

INTEGRITY PACT

(Integrity Pact is applicable for all works of estimated cost put to tender equal to or more than the threshold value given in Schedule-F)

This Integrity Pact is made at on this day of 20

BETWEEN

Bihar Cricket Association represented by the Engineer-in-Charge (hereinafter referred to as the Principal, which expression shall unless repugnant to them earning or context here of include its successors and permitted assignees)

AND

.....
(Name and address 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 assignees)

Preamble

WHEREAS the Principal has floated the tender (NIT No... ..) (herein after referred to as the Tender) and intends to award, under laid down organizational procedure, contract for **Construction of Redevelopment of Moin-UI-Haq Cricket Stadium at Patna, Bihar and their maintenance during Defect Liability Period on Engineering, Procurement and Construction (EPC) basis** hereinafter referred to as the Contract.

AND WHEREAS the Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/transparency in its relation with its Bidder(s) and Contractor(s).

AND WHEREAS to meet the purpose aforesaid both the parties have agreed to enter into this Integrity Agreement (hereinafter referred to as Integrity Pact), the terms and conditions of which shall also be read as integral part and parcel of the Tender/Bid documents and Contract between the parties.

In order to achieve these goals, the Principal will appoint Independent External Monitors (IEMs) who will monitor the tender process and the execution of the contract for compliance with the principles mentioned hereunder.

NOW, THEREFORE, in consideration of mutual covenants contained in this Pact, the parties hereby agree as follows and this Integrity Pact witnesses as under:

Articles

Article 1: Commitment of the Principal

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:
 - (a) No employee of the Principal, personally or through any of his/her family members, will in connection with the Tender, or 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.
 - (b) The Principal will, during the Tender process, treat all Bidder(s) with equity and reason. The Principal will, in particular, before and during the Tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the Tender process or the Contract execution.

- (c) The Principal shall endeavour to exclude from the Tender process any person, whose conduct in the past has been of biased nature.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the Indian Penal code (IPC)/Prevention of Corruption Act, 1988 (PC Act) or is in violation of the principles herein mentioned or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can also initiate disciplinary actions as per its internal laid down policies and procedures.

Article 2: Commitment of the Bidder(s)/Contractor(s)

1. It is required that each Bidder/Contractor (including their respective officers, employees and agents) adhere to the highest ethical standards, and report to the Government / Department all suspected acts of fraud or corruption or Coercion or Collusion of which it has knowledge or becomes aware, during the tendering process and throughout the negotiation or award of a contract.
2. The Bidder(s)/Contractor(s) 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:
 - (a) The Bidder(s)/Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal employees involved in the Tender process or execution of the Contract or to any third person any material or other benefit which he/she 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.
 - (b) The Bidder(s)/Contractor(s) will not enter with other Bidder(s) 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 cartelize in the Bidding process.
 - (c) The Bidder(s)/Contractor(s) will not commit any offence under the relevant IPC/PC Act. Further the Bidder(s)/Contractor(s) will not use improperly, (for the purpose of competition or personal gain), or pass on to others, any information or documents provided by the Principal/Owner as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - (d) The Bidder(s)/Contractor(s) of foreign origin shall disclose the names and addresses of agents/representatives in India, if any. Similarly Bidder(s)/Contractor(s) of Indian nationality shall disclose names and addresses of foreign agents/representatives, if any. Either the Indian agent on behalf of the foreign principal or the foreign principal directly could Bid in a tender but not both. Further, in cases where an agent participates in a tender on behalf of one manufacturer, he shall not be allowed to quote on behalf of another manufacturer along with the first manufacturer in a subsequent/parallel tender for the same item.
 - (e) The Bidder(s)/Contractor(s) 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.
 - (f) Bidder(s) / Contractor(s) who have signed the Integrity Pact shall not approach the courts while representing the matter to IEMs and shall wait for their decision in the matter.
3. The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.
4. The Bidder(s)/Contractor(s) will not, directly or through any other person or firm indulge in fraudulent practice, wilful misrepresentation or omission of facts or submission of fake/forged documents in order to induce public official to act in reliance thereof, with the purpose of obtaining unjust advantage by or causing damage to justified interest of others and/or to influence the procurement process to the detriment of the Government interests.

