

**RITES Ltd. /Contract Policy Cell/Gurugram
E-Tendering Document for works Feb 2023**

Correction Slip No. 3

(1) Section 1 -Notice Inviting Tender and Instruction to Tenderers

1. Clause 11.2: INTEGRITY PACT

In the existing clause 11.2 (i) seventh line, 'Lead Member of JV' may be deleted and replaced with the 'Each member of JV/Each Partner of JV'

2. Clause 11.2A: The para 'Complaints arising from tendering process shall be, as far as possible, referred to both the IEMs for their joint investigation and recommendation' may be deleted and replaced with the following:

Complaints arising from tendering process shall be, as far as possible, referred to both the IEMs for their joint investigation and recommendation or to the sole IEM as the case may be. In case the full panel is not available due to some unavoidable reasons, the available IEM(s) will conduct examination of the complaints. Consent of the IEM(s), who may not be available, shall be taken on record.

(2) ANNEXURE II (DRAFT MEMORANDUM OF UNDERSTANDING EXECUTED BY MEMBERS OF THE JOINT VENTURE) to Section 1 (Notice Inviting Tender and Instruction to Tenderers):

Sixth para in Notes to bidders, which reads as " We affirm that the -----violation by the Joint Venture." below the table may be deleted and replaced with the following:

We affirm that in suppression of anything contrary contained herein before, the Integrity Pact with the Employer in the format at Annexure VI/2& VI/3 (if applicable) shall be duly signed by authorized signatory of each member/partner of the Joint Venture and will be duly witnessed. All Members including the Lead Member shall comply with the provisions in the Integrity Pact and any violation of the Integrity Pact by any Member shall be construed as violation by the Joint Venture.

(3) ANNEXURE VI/1, VI/2 and VI/3 (INTEGRITY PACT) to Section 1 (Notice Inviting Tender and Instruction to Tenderers) may be deleted and replaced with the following:

To

All Bidders for the Subject Tender,

.....

Subject: NIT No.....for the work of
.....(Fill in Name of the Work)

Dear Sir,

It is hereby declared that RITES LTD., acting for and on behalf of and as an Agent/Power of Attorney Holder of(The Principal/Employer) is committed to follow the principles of transparency, equity and competitiveness in public procurement.

The subject Notice Inviting Tender (NIT) is an invitation to offer made on the condition that the Bidder will sign the integrity Agreement, which is an integral part of tender/bid documents, failing which the tenderer / bidder will stand disqualified from the tendering process and the bid of the bidder would be summarily rejected.

This declaration shall form part and parcel of the Integrity Agreement and signing of the same shall be deemed as acceptance and signing of the Integrity Agreement on behalf of the RITES Ltd..

Yours faithfully

RITES Ltd

(Name, Signature and Designation of the Authority *competent to sign contract agreement on behalf of RITES*)

for and on behalf of and as an

Agent/Power of Attorney Holder of

.....

Note- The RITES authority competent to sign the contract agreement, will sign this Annexure before uploading the tender.

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INTEGRITY PACT

To,

.....
.....

(Fill the Designation and Address of the Authority competent to sign contract agreement on behalf of RITES)

Name of work:.....(Fill in Name of the Work)

Dear Sir,

I/We acknowledge that RITES Ltd. is committed to follow the principles thereof as enumerated in the Integrity Agreement enclosed with the tender/bid document.

I/We agree that the Notice Inviting Tender (NIT) is an invitation to offer made on the condition that I/We will sign the enclosed integrity Agreement, which is an integral part of tender documents, failing which I/We will stand disqualified from the tendering process. I/We acknowledge that SUBMISSION OF THE BID SHALL BE REGARDED AS AN UNCONDITIONAL AND ABSOLUTE ACCEPTANCE of this condition of the NIT.

I/We confirm acceptance and compliance with the Integrity Agreement in letter and spirit and further agree that execution of the said Integrity Agreement shall be separate and distinct from the main contract, which will come into existence when tender/bid is finally accepted by RITES Ltd. and/or Client(*Strike out whichever is not applicable*).I/We acknowledge and accept the duration of the Integrity Agreement, which shall be in the line with Section 9 of the enclosed Integrity Agreement at Annexure-VI/3.

