

# MISHRA DHATU NIGAM LIMITED

A Govt. of India Enterprise

P.O. Kanchanbagh, Hyderabad – 500058, India

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Website: [www.midhani.com](http://www.midhani.com)

**Tender Notice No:** MDN/PUR/0471015/RM/ADVT/059/2017-18

Date: 05<sup>th</sup> June 2017

Issue of Tender Documents up to : 03<sup>rd</sup> July 2017 @ 17.00 Hrs.

Receipt of Tender on or before : 04<sup>th</sup> July 2017 @ 10:30 Hrs.

Opening of Tender Date : 04<sup>th</sup> July 2017 @ 11:00 Hrs.

Supply of “**Utility Nickel**” as per MIDHANI Specification

## List of Tender documents

		<u>Pages</u>
1. Technical Specification	- Annexure-I	02
2. Procedure to be followed	- Annexure-II	01
3. General Terms & Conditions for Indigenous Sources	- Annexure-III	05
4. General Terms & Conditions for Import Offers	- Annexure-IV	05
5. Bank Guarantee format for Earnest Money Deposit (EMD)	- Annexure-V	02
6. Bank Guarantee for Security Deposit (SD)	- Annexure-VI	02
7. Integrity Pact	- Annexure-VII	06

**NOTE: Any CORRIGENDUM / CHANGE will be uploaded on MIDHANI website.**

**TECHNICAL SPECIFICATION OF UTILITY NICKEL****COMPOSITION:**

Ni: 97% min,      Co= 1.4% max,      Fe=0.7% max,      Cu=0.4% max,  
 C=0.2% max,      S=0.1% max,      Si= 0.1% max,      P= 0.005% max

**Size: 3-80 mm shots**

**Total Quantity –20 MT**

**Shipment Schedule –**

- 1) For Indigenous supply : 20 MT within 60 days from the date of Purchase Order.
- 2) For FOB (import) supply: 20 MT within 30 days from the date of Purchase Order.

**Acceptance Criteria:** As per QA document. (Chemical composition as per QA document shall be tested by QC at MIDHANI)

**Mode of Shipment:** By Sea for Import offers with place of delivery as ICD, Hyderabad (Port of Loading shall be clearly mentioned for FOB supply in techno-commercial offer)

All Indian Bidders are requested to Submit the “ Tender Fee, EMD & Security Deposit ” online through the below Link: <http://ebs.in/midhani/public/> or visit Midhani website [www.midhani.com](http://www.midhani.com) > Purchase > Tenders > **TENDER FEE, EMD FEE(EARNEST MONEY DEPOSIT) AND SECURITY DEPOSIT - ONLINE PAYMENT**

**Tender Fee (Non-Refundable)** – Rs 1000/- or USD 20/- in the form of DD through scheduled bank payable at Hyderabad or through RTGS details given below:  
 However, proof and details of online payment to be enclosed along with Techno-Commercial bid.

**EMD** – All bidders shall submit an EMD amount of Rs 2, 00,000/- or USD 3150/-

If EMD not found enclosed along with Techno-Commercial bid, such offers are liable for rejection. The EMD of unsuccessful tenderer will be returned after finalization of the tender.

**In case of EMD and tender fee payment through on-line, MIDHANI Bank details are:**

**Name of the Firm** : M/s. Mishra Dhatu Nigam Limited  
**PAN No.** : AABCM6345A  
**Bank Name** : HDFC Bank Ltd.  
**Branch Address** : Lakdikapul Branch, Hyderabad.  
**Account No.** : 00210330000440.  
**FSC Code** : HDFC0000021  
**MICR Code** : 500240002

**SWIFT Code** : HDFCINBBHYD  
**Type** : Current account.

Proof and details of online payment to be enclosed along with Techno-Commercial Bid.

**Security Deposit** - The successful tenderer shall be required to deposit Security Deposit of 10% value of contract within two weeks of the acceptance of the tender/ placement of Purchase Order, in the form of Bank Guarantee or payment through online with proof thereof.

Even in the case of EMD exemption for eligible parties, Security Deposit to be submitted if party emerges as L1.

Security Deposit shall be refundable after material is received and accepted.

In case of Bank Guarantee submitted as per format enclosed at Annexure – V & VI to tender document,

- i. In Indian Currency - from a Nationalized Bank or Scheduled Bank encashable in India.
- ii. In Foreign Currency - from SBI, Frankfurt/ SBI, New York / any Nationalized Bank or Scheduled Bank encashable in India.
- iii. EMD Bank guarantee shall be valid for a period of 90 days.
- iv. Security Deposit Bank guarantee shall be valid till material is received and accepted at Midhani.

