number of Bank and Branch appearing on MICR cheque issued by Bank |  |
| g | Account Type (S.B. Account / Current Account or Cash)                          |  |
| h | Ledger number                                                                  |  |
| i | Ledger Folio number                                                            |  |
| j | Account number as appearing on Cheque Book                                     |  |

3. Please attach a blank cancelled cheque, or, photocopy of a cheque or front page of your savings bank passbook issued by your bank for verification of the above particulars.

4. Date of Effect: .....

"I, hereby, declare that the particulars given above are correct and complete. If the transaction is delayed or not effected at all for reasons of incomplete or incorrect information, I would not hold the user institution responsible. I have read the option invitation letter and agree to discharge the responsibility expected of me as a participant under scheme."

(.....)

Date -  
Customer

Signature of

Certified that the particulars furnished above are correct as per our records.

Date:

Bank's Stamp: (.....)

Signature of the Authorized Official from the Bank

**GENERAL FORMAT FOR FACTORY PFC MINUTES  
(PERFORMA-B2)**

Factory Units PFC meeting was held under the chairmanship of Executive Director, \_\_\_\_\_ on dt. \_\_\_\_\_. Following cases have been discussed and deliberated as below:

| <b>Sl. No.</b> | <b>Demand No.</b> | <b>Nomenclature</b> | <b>Quantity (Nos)</b> | <b>Value (₹. in Lakhs)</b> |
|----------------|-------------------|---------------------|-----------------------|----------------------------|
| 01.            | 01/CAPEX(RR)23-24 |                     |                       |                            |
| 02.            | 02/CAPEX(NC)23-24 |                     |                       |                            |
| 03.            | 03/CAPEX(RR)23-24 |                     |                       |                            |
| 04.            |                   |                     |                       |                            |
| 05.            |                   |                     |                       |                            |

**Fy/PFC deliberation and Decision:**

**DEMAND NO. 01/CAPEX(RR)23-24**

Introduction:

Requirement Justification:

Estimate Justification:

Financial Appraisal, if any:

The key highlights of Tender and its conditions:

|    |                            |   |                       |
|----|----------------------------|---|-----------------------|
| 1. | Justification for Purchase | : |                       |
| 2. | Quantity                   | : |                       |
| 3. | Estimated Cost             | : |                       |
| 4. | Mode of Tendering          | : | OTE / GTE / LTE / LPC |

|      |                                                                 |   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------|-----------------------------------------------------------------|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.1  | Justification                                                   |   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 5    | Platform for Procurement                                        |   | GeM / CPPP / Manual                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 5.1  | Justification                                                   |   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 6.   | Tender duration                                                 | : | 03 Weeks.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 7.   | Bid Validity                                                    | : | 180days                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 7.   | Clarification Time                                              | : | 07 Days.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|      | Justification                                                   |   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 8.   | EMD                                                             | : |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 9.   | PSD                                                             | : |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 10.  | Warranty Bond                                                   | : |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 11.  | Pre-Bid Conference                                              | : | Applicable / Not Applicable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 11.1 | Justification                                                   |   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 12.  | Integrity-pact                                                  | : | Applicable / Not Applicable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 13.  | MII                                                             | : | Purchase Preference / Reservation for Class-I                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 13.1 | Quantity Divisibility                                           |   | Divisible / Non-divisible                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 13.2 | Justification                                                   |   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 14.  | MSME                                                            | : | Purchase Preference / Reservation for Class-I                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 14.1 | Quantity Divisibility                                           |   | Divisible / Non-divisible                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 14.2 | Justification for divisibility                                  |   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 15.  | Exemption for turnover and experience for MSE and Startup firms | : | Applicable / Not Applicable                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 15.1 | Justification                                                   | : |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 16.  | Technical Capacity criteria                                     | : | In this regard the tenderer shall submit a detailed statement of similar plants/ machines built by him and the tenderer must have supplied similar plants/ machines in the past (i.e. maximum *05 years from date of publishing of tender and bidder must be presently in the business of manufacturing of similar plants/ machines). Bidder has to submit name and full address of the customers with order No., date of supply and performance report thereof. Due to constraint in GEM Website, Experience of 03 years and 80% past performance has been mentioned in bid document. Hence, bidder has to submit Experience and related documents along |