I/We acknowledge that in the event of my/our failure to sign and accept the Integrity Agreement, while submitting the tender/bid, RITES Ltd. and/or Client (*Strike out whichever is not applicable*), shall have unqualified, absolute and unfettered right to disqualify the tenderer / bidder and reject the tender/bid in accordance with terms and conditions of the tender/bid.

Yours faithfully
(Duly authorized signatory of the Bidder)
(Official Seal)

Place:.....

Date:

Witness 1:

(Name & Address).....
.....

[Handwritten Signature]
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Witness 2

(Name & Address).....
.....

Date:

Note-1 The bidder will download this document and affix his signatures and upload such signed document, as explained in the tender document under para 11.2. In case of Failure to submit the Integrity Pact duly signed and witnessed, along with the Bid, the Bid is likely to be rejected.

Note-2 In case of a Joint Venture, authorized signatory of each member/partner will submit this document duly signed and witnessed along with the Bid/Tender. All authorized signatories of the members/partners of JV, can either sign on one document jointly or can sign on separate documents. In case of Failure to submit the Integrity Pact duly signed and witnessed, along with the Bid, the Bid is likely to be rejected.

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INTEGRITY PACT

Between

RITES LTD. acting for and on behalf of and as an Agent/Power of Attorney Holder of
.....

(Name of Principal/Employer)

(Hereinafter called the "Principal/Employer" and which expression shall unless repugnant to the meaning or context hereof including its successors and permitted assigns)

AND.....

(Name of the Bidder)

(Hereinafter referred to as "The Bidder/Contractor" and which expression shall unless repugnant to the meaning or context hereof include its successors and permitted assigns)

Preamble

The Principal/Employer intends to award, under laid down organizational procedures, contract/s for The Principal/Employer values full compliance with all relevant laws and regulations, and economic use of resources, and of fairness and transparency in his relations with the Bidder/s and/or contractor/s.

In order to achieve these goals, the Principal/Employer will appoint Independent External Monitor (s) (IEMs) who will monitor the Tender process and execution of the contract for compliance with the principles mentioned above.

Section 1 – Commitments of the Principal/Employer

(1) The Principal/ Employer commits himself to take all measures necessary to prevent corruption and to observe the following principles:-

1. No employee of the Principal/Employer , personally or through family members, will in connection with the tender or for the execution of the contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
2. The Principal/ Employer will, during the tender process, treat all Bidders with equity and reason. The Principal/Employer will in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder confidential/additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.
3. The Principal/Employer will exclude from the process all known prejudiced persons.

(2) If the Principal/Employer obtains information on the conduct of any of his employees which is a criminal offence under the IPC (Indian Penal Code)/PC (Prevention of Corruption) Act, or if there be a substantive suspicion in this regard,

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the Principal/Employer will inform its Chief Vigilance Officer and in addition can initiate disciplinary action.

Section 2 – Commitments of the Bidder/Contractor

- (1) The Bidder/Contractor commits himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
 1. The Bidder/ Contractor will not directly or through any other person or firm, offer, promise or give to any of the Principal/Employer 's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
 2. The Bidder/Contractor will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions, to restrict competitiveness or to introduce cartelization in the bidding process.
 3. The Bidder/Contractor will not commit any offence under the relevant IPC/PC Act; further the Bidder/Contractor will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal/Employer as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 4. The Bidder/Contractor will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
 5. Foreign bidders shall disclose the name and address of agents and representatives in India .
 6. Indian Bidders shall disclose their foreign principals or associates.
- (2) The Bidder/ Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 – Disqualification from tender process and exclusion from future contracts

If the Bidder/Contractor, before award or during execution has committed a transgression through a violation of Section 2 above, or in any other form such as to put his reliability or credibility in question, the Principal/Employer is entitled to disqualify the Bidder/Contractor from the tender process or terminate/ determine the Contract, if already executed, as per clause 3 of clauses of contract or take action as per the procedure mentioned in the "Guidelines on Banning of Business Dealings" placed at Annexure- VIA".