**Note:**

1. Tenderer must furnish typical chemical composition of all the above elements in material along with offer.
2. Test certificate indicating all the above elements to be submitted along with the supply.
3. Incomplete offer will not be considered.
4. Packing: 250Kg/500 Kg packed in sealed steel drum.
5. Party should submit the manufacturer TC along with the supply.
6. Port of Loading shall be clearly mentioned in techno-commercial offer for FOB supply.
7. Place of delivery shall be ICD, Hyderabad for import shipment.
8. Custom duty tariff code shall be mentioned in techno-commercial bid for import offer.

for Mishra Dhatu Nigam Limited

(K. Aravind Kumar)  
Dy. Manager (Purchase)

**PROCEDURE TO BE FOLLOWED FOR SUBMISSION OF TENDER:**

**ENVELOPE NO.1:**

PART - I “TECHNO-COMMERCIAL BID” ALONG WITH EMD  
TENDER No: MDN/PUR/0471015/RM/ADVT/059/2017-18  
DATE: 05<sup>TH</sup> JUNE 2017 , DUE DATE: 04<sup>TH</sup> JULY 2017

To  
THE DY. GENERAL MANAGER (PURCHASE)  
MIDHANI, HYDERABAD - 500 058.

NAME OF THE TENDERER:

**ENVELOPE NO.2:**

PART - II “PRICE BID”  
TENDER No: MDN/PUR/0471015/RM/ADVT/059/2017-18  
DATE: 05<sup>TH</sup> JUNE 2017

To  
THE DY. GENERAL MANAGER (PURCHASE)  
MIDHANI, HYDERABAD - 500 058.

NAME OF THE TENDERER:

PLEASE PUT ALL THE TWO ENVELOPES IN A BIGGER SIZE ENVELOPE:

**ENVELOPE NO.3**

TENDER No: MDN/PUR/0471015/RM/ADVT/059/2017-18  
DATE: 05<sup>TH</sup> JUNE 2017 , DUE DATE: 04<sup>TH</sup> JULY 2017

CONTENTS:

A) TECHNO-COMMERCIAL BID ALONG WITH EMD  
B) PRICE BID

To  
THE DY. GENERAL MANAGER (PURCHASE)  
MISHRA DHATU NIGAM LIMITED  
PO: KANCHANBAGH,  
HYDERABAD - 500 058. INDIA

NAME OF THE TENDERER:

**GENERAL TERMS AND CONDITIONS FOR INDEGENOUS SOURCES**

1. Any Order resulting from this invitation to tender shall be governed by our General Terms and Conditions of Contract and the supplier quoting against this enquiry Shall be deemed / to have read and understood the same.
2. Where counter terms and conditions have been offered by the Tenderer, the purchaser shall not be governed by these unless specific acceptances have been given in writing in the order by the Purchaser.
3. The offer should be complete in all respects. Full Particulars and descriptive literature and drawing should be forwarded along with the quotation. The makes of the items offered should be clearly specified. Materials should be offered strictly conforming to our specifications. The deviations if any should be clearly indicated in the quotation. Test Certificates must be produced, wherever required. Material conforming to I.S. will be preferred.
4. **PRICES**  
Price Basis: FOR Midhani, Hyderabad basis.  
The Prices must be per unit shown inclusive of packing, forwarding insurance, Octroi duty and delivery charges and should be on FOR destination basis, Offers from local suppliers should be for free delivery at our Stores.
5. **TAXES AND DUTIES:**  
The Tenderer shall indicate their Central & State Sales Tax Registration No., Tin No., VAT No. & date in the quotation.
  - i) If Excise duty or any other charges are payable by the Purchaser, the same must be specifically stated in the offer and payment of such Excise Duty and other duties shall be allowed as applicable at sale point on the production of documentary evidence. The Contractor has to furnish transporters copy of Invoice along with supplies for availing Cenvat credit.
  - ii) SALES TAX: Sales Tax will be paid by the Purchaser at the sale point if legally leviable at the rate ruling on the date of supply. The percentage of Sales Tax applicable should be indicated. Central Sales Tax will be payable at concessional rates against "C" form on materials covered under Sales Tax Registration.
6. **DESCRIPTION & SPECIFICATION:**  
The description and specification offered in the offer will be binding on the tenderer and no alteration thereof will be permitted.
7. **AUTHORITY TO SUBMIT TENDER:**  
The signatory to the tender will be deemed to have the authority to submit the tender. The tender will be binding on the tenderer and no alternation will be permitted.
8. **TERMS OF PAYMENT:**  
Within 30 days after receipt and acceptance of material at MIDHANI