|      |                           |   |                                                                                                                                                                                                                   |
|------|---------------------------|---|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      |                           |   | with performance report from customers of last 05 years as per this clause.**<br><br>*Note : Factory Units may decide no. of years from 05 to 15 based on merit of case.<br><br>**Applicable for GeM Procurement. |
| 16.1 | Justification             | : | This is a general purpose machine , hence 05 years' experience is sufficient                                                                                                                                      |
| 17.  | Definition of similar P&M | : | Factory Units has to define similar P&M                                                                                                                                                                           |
| 18.  | Participation             | : |                                                                                                                                                                                                                   |
| 19.  | PDI                       | : | Applicable / Not Applicable                                                                                                                                                                                       |
| 20.  | Payment Terms             | : | 90-10% OR 80-20% OR 70-30% OR 100%                                                                                                                                                                                |
| 20.1 | Justification             |   |                                                                                                                                                                                                                   |
| 21.  | Delivery Period           | : | Factory Units has to specify Delivery Period for Delivery for Supply and E&C                                                                                                                                      |
| 21.1 | Justification             | : |                                                                                                                                                                                                                   |
| 22.  | Delivery premises         | : | F.O.R. / F.O.B.                                                                                                                                                                                                   |
| 23.  | Financial Capacity        | : |                                                                                                                                                                                                                   |
| 24.  | Reverse Auction           | : | Applicable / Not applicable                                                                                                                                                                                       |
| 24.1 | Justification             |   |                                                                                                                                                                                                                   |
| 25.  | Trial Components          | : | Applicable / Not Applicable                                                                                                                                                                                       |
| 26   | Miscellaneous             |   |                                                                                                                                                                                                                   |

Factory Units PFC Recommendation / Approval:

अनूप कुमार मंदिरात्ता  
Anoop Kumar Mendiratta



सचिव  
विधि और न्याय मंत्रालय  
भारत सरकार  
SECRETARY  
DEPARTMENT OF LEGAL AFFAIRS  
MINISTRY OF LAW & JUSTICE  
GOVERNMENT OF INDIA

No. 332619/338367/LS/2019

Dated : 28<sup>th</sup> February, 2020

Dear Secretary,

In a meeting of Committee of Secretaries (CoS) chaired by Cabinet Secretary on 23.01.2020, the issues relating to instruction to all Government Ministries/Departments for the effective implementation of the existing Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD) and extension of its applicability to all the Government Departments/Ministries and CPSEs for resolution of disputes, other than taxation disputes were discussed. The CoS *inter-alia* recommended that the existing AMRCD mechanism be made applicable to disputes other than those related to taxation, and extended to all Ministries/Departments.

2. It has been the constant efforts of this Department to reduce Government litigation in courts so that valuable court time is spent in resolving other pending cases. It has also been endeavour of the Government to see that disputes between various Ministries/Departments/CPSEs/Boards/Authorities under the administrative control of the various Ministries/Departments do not go to the Court. In that direction, presently AMRCD is functioning through the Department of Public Enterprises which deals with the dispute resolution of CPSEs but excludes its applicability to the disputes relating to Railways, Income Tax, Customs and Excise Departments. Similarly in-house mechanism is working in some other Departments of the Government. Such mechanism includes Arbitration and other Alternate Dispute Resolutions Mechanism. In spite of these instructions, Departments/CPSEs still resort to court proceedings for settlement of disputes either with the Government Departments or with other PSUs.

3. To give effect to the decision taken at the CoS meeting as per minutes dated 27.01.2020, all the Ministries/Departments are requested to resolve the *inter-se* disputes of various Ministries/Departments/CPSEs other than those related to taxation, through existing AMRCD mechanism. The Ministries/Departments are also requested that when any such dispute is referred for resolution through AMRCD mechanism, a copy of the same shall also be endorsed to this Department and further updates shall be intimated immediately. Ministries/Departments shall accordingly issue necessary instructions in this regard, to all CPSEs/Boards/Authorities under their administrative control. Further, the timelines in the laid down process of AMRCD be also adhered to and complied with.

Yours faithfully,

Yours sincerely,

(Anoop Kumar Mendiratta)

All Secretaries to the Government of India

Copy to  
Shri Rajiv Gauba, Cabinet Secretary, Rashtrapati Bhawan, New Delhi

वित्त एवं राजस्व विभाग, राजस्व प्रभाग, राई रोड (देही) 110 001  
4th Floor, Rajiv Bhawan, C-1, R-1 Road, New Delhi-110 001

**No. 334774/DoLA/AMRD/2019**

**Government of India  
Ministry of Law & Justice  
Department of Legal Affairs  
\*\*\*\*\***

**Shastri Bhawan,  
Rajendra Prasad Road, New Delhi-110001.  
Dated the 31<sup>st</sup> March, 2020**

**OFFICE MEMORANDUM**

**Subject: Settlement of disputes other than taxation between Government Ministries / Departments *inter se* and between Government Ministries / Departments and other Ministries / Departments / Organisation(s) – Administrative Mechanism for Resolution of Disputes (AMRD).**

Instructions have been issued to Ministries / Departments of the Governments of India, in the past to avoid inter-departmental litigations in any Court of law, including by all CPSEs / Boards / Authorities, etc., under their Administrative control and to resolve the same amicably or through Arbitration.