Section 4 – Compensation for Damages

- (1) If the Principal/Employer has disqualified in terms of the provisions in Section 3, the Bidder/Contractor from the tender process prior to the award of contract, the Principal/Employer is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
- (2) If the Principal/Employer has terminated the contract during execution in terms of the provisions under Section 3, the Principal/Employer shall be entitled to demand and recover from the Contractor the damages equivalent to Earnest Money Deposit, Security Deposits already recovered and Performance Guarantee which shall be absolutely at the disposal of the Principal/Employer.

Section - 5 Previous transgression

- (1) Bidder/Contractor to disclose any transgressions with any other public/government organization that may impinge on the anti-corruption principle. The date of such transgression, for the purpose of disclosure by the bidders in this regard, would be the date on which cognizance of the said transgression was taken by the competent authority. The period for which such transgression(s) is/are to be reported by the bidders shall be the last three years to be reckoned from date of bid submission. The transgression(s), for which cognizance was taken even before the said period of three years, but are pending conclusion, shall also be reported by the bidders.
- (2) If the Bidder/Contractor makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in "Guidelines on Banning of Business Dealings".

Section - 6 Equal treatment of all Bidders/Contractors/Sub-Contractors

- (1) The Bidder/Contractor undertakes to demand from all partners/sub-contractors (if permitted under the conditions/clauses of the contract) a commitment to act in conformity with this Integrity Pact and to submit it to the Principal/Employer before signing the contract.
- (2) The Bidder/Contractor confirms that any violation by any of his partners/sub-contractors to act in conformity with the provisions of this Integrity Pact can be construed as a violation by the Bidder/Contractor himself, leading to possible Termination of Contract in terms of Section 4.
- (3) **The Principal/Employer will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.**

Section 7- Criminal charges against violating Bidders/Contractors/Sub-Contractors

If the Principal/Employer obtains knowledge of conduct of a Bidder, Contractor or Partners/Sub- Contractor, or of an employee or a representative or an associate of a Bidder, Contractor or Sub- Contractor, which constitutes corruption, or if the Principal/Employer has substantive suspicion in this regard, the Principal/Employer will inform the same to its Chief Vigilance Officer.

Section -8 Independent External Monitor/Monitors

- (1) The Principal/Employer shall appoint competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement on receipt of any complaint by them from the bidder(s). The IEMs shall examine all the representations/grievances/complaints received by them from the bidders or their authorized representative related to any discrimination on account of lack of fair play in modes of procurement and bidding systems, tendering method, eligibility conditions, bid evaluation criteria, commercial terms & conditions, choice of technology/specifications etc.

For ensuring the desired transparency and objectivity in dealing with the complaints arising out of the tendering process, the matter should be examined as far as possible by the full panel of IEMs jointly or by the sole IEM as the case may be, who would look into the records, conduct an examination, and submit their joint recommendations to the Management. In case the full panel is not available due to some unavoidable reasons, the available IEM(s) will conduct examination of the complaints. Consent of the IEM(s), who may not be available, shall be taken on record.

- (2) The Monitor is not subject to instructions by the representatives of the parties and will perform his functions neutrally and independently. He will report to the CMD/RITES Ltd.
- (3) The Bidder/Contractor accepts that the Monitor has the right of access without restriction to all Project documentation of the Principal/Employer including that provided by the Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Partners/Sub-Contractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder/Contractor/Partners/Sub-Contractor with confidentiality.
- (4) The Principal/Employer will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal/Employer and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
- (5) As soon as the Monitor notices or has reason to believe that violation of the agreement by the Principal/Employer or the Bidder/Contractor, has taken place, he will request the Party concerned to discontinue or take corrective action, or to take any other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner or refrain from action or tolerate action. The role of the Monitor will be advisory and his advice will be non-binding on the Organization. However, as IEMs are invariably persons with rich experience who have retired as senior functionaries of the government, their advice would help in proper implementation of the IP.