9. **TO RECOVER LIQUIDATED DAMAGES:**  
In the event of unsatisfactory, delayed or non supply of materials, the supplier shall be liable to pay by way of liquidated damages at the rate of 1% of the total contract prices per week or part there of subject to a maximum 10% of the contract price without prejudice to the right of the purchaser to take any other action. The amount shall also be recoverable from any other contract on account of the supplier.
10. **RISK PURCHASE:**  
The supply of all items must be completed satisfactorily and within the specified period in the order falling which the Purchaser reserves the right to purchase stores from other sources at the supplier's cost and risk.
11. **PACKING:**  
THE MATERIAL SHOULD BE SECURELY PACKED AND PROPERLY MARKED TO AVOID LOSS OR DAMAGE IN TRANSIT BY RAIL / ROAD.
12. **VALIDITY:**  
THE OFFER SHOULD BE VALID FOR A MINIMUM PERIOD OF 90 DAYS FROM THE OPENING OF QUOTATION.
13. **RIGHT OF ACCEPTANCE:**  
THE PURCHASER DOES NOT BIND HIMSELF TO ACCEPT THE LOWEST OR ANY OF OTHER TENDER AND RESERVES THE RIGHT OF ACCEPTANCE THE WHOLE OR ANY PART OF THE TENDER OR PORTION OF THE QUANTITY OFFERED.
14. **IMPORTANT NOTE:**  
- EITHER THE AUTHORIZED AGENT ON BEHALF OF THE MANUFACTURER OR THE MANUFACTURER DIRECTLY CAN BID IN THE TENDER BUT NOT BOTH.  
- ONE AGENT SHALL NOT QUOTE FOR TWO MANUFACTURERS.
15. **ARBITRATION:**  
Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning and operation or effect of this Contract or the breach thereof shall be settled by Arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the parties.
16. **JURISDICTION:**  
All questions, disputes or differences arising under, out of or in connection with the contract shall be subject to the exclusive jurisdiction of court within local limits of Hyderabad, India.
17. **ADDENDA TO TENDER DOCUMENTS:**  
The Purchaser reserves the rights to issue addenda to the tender documents to clarify, modify, supplement or delete any of the condition, clauses or items stated in the tender documents issued with this Invitation to Tender. Each addendum issued will be uploaded on MIDHANI website.

18. **QUERIES / CLARIFICATIONS:**

All commercial queries shall be sent to Mr. K Aravind Kumar (Dy. Manager, Purchase) mail: karavind@midhani.com

All technical queries shall be sent to Mr. S. Saha (Mgr, MPC), mail: ssaha@midhani.com

19. **NO CLAIM OR COMPENSATION FOR SUBMISSION OF TENDER:**

The tenderers whose tenders are not accepted shall not be entitled to claim any costs, charges and expenses of the tender, incidental to or incurred by them, through or in connection with their submission of tenders even though the Purchaser may elect to withdraw the invitation to tender.

20. **LOWEST TENDER NOT NECESSARY TO BE ACCEPTED:**

The Tenderers whose tenders are not accepted shall not be entitled to claim any costs, charges and expenses of the tender, incidental to / or incurred by them, through or in connection with their submission of tenders, even though the Purchaser may elect to withdraw the Invitation to Tender.

21. **BANKRUPTCY ETC.:**

If the Contractor shall become bankrupt or insolvent or cause or suffer any receiver to be appointed of his business or any asset thereof or compound with his creditors, or being a corporation commence to be wound up, or carry on its business under a Receiver for the benefits of its creditors or any of them, the Purchaser shall be at liberty:

To terminate the contract forthwith upon coming to know the happening of any such event as aforesaid by notice in writing to the Contractor or to the receiver / liquidator

OR

To give such receiver, liquidator or other person the option of carrying out the contract subject to his providing guarantee up to an amount to be agreed for the due and faithful performance of the Contract.

22. **PRICE NEGOTIATIONS:**

Price negotiations as such shall not be held, except in the case of negotiations with the lowest tenderer and accordingly, the tenderers shall have to submit their best commercial bids.

23. **SUBMISSION OF TENDER:**

TENDERS SHALL BE SENT BY REGISTERED POST OR PUT IN PERSONALLY IN THE SEALED TENDER BOX LOCATED AT THE CORPORATE SECURITY GATE OF MIDHANI. THE TENDER COVER SHALL SUPERSCRIBE OUR TENDER NUMBER AND DUE DATE.