5. The Bidder(s)/Contractor(s) will not, directly or through any other person or firm use coercive practices (which shall include the act of obtaining something, compelling an action or influencing a decision through intimidation, threat or the use of force directly or indirectly, where potential or actual injury may befall upon a person, his/ her reputation or property) to influence their participation in the tendering process.

Article 3: Consequences of Breach

Without prejudice to any rights that may be available to the Principal under law or the contract or its established policies and laid down procedures, the Principal shall have the following rights in case of breach of this Integrity Pact by the Bidder(s)/Contractor(s) and the Bidder/ Contractor accepts and undertakes to respect and uphold the Principal absolute right:

1. If the Bidder(s)/Contractor(s), either before award or during execution of Contract has committed a transgression through a violation of Article 2 above or in any other form, such as to put his reliability or credibility in question, the Principal after giving 14 days notice to the contractor shall have powers to disqualify the Bidder(s)/Contractor(s) from the Tender process or terminate/determine the Contract, if already executed or exclude the Bidder/Contractor from future contract award processes. The imposition and duration of the exclusion will be determined by the severity of transgression and determined by the Principal. Such exclusion may be forever or for a limited period as decided by the Principal.
2. Forfeiture of Earnest Money Deposit/Performance Guarantee/Security Deposit: If the Principal has disqualified the Bidder(s) from the Tender process prior to the award of the Contract or terminated/determined the Contract or has accrued the right to terminate/determine the Contract according to Article 3(1), the Principal apart from exercising any legal rights that may have accrued to the Principal, may in its considered opinion forfeit the entire amount of Earnest Money Deposit/Performance Guarantee and Security Deposit of the Bidder/Contractor.
3. Criminal Liability: If the Principal obtains knowledge of conduct of a Bidder or Contractor, or of an employee or a representative or an associate of a Bidder or Contractor which constitutes corruption within the meaning of PC Act, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to law enforcing agencies for further investigation.

Article 4: Previous Transgression

1. The Bidder declares that no previous transgressions occurred in the last 3 years with any other Company in any country confirming to the anticorruption approach or with Central Government or State Government or any other Central/State Public Sector Enterprises in India that could justify his exclusion from the tender process.
2. If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken for banning of business dealings/holiday listing of the Bidder/Contractor as deemed fit by the Principal.
3. If the Bidder/Contractor can prove that he has resorted/recouped the damage caused by him and has installed a suitable corruption prevention system, the Principal may, at its own discretion, revoke the exclusion prematurely.

Article 5: Equal Treatment of all Bidders/Contractors/Subcontractors

1. The Bidder(s)/Contractor(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact. The Bidder/Contractor shall be responsible for any violation(s) of the principles laid down in this agreement by any of its Subcontractors/sub vendors.
2. The Principal will enter into pacts on identical terms as this one with all Bidders and Contractors.
3. The Principal will disqualify Bidders who do not submit the duly signed Integrity Pact between the Principal and the Bidder along with the Tender or violate its provisions at any stage of the Tender process.

Article 6- Duration of the Pact

This Integrity Pact begins when both the parties have legally signed it. It expires for the Contractor 12 months after the completion of work under the contract or expiry of defect liability period or last payment made under the contract, whichever is later and for all other Bidders, 6 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 Integrity Pact as specified above, unless it is discharged/determined by the ~~ADG/SDG~~, NIYOJAN VIBHAG/UPPWD concerned.