- (6) The Monitor will submit a written report to the CMD/RITES Ltd. at the earliest from the date of reference or intimation to him by the Principal/Employer and should the occasion arise, submit proposal for correcting problematic situations.
- (7) The word Monitor would include both singular and plural.

Section – 9 Pact Duration

This pact begins when both parties have legally signed it. It expires for the Contractor when his Security Deposit and Performance Guarantee are released and for all other Tenderers six months after the Contract has been awarded.

If any claim is made/lodged during this time the same shall be binding and continue to be valid despite the lapse of this pact specified above, unless it is discharged/determined by CMD/RITES Ltd.

Section 10 Other Provisions

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction shall be as stated in the Contract Agreement.
- (2) Changes and supplements as well as termination notices need to be made in writing.
- (3) If the Bidder/Contractor is a Joint Venture, this agreement must be signed by legally authorized signatory of each Member/Partner of JV. The Memorandum of Understanding /Joint Venture Agreement will incorporate a provision to the effect that all Members of the Joint Venture will comply with the provisions in the Integrity Pact. Any violation of Section 2 above by any of the Partners/Members will be construed as a violation by the Joint Venture leading to possible Termination of Contract in terms of Section 3.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- (5) A person signing the IP shall not approach courts while representing the matters to IEMs and he/she will await their decision in the matter.
- (6) In case of sub-contracting, the principal contractor shall take the responsibility of the adoption of IP by the sub-contractor. It is to be ensured that all sub-contractors also sign the IP. In case of sub-contractors, the IP will be a tri-partite arrangement to be signed by the Organization, the contractor, and the sub-contractor.
- (7) In the event of any dispute between Principal/ Employer and the contractor, in case, both the parties are agreeable, they may try to settle dispute through mediation before the panel of IEMs in a time bound manner. However, not more than five meetings shall be held for a particular dispute resolution. The fees/expenses on dispute resolution shall be equally shared by both the parties.

In case, the dispute remains unresolved even after mediation by the panel of IEMs, the Principal/ Employer and contractor may take further action as per the terms & conditions of the contract.

- (8) The Bidder/Contractor undertakes (as part of Fall Clause, if applicable as per contract) that they have not and will not sell the same material/equipment at prices

lower than the bid price.

RITES Ltd.
Agent / Power of Attorney Holder

.....
.....

(For & on behalf of the Principal/Employer)
(Official Seal)

(For the bidder/Contractor)
(Official Seal)

Place:.....

Date:

Witness 1:

(Name & Address).....
.....


Witness 2

(Name & Address).....
.....

- Note- 1 RITES authority competent to sign the contract agreement, will sign this Annexure before uploading the tender. The bidder will download this pre-signed document and affix his signatures and those of witnesses and upload such signed document, as explained in the tender document under para 11.2. In case of Failure to submit the Integrity Pact duly signed and witnessed, along with the Bid, the Bid is likely to be rejected.*
- 2 In case of a Joint Venture, authorized signatory of each member/partner will sign the Integrity Pact and submit the same with the Bid/Tender. All authorized signatories of the members/partners of JV, can either sign on one document jointly or can sign on separate documents. In case of Failure to submit the Integrity Pact duly signed and witnessed, along with the Bid, the Bid is likely to be rejected.*

No. RITES/CPC/Correction Slip No. 3 (E-Tendering Document for Works)
Date: 11.08.2023

The above Correction Slip No. 3 to RITES E-Tendering Document for Works, February-2023 is issued with the approval of the competent authority.


(Pawan Chowdhry)
ED/B&A and Head/CPC

Copy to:

1. Secy. to CMD/DP/DT/DF for kind information please.
2. CVO for kind information please.
3. All Country Heads, Vertical Heads, Regional Heads & PU/SUB-Unit/RIO Heads
4. AGM/IT for getting uploaded on RITES website under Tenders → Standard Tender Document & GCC for Works → Standard E-Tender Document for Works Feb-23 (Correction slip No. 3) and on RITES ESS portal/ CPC Documents Tab