THE TENDERS RECEIVED AFTER THE STIPULATED TIME (10:30 HRS IST) AND DUE DATE, DUE TO ANY REASON WHATSOEVER WILL NOT BE CONSIDERED.

24. **MODE OF SUBMISSION OF TENDER:**

TENDERS SHALL BE SUBMITTED AS PER THE PROCEDURE INDICATED AT ANNEXURE.

TENDERERS ARE REQUIRED TO SUBMIT THEIR TENDERS IN TWO PARTS, NAMELY:

1. **PART I:** TECHNO-COMMERCIAL BID (UN-PRICED) WITH EMD.

2. **PART II:** PRICE BID.

TECHNO-COMMERCIAL (UN-PRICED) BID: (ENVELOPE NO.1), DETAILED TECHNICAL SPECIFICATIONS SHOULD BE FURNISHED ALONG WITH CATALOGUE / LITERATURE OF ORIGINAL MANUFACTURER AND SUBMITTED SEPARATELY SUPERSCRIBED AS "TECHNO-COMMERCIAL BID" (UN-PRICED) INCLUDING

COMMERCIAL CONDITIONS INDICATING THE TENDER NO. & DUE DATE OF OPENING DULY SEALED AND KEPT IN ENVELOPE NO.1.

**PRICE BID:** (ENVELOPE NO.2), THE PRICED OFFER / QUOTATION SHOULD BE SUBMITTED SEPARATELY SUPERSCRIBED AS "PRICE BID" (ENVELOPE NO.2) INDICATING THE TENDER NO. & DUE DATE OF OPENING DULY SEALED AND KEPT IN ENVELOPE NO.2.

ALL THE TWO ENVELOPES SHOULD BE KEPT IN ENVELOPE NO. 3 AND WHICH ALSO SHOULD BE SUPERSCRIBED WITH THE TENDER NO. & DATE OF OPENING. THE ABOVE IS FURTHER EXPLAINED IN GREATER DETAIL IN ANNEXURE - II.

UNSEALED TENDER, UNSIGNED TENDERS, TENDERS WHO ARE INCOMPLETE OR OTHERWISE CONSIDERED DEFECTIVE ARE LIABLE TO BE REJECTED. ANY BID NOT CONFIRMING TO ABOVE SHALL BE SUMMARILY REJECTED.

25. **TENDER OPENING:**

A) **TECHNO-COMMERCIAL BIDS (UN-PRICED) :**

TECHNO-COMMERCIAL BIDS (UN-PRICED) ONLY SHALL BE OPENED ON THE DUE DATE INDICATED IN THE ENQUIRY IN THE PRESENCE OF TENDERERS OR THEIR AUTHORIZED REPRESENTATIVES WHO CHOOSE TO BE PRESENT AT THE TIME OF TENDER OPENING.

B) **PRICE BIDS:**

PRICE BIDS OF TECHNICALLY ACCEPTABLE TENDERS' SHALL BE OPENED AFTER THE TECHNO-COMMERCIAL BIDS EVALUATION AND AFTER RECEIPT OF CLARIFICATIONS, IF ANY, IN THE PRESENCE OF TENDERERS OR THEIR AUTHORIZED REPRESENTATIVES WHO CHOOSE TO BE PRESENT AT THE TIME AND DATE WHICH WILL BE INFORMED TO THE TENDERERS CONCERNED IN ADVANCE.

THE COMPARATIVE ASSESSMENT OF OFFERS RECEIVED WOULD BE MADE ON EQUAL FOOTING TAKING INTO ACCOUNT THE FINANCIAL IMPLICATIONS FOR THE DEVIATIONS IN TERMS AND CONDITIONS. CONDITIONAL DISCOUNTS OFFERED BY THE TENDERERS FOR COVERAGE WITHIN A SHORTER PERIOD FOR EARLY INSPECTION / PAYMENT ETC., SHALL NOT BE CONSIDERED AT THE TIME OF EVALUATION OF TENDERS.



26. **DEFINITIONS:**

**PURCHASER:**

The term "Purchaser" as used herein shall mean Mishra Dhatu Nigam Limited, incorporated under the Companies Act, 1956, and having its registered office at P.O. Kanchanbagh, Hyderabad - 500 058, India, and shall include its successors and assigns.

**TENDERER:**

The term "Tenderer" shall mean the person, firm or corporation submitting a tender against the Invitation to tender and shall include his/its heirs, executors, administrators, legal representatives, successors and assigns.