Article 7- Other Provisions

1. This Integrity Pact is subject to Indian Law, place of performance and jurisdiction is the Headquarters of the Division of the Principal, who has floated the tender.
2. Changes and supplements as well as termination notice need to be made in writing.
3. If the Contractor is a partnership or a consortium, this Integrity Pact must be signed by all the partners or by one or more partner holding power of attorney signed by all partners and consortium members. In case of a Company, the Integrity Pact must be signed by a representative duly authorized by board resolution.
4. Should one or several provisions of this Integrity 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.
5. Issues like Warranty/Guarantee etc. shall be outside the purview of IEMs.
6. It is agreed term and condition that any dispute or difference arising between the parties with regard to the terms of this Integrity Pact, any action taken by the Principal in accordance with this Integrity Pact or interpretation thereof shall not be subject to arbitration.
7. In view of the nature of integrity pact, the Integrity Pact is irrevocable and shall remain valid even if the main tender/contract is terminated till the currency of the integrity pact.
8. If any complaint regarding violation of IP is received directly by the Principal in respect of the contract, the same shall be referred to the IEM for comments/recommendations.

Article 8 –Independent External Monitor (IEM)

- (1) The Principal appoints competent and credible Independent External Monitor for this Pact after approval by Central Vigilance Commission (Names and address of IEMs are as mentioned in Schedule-F). 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.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his/her functions neutrally and independently. The Monitor would have access to all contract documents, whenever required. It will be obligatory for him/her to treat the information and documents of the Bidders / Contractors as confidential.
- (3) The Bidder(s)/Contractor(s) accepts that the IEM has the right to access without restriction to all project documentation of the Principal including that provided by the Contractor, The Contractor will also grant the IEM, upon his/her request and demonstration of a valid interest, unrestricted and unconditional access to their project documentation. The same is applicable to subcontractors.
- (4) The IEM is under contractual obligation to treat the information and documents of the Bidder{s}/Contractor(s)/ Sub-contractor(s) with confidentiality. The IEM has also signed 'Non- Disclosure of Confidential Information' and 'Absence of Conflict of Interest'. In case if any conflict of interest arising at a later date, the IEM shall inform the Engineer-in-Charge and recuse himself / herself from that case.
- (5) As soon as the IEM notices, or believes to notice, a violation of this agreement, he/she will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The IEM can in this regard submit non-binding recommendations. Beyond this, the IEM has no right to demand from the parties that they act in a specific manner, refrain from action or

tolerate action.

- (6) The IEM will submit a written report to the Chief Engineer concerned within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (7) If the IEM has reported to the CHIEF ENGINEER concerned, a substantiated suspicion of an offence under relevant IPC/PC Act, and the CHIEF ENGINEER concerned has, within a reasonable time, not taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the IEM may also transmit this information directly to the Central Vigilance Commissioner.
- (8) The Principal will provide to the IEM sufficient information about all meetings among the parties related to the project provided such meetings could have impact on contractual relations between the Principal and the contractor. The parties will offer to the IEM the option to participate in such meetings.
- (9) The word IEM or monitor would include both singular and plural.

Article 9- Legal and Prior Rights

All rights and remedies of the parties hereto shall be in addition to all the other legal rights and remedies belonging to such parties under the Contract and/or law and the same shall be deemed to be cumulative and not alternative to such legal rights and remedies aforesaid. For the sake of brevity, both the Parties agree that this Integrity Pact will have precedence over the Tender/Contact documents with regard to any of the provisions covered under this Integrity Pact.

IN WITNESS WHERE OF the parties have signed and executed this Integrity Pact at the place and date first above mentioned in the presence of following witnesses:

.....

(For and on behalf of Principal/Employer)

.....

(For and on behalf of Bidder/Contractor)

WITNESSES:

1
(signature, name and address)

2.....
(signature, name and address)

Place:

Dated:

Note: To be signed by the Bidder and the Engineer-in-Charge.

Provision of IEMs

IEMs (Independent External Monitors) have been appointed to monitor IP (Integrity pact) for works having estimated cost as mentioned in Schedule F. Details (names, address, number etc.) of IEMs are available in the Schedule F.