2. In order to provide for an institutionalized mechanism for resolution of such disputes, Secretary, Department of Legal Affairs has *vide* DO letter No. 332619/338367/LS/2019 dt. 28<sup>th</sup> February, 2020 (copy enclosed) advised all Secretaries to the Government of India that the existing Administrative Mechanism for Resolution of Commercial Disputes (AMRCD), currently applicable to commercial disputes between CPSEs *inter se* and also between CPSEs and Government Departments / Organisations, shall stand extended for resolution of disputes other than taxation, between Ministries / Departments *inter se* and between Ministries / Departments and other Government Ministries / Departments / Subordinate / Attached offices / Autonomous and Statutory Bodies under their administrative supervision/control. Details of the new mechanism, namely, Administrative Mechanism for Resolution of Disputes (AMRD), are hereby outlined for guidance.

**3. Applicability**

AMRD shall apply to any/all dispute(s), other than those related to taxation, between Central Government Ministries / Departments *inter se* and between Central Government Ministries / Departments and other Ministries /

Departments / Organisation(s) / Subordinate / Attached Offices / Autonomous and Statutory Bodies, etc., under their administrative supervision / control.

#### **4. Structure**

(i) Disputes, other than taxation, shall be referred at the First level (tier), to a Committee comprising of Secretaries of the Administrative Ministries / Departments to which the disputing Parties belong and Secretary, D/o Legal Affairs;

(ii) The Joint Secretaries (JSs) / Financial Advisors (FAs) (for commercial disputes) of the two concerned Administrative Ministries / Departments may represent the issues, related to the dispute in question, before the Committee.

(iii) In case the two disputing parties belong to the same Ministry / Department, the above Committee may comprise of the Secretary of the administrative Ministry / Department concerned and Secretary, D/o Legal Affairs. Secretary, Department of Public Enterprises may be invited in case the dispute pertains to a CPSE.

(iv) The resolution of such disputes shall be by unanimous decision of the Committee.

(v) In case the dispute remains unresolved after consideration by the Committee, it will be referred at the Second level (tier), to the Cabinet Secretary, whose decision will be final and binding on all concerned.

#### **5. Procedure**

(i) At the First level (tier), the claiming party (Claimant) may be represented, before the Committee, by the JS / FA of the administrative Ministry / Department. The Secretary of administrative Ministry / Department of claiming party will inform in writing the details of the dispute, to the Secretary of administrative Ministry / Department of responding party (Respondent) and Secretary, D/o Legal Affairs and request for convening a meeting. Thereafter meetings may be held to examine the facts and resolve the dispute on merit. The JSs / FAs of the concerned administrative Ministries / Departments will represent the issues, related to the dispute in question, before the above Committee. After the Committee arrives at a decision, it shall be signed by the members of the Committee. A copy of the decision will be communicated by the Secretary of the administrative Ministry / Department of the claiming party to members of the Committee and to each party to the dispute for implementation.

(ii) The Committee of Secretaries at the First level (tier) shall finalise its decision within 3 months after having received the reference/notice in writing regarding the dispute from the concerned aggrieved party.

**6. Appeal**

Any party aggrieved with the decision of the Committee at the First level (tier) may prefer an appeal before the Cabinet Secretary at the Second level (tier) within 15 days from the date of receipt of decision of the Committee at the First level, whose decision will be final and binding on all concerned.

7. All administrative Ministries / Departments are requested to bring these guidelines to the notice of all Authorities / Boards / Subordinate / Attached Offices / Autonomous and Statutory Bodies, etc., under their administrative supervision/control for strict compliance.

8. This issues with the approval of the Competent Authority.



**(DR. Rajiv Mani)**

Joint Secretary & Legal Adviser

Tel. 23384836

Encl. : Copy of the DO letter No. 332619/338367/LS/2019 dated 28/02/2020 issued by Sh. Anoop Kumar Mendiratta, Secretary, Department of Legal Affairs, Ministry of Law & Justice.

To,

Secretary of all Ministries / Departments of the Government of India.

**Copy forwarded for kind information to:**

- (i) The Prime Minister's Office, South Block, New Delhi.
- (ii) The Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
- (iii) PS to the Hon'ble Minister of Law & Justice, Shastri Bhawan, New Delhi.
- (iv) Secretary D/o Legal Affairs, Shastri Bhawan, New Delhi.
- (v) Addl. Secretary(Judicial), D/o Legal Affairs, Shastri Bhawan, New Delhi.



**(DR. Rajiv Mani)**

Joint Secretary & Legal Adviser

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