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**GENERAL TERMS & CONDITIONS FOR IMPORT OFFERS**

1. The Tenderer shall indicate / furnish the following in his offer:
  - i. The tenderer shall furnish typical analysis along with offer with respect to impurities listed in the tender specification.
  - ii. FOB prices indicating port of loading.
  - iii. Your banker's name & address.
  - iv. A confirmation that the price quoted is your lowest export price and is the same as you would normally quote to Government departments and other favoured customers.
  - v. Tenderer shall submit the tender in two-bid system as per Annexure – IV.
  
2. **Agency Commission:**

We are government of India Enterprise. It is our policy to deal with the foreign suppliers / manufacturers directly without associating any of their Indian Agents or payment of any agency commission. You are therefore requested to quote your price without any Agency commission, passing on this benefit to the Purchase, which is Government of India enterprise. Please therefore specifically state in your offer that the price quoted by you is net and no agency commission is payable to any Indian agent.
  
3. **Validity:**

The offer shall be valid for a period of 90 working days from the date of Tender opening.
  
4. **Prices:**

Supplier shall quote firm FOB price only preferably in USD for the entire quantity. However, if price quoted in other currencies, the value of the currency equivalent to USD on the date of opening of Techno commercial Bid shall be taken for Comparison.
  
5. **Description & specification:**

The description and specification offered in the offer will be binding on the tenderer and no alteration thereof will be permitted.
  
6. **Purchaser's right:**

The purchaser reserves the right to reject or to accept any tender, either in full or in part, without assigning any reasons whatsoever.
  
7. **Authority to submit tender:**

The signatory to the tender will be deemed to have the authority to submit the tender. The tender will be binding on the tenderer and no alternation will be permitted.
  
8. **Terms and conditions of tender:**

Any purchase order placed against the offer against this invitation to tender shall be subject to the general terms and conditions of this invitation to tender.

9. **Arbitration:**

Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning and operation or effect of this Contract or the breach thereof shall be settled by Arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the parties.

10. **Jurisdiction:**

All questions, disputes or differences arising under, out of or in connection with the contract shall be subject to the exclusive jurisdiction of court within local limits of Hyderabad, India.

11. **Terms of payment:**

**A.** Within 30 days after receipt and acceptance of material at Midhani through TT.

**OR**

**B.**

Through Irrevocable Letter of Credit, 30% payable against shipping document as mentioned at clause 11.1 and balance 70% payable against acceptance documents mentioned at clause 11.2. Clear instruction shall be given by you to the bank to forward the following documents without any delay to our bank. Andhra Bank, BDL Campus Branch, PO kanchanbagh, Hyderabad-500058 **OR** State Bank of India, Chandrayangutta, Hyderabad - 500058

11.1 **Documents required for 30% payment:**

The tenderer shall be confirming that in the event of order that the following documents will be furnished for each lot / consignment for purposes for payment:

- a. Clean on Board Bill of Lading as defined in Incoterms 2010. – 2 negotiable and 2 non negotiable copies
- b. Signed Invoice for the goods dispatched. - 4 copies
- c. Certificate of Origin. – 2 copies
- d. Packing List. – 5 copies
- e. Test / Manufacturer's Certificate. – 4 copies
- f. Fax intimation particulars regarding shipment sent to our insurer – 2 copies

11.2 **Documents required for claiming balance 70% payment:**

- a. Final acceptance certificate issued by Midhani in original.
- b. NOC from Midhani for releasing balance payment after recovery if any.

(Note: In case of LC payment, cost of LC and interest for 30% advance shall be added for landed cost calculation)

**12. Price Negotiations:**

Price negotiations as such shall not be held, except in the case of negotiations with the lowest tenderer and accordingly, the tenderers shall have to submit their best commercial bids.

**13. Export Licence:**

Restrictions if any, for exporting this item to Midhani, India may please be indicated specifically with regard to time required for executing the order as per the quoted delivery schedule.

**14. Insurance:**

Marine Insurance coverage will be arranged by the purchaser and hence tenderers should quote only FOB / FAS Prices.

**15. Packing:**

THE MATERIAL SHOULD BE SECURELY PACKED AND PROPERLY MARKED TO AVOID LOSS OR DAMAGE IN TRANSIT.

**16. IMPORTANT NOTE:**

- EITHER THE AUTHORIZED AGENT ON BEHALF OF THE MANUFACTURER OR THE MANUFACTURER DIRECTLY CAN BID IN THE TENDER BUT NOT BOTH.
- ONE AGENT SHALL NOT QUOTE FOR TWO MANUFACTURERS.

**17. Addenda to tender documents:**

The Purchaser reserves the rights to issue addenda to the tender documents to clarify, modify, supplement or delete any of the condition, clauses or items stated in the tender documents issued with this Invitation to Tender. Each addendum issued will be uploaded on MIDHANI website.

**18. Queries / clarifications:**

All commercial queries shall be sent to Mr. K Aravind Kumar (Dy. Manager, Purchase) mail: karavind@midhani.com

All technical queries shall be sent to Mr. S. Saha (Mgr, MPC), mail: ssaha@midhani.com

**19. No claim for compensation for submission of tender:**

The tenderers whose tenders are not accepted shall not be entitled to claim any costs, charges and expenses of the tender, incidental to or incurred by them, through or in connection with their submission of tenders even though the Purchaser may elect to withdraw the invitation to tender.

**20. Lowest tender not necessary to be accepted:**

The Tenderers whose tenders are not accepted shall not be entitled to claim any costs, charges and expenses of the tender, incidental to / or incurred by them, through or in connection with their submission of tenders, even though the Purchaser may elect to withdraw the Invitation to Tender.

**21. Bankruptcy etc.:**

If the Contractor shall become bankrupt or insolvent or cause or suffer any receiver to be appointed of his business or any asset thereof or compound with his creditors, or being a corporation commence to be wound up, or carry on its business under a Receiver for the benefits of its creditors or any of them, the Purchaser shall be at liberty:

- a. To terminate the contract forthwith upon coming to know of the happening of any such event as aforesaid by notice in writing to the Contractor or to the receiver / liquidator.

OR

- b. To give such receiver, liquidator or other person the option of carrying out the contract subject to his providing guarantee up to an amount to be agreed for the due and faithful performance of the Contract.

**22. MODE OF SUBMISSION OF TENDER:**

TENDERS SHALL BE SUBMITTED AS PER THE PROCEDURE INDICATED AT ANNEXURE.

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**23.0 TO RECOVER LIQUIDATED DAMAGES:**

In the event of unsatisfactory, delayed or non supply of materials, the supplier shall be liable to pay by way of liquidated damages at the rate of 1% of the total contract prices per week or part there of subject to a maximum 10% of the contract price without prejudice to the right of the purchaser to take any other action. The amount shall also be recoverable from any other contract on account of the supplier.

24. **TENDER OPENING:**

A) **TECHNO-COMMERCIAL BIDS (UN-PRICED) :**

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25. **DEFINITIONS:**

**PURCHASER:**

The term "Purchaser" as used herein shall mean Mishra Dhatu Nigam Limited, incorporated under the Companies Act, 1956, and having its registered office at P.O. Kanchanbagh, Hyderabad - 500 058, India, and shall include its successors and assigns.

**TENDERER:**

The term "Tenderer" shall mean the person, firm or corporation submitting a tender against the Invitation to tender and shall include his/its heirs, executors, administrators, legal representatives, successors and assigns.

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BANK GUARANTEE FOR EARNEST MONEY DEPOSIT

1. WHEREAS MISHRA DHATU NIGAM LIMITED (A GOVERNMENT OF INDIA ENTERPRISE) PO KANCHANBAGH, HYDERABAD (hereinafter referred as “ The Owner / Company” which expression shall unless repugnant to the subject or context includes its legal representatives, successors and assigns) has issued tender paper vide its Tender No: \_\_\_\_\_ for supply of \_\_\_\_\_ (herein after called “the said tender”) to M/s. \_\_\_\_\_ (herein after called “the said Tenderer(s)”) which expression shall unless repugnant to the subject or context includes their legal representatives, successors and assigns) and as per terms and conditions of the said tender, the tenderer shall submit a Bank Guarantee for Rs./USD \_\_\_\_\_ towards earnest money in lieu of cash.
2. WE (Bank Name and Address) (herein after called the bank) do hereby undertake to pay the amount due and payable under this Guarantee without any demur merely on a demand from the company stating that in the opinion of the company, which is final and binding, the amount claimed is due because of any withdrawal of the tender or any material alteration to the tender after the opening of the tender by way of any loss or damage caused or would be caused or suffered by the company by reason of any breach by the said tenderer(s) of any of the terms and conditions contained in the said tender or failure to accept the Letter of Intent / Agreement or that the amount covered under this Guarantee is forfeited. Any such demand made on the bank by the owner shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs./USD \_\_\_\_\_.
3. We undertake to pay to the Company any money so demanded notwithstanding any dispute or disputes raised by the tenderer(s) in any suit or proceeding pending before any office, court or tribunal relating thereto, our liability under this present guarantee being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder. Our liability to pay is not dependant or conditional on the owner proceeding against the tenderer.
4. The guarantee herein contained shall not be determined or affected or suspended by the liquidation or winding up, dissolution or change of constitution or insolvency of the said tenderer(s) but shall in all respect and for all purposes be binding and operative until payment of all money due or liabilities under the said tender are fulfilled.
5. WE (Bank Name and Address) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the finalization of the said tender and that it shall continue to be enforceable till the said tender is finally decided and order placed on the successful tenderer(s) and /or till all the dues of the company under/or by virtue of the said tender have been fully paid and its claims satisfied or discharged or till a duly authorized officer of the company certifies that the terms and conditions of the said tender have been fully and properly carried out by the said tender(s) or till date: \_\_\_\_\_ whichever is earlier and accordingly discharges the guarantee.

6. That the Owner/Company will have full liberty without reference to us and without affecting this guarantee to postpone for any time or from time to time, the exercise of any of the power of the owner under the tender.
7. We (Bank Name and Address), lastly undertake not to revoke this guarantee during its currency except with the previous consent of the company in writing. We further undertake to keep this Guarantee renewed from time to time on the request of the Tenderer(s).
8. Notwithstanding anything contained herein before, our liability shall not exceed Rs./USD \_\_\_\_\_ towards earnest money in lieu of cash and shall remain in force till (date). Unless a demand or claim under this Guarantee is made on us within three months from the date of expiry i.e., \_\_\_\_\_ we shall be discharged from all the liabilities under this guarantee

Date: \_\_\_\_\_

(Bank Name and Address)

Signature of duly  
Authorized person  
On behalf of the Bank  
With seal & signature code



**FORM OF BANK GUARANTEE IN LIEU OF SECURITY DEPOSIT**

1. This deed of guarantee executed on .....day of ..... by  
.....

(Name and Address of the Bank)

the Bank hereinafter called Bank (which term shall mean and include its successors and assigns wherever the context so admits) in favour of M/s. MISHRA DHATU NIGAM LIMITED., a government of India Enterprise incorporated and registered as a company under the Companies Act, 1956, having its registered office at P.O. Kanchanbagh, Hyderabad – 500 058, state of A.P. India, herein after referred to as the “purchaser” (which terms shall mean and include its successors in office and assigns).

2. In consideration of M/s. Mishra Dhatu Nigam Limited (Purchaser) having agreed to exempt ..... hereinafter called the said Contract(s) (which term shall mean and include its successors assigns and legal representatives) from the demand under the terms and conditions of Purchase / Work Order No. .... dated ..... for .....(hereinafter called the said agreement) of Earnest Money / Security Deposit/ Defect Liability deposit for the due fulfillment by the said Contractor(s) of the terms and conditions contained in the said agreement on production of a bank guarantee for Rs/ USD.....(Rs/ USD..... only), we ..... (name of the bank, address) (hereinafter referred to as “The Bank”) at the request of ..... Contractor(s) do hereby undertake to pay Purchaser an amount not exceeding Rs/ USD ..... (in words.....) against any losses or damage caused to or suffered or would be caused to or suffered Purchaser by reason of any breach by the said Contractor(s) of any of the terms and conditions contained in the said agreement.
3. We ..... (Bank) do hereby unconditionally and irrevocably agree and undertake to pay to Purchaser the amounts due and payable under this Guarantee without any demur, merely on a demand from Purchaser stating that the amount claimed is due by way of loss or damage caused to or would be caused to on suffered by Purchaser by reason of breach by the said agreement or by reason of the contractor(s) failure to perform the said agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs/ USD ..... (in words.....)
4. We undertake to pay Purchaser and money so demanded notwithstanding any dispute or disputes by the contractor(s) / supplier(s) in any suit or proceedings pending before any court of tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this Guarantee shall be valid discharge of our liability for payment thereunder and the contractor(s) shall have not claim against us for making such payment.
5. We ..... (Bank) further agree that the guarantee herein contained shall remain in full force and affect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of Purchase under or by virtue of the said Agreement have

been fully paid and its claims satisfied or discharges or till Purchaser certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said contractor(s) and accordingly discharges this guarantee. Provided that if Purchaser together with the Contractor seeks an extension of terms of the Guarantee, such extension shall be granted by the Bank and the guarantee shall be in full force till the expiry of such extended period.

6. We ..... (Bank) further agree with Purchaser that Purchaser shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by purchaser against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation of extension being granted to the said contractor(s) or for any forbearance, act or omission on the part of Purchaser or any indulgence by Purchaser to the said contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would but for this provisions, have effect of so relieving us.
7. It shall not be necessary for Purchaser to proceed against the contractor before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank notwithstanding any security which Purchaser may have obtained or obtains from the contractor.
8. This guarantee shall not be discharged due to the change in the constitution of the Bank or the contractor(s).
9. We ..... (Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of Purchase in writing.
10. Notwithstanding anything contained herein before, our liability is limited to a sum not exceeding Rs/ USD ..... (in words.....) unless a claim is made on us in writing on or before ..... (3 months beyond the date of delivery / completion as specified in the contract) we shall be discharged from liability under this guarantee.

In witness whereof these presents are executed at ..... on the date, month and year first herein above written.

FOR AND ON BEHALF OF THE BANK WITHIN NAMED

## PRE-CONTRACT INTEGRITY PACT

### General

1. Whereas M/s. MISHRA DHATU NIGAM LIMITED a Government of India Enterprise incorporated and registered as a company under the company Act, 1956 having its registered office at P.O. Kanchanbagh, Hyderabad – 500058 state of A.P., India hereinafter referred to as the Buyer and the first part, propose to procure -----, hereinafter referred to as Defence Stores, and M/s-----, (which term shall mean and include its successors assigns and legal representation), herein after referred to as the Bidder and the second party, 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 Ministry of the Government of India performing its functions on behalf of the President of India.

### 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 of the Service by avoiding high cost and the distortionary impact of corruption on public procurement, and
  - 3.2 Enabling bidder 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 of 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 officials (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 give, 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 Government for showing or forbearing to show favour or disfavor to any person in relation to the Contract or any other contract with the Government.
  - 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 manufacture / 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 to use improperly, for purposes of competitor 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 direct 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 (If applicable)**

8.1 Every bidder, while submitting commercial bid, shall deposit an amount as specified in the RFP as Earnest Money / Security Deposit, with the buyer through any of the following instruments: -

- (i) Bank Draft or a Demand draft in favour of M/s. Mishra Dhatu Nigam Limited, Hyderabad.
- (ii) A confirmed guarantee by an Indian Nationalized Bank, promising payment of the guarantee sum to M/s. Mishra Dhatu Nigam Limited, Hyderabad 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.

8.2 The Earnest Money / Security Deposit shall be valid upto a period of Six Months or the complete conclusion of the 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(s) does/do not qualify for negotiation by the Commercial Negotiation Committee (CNC) as constituted by the Buyer, Immediately after recommendation is made by the CNC on the 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 chapter IX of the Indian Penal Code, 1860 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, if furnished by the bidder, shall stand forfeited either fully or partially, as decided by the Buyer and the Buyer shall be required to assign any reason therefore.
- (iii) To immediately cancel the contract, if already signed, without giving any compensation to the Bidder.
- (iv) 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, while in case of a Bidder from a country other than India with interest thereon at 2% higher than LIBOR. If any outstanding payment is due to the Buyer from the Bidder 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.
- (v) To en-cash 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.
- (vi) To cancel all or any other Contracts with the Bidder.
- (vii) To debar the Bidder from entering into any bid from the Government of India for a minimum period of five years, which may be further extended at the discretion of the buyer.
- (viii) 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.
- (ix) 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 Government servant or not, but to include a spouse separated from the Government servant by a decree or

order of a competent court, son or daughter or step son or step daughter and wholly dependent upon Government servant, but does not include a child or step child who is no longer in any way dependent upon the Government servant or of whose custody the Government servant has been deprived of by or under any law, any other person related, whether by blood or marriage, to the Government servant or to the Government servant's wife or husband and wholly dependent upon Government servant.

- (x) 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 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 or Defence stores at a price lower than that offered in the present bid in respect of any other Ministry / Department 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 of the Government of India at a lower price, then that very price 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 favored customer treatment to the Buyer in respect of all matters pertaining to the present case.

### **12. Independent Monitors**

- 12.1 Mr. N Vinod Kumar, Flat No. 401, Laxmiram Trident Apartments, Kanthreddy Nagar, Attapur, Hyderabad – 48 is the Independent External Monitor for Midhani.
- 12.2 As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Chairman & Managing Director of M/s. Mishra Dhatu Nigam Limited, Hyderabad.

**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. Hyderabad.

**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 upto 5 years or the complete execution of the contract to the satisfaction of both the Buyer and the Bidder, 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 on -----.

**BIDDER**

**BUYER**

M/s. Mishra Dhatu Nigam Limited,  
(A Govt. of India Enterprise)  
P.O. Kanchanbagh,  
Hyderabad 500 058,  
INDIA.

-----  
In the presence of

-----  
In the presence of

**Witness:**

**Witness:**

1.

1.

2.

2.