Tender for “Supply of Fly ash bricks for the Construction of Bihar Police Academy Project site at Rajgir, District Nalanda, Bihar.”

ADDITIONAL CONDITIONS OF CONTRACT

Following conditions shall also form part of the Contract:

1.0 EPI shall act as main contractor and PARTY shall supply flyash bricks by Erecting flyash brick making plant Inclusive of power and other machinery for execution of “Works”.

2.0 Vendor /Supplier can install one or more than one plant/machine to achieve the specified quantity (Sixty Lakhs) of flyash bricks within the stipulated time i.e. 04 months.

3.0 Commencement and Completion of Project:

The Contractual/Supply Completion Period shall be 04 months from the date of award of the work.

3.1 The Supply is to be completed in phases as follows:

a. 12 lakhs bricks to be supplied in the 1st month @ approx 40000 per day.
b. Balance quantity to be delivered as per mutual agreement.

4.0 Tender Documents:

Following documents shall form the complete set of ‘Tender Documents’ for this sub-contract:

1. Notice Inviting Tender.
2. Scope of Work.
3. GPC of EPI.
5. Price Bid.

5.0 PARTY confirms that they have read and understood and have copies of the ‘Tender Documents’ and have visited the site and their offer is based on the ‘Tender Documents’ and caters to all the works, requirements, etc. thereof.

6.0 Taxes and Duties:

Labour welfare/Labour Cess deduction as specified in contract document will be borne/ paid by EPI for the Project. However payment of all other taxes, duties, VAT, Cess, levies, Octroi, Entry tax, Royalties, Turnover Tax, Service Tax and other expenses etc. applicable on the party Contract value shall be the responsibility of the PARTY and is to be included in the price of the PARTY.
7.0 All men, materials, machinery, tools and plants, infra-structure, resources etc., as required for execution of “Works” shall be provided and arranged by PARTY for their portion of work. The amount/rate quoted in their offer by PARTY to EPI includes all charges, all direct and indirect cost of works, materials, labour, plant & equipment, all taxes, duties, levies, royalties, octroi, entry tax, VAT, TOT, service tax etc., all transportation charges including for cartage of issue material, electricity and water charges and for all expenses such as site offices expenses, labour camp, bank guarantee charges, insurance charges, EPF/CPF/ Statutory contributions, preparation of all required design & detailed engineering and all required drawings etc., facilities and other expenses whatsoever, incurred on execution, completion and maintenance of the “Works” as per ‘Tender Documents’ and their own overheads and profit etc. PARTY shall comply with all the requirements laid down as per ‘Tender Documents’ and shall un-conditionally abide by its offer quoted for execution of “Works” as per terms, conditions, specifications, drawings, documents etc. given in the ‘Tender Documents’ for the completion, handing over, maintenance period etc. For the project.

8.0 Insurance charges for project insurance (CAR) to be taken by EPI for the project as per contract with Clients and shall be borne by EPI. The PARTY shall take insurance cover at its own cost towards Workman Compensation Act for its own workers, employees and for the Plant & Equipment deployed by the PARTY at the project site.

9.0 The initial validity period of offer of PARTY shall be three months.

10.0 In the event of award of work PARTY shall submit to EPI, Bank Guarantee from a Scheduled Bank towards security deposit etc. as required by EPI/Client/local authorities as per conditions of the ‘Tender Documents’ (in the prescribed proforma of EPI) in favour of EPI, for PARTY’s scope of work.

**Security Deposit:** Security deposit will be 5% of contract sum consisting of following part as below:

a. **Performance Guarantee** : The successful tenderer, within 15 days from the date of receipt of Letter of Acceptance, shall have to submit Performance Guarantee @ 5% of contract sum, which may be in any one of the following forms :-

   i) In the form of a crossed Demand Draft/Bankers Cheque drawn on any nationalized bank or scheduled Bank, in favour of the Engineering Projects (India) Ltd., payable at New Delhi.

   Or

   ii) By an unconditional irrevocable Bank Guarantee as per the format included in the tender document, from any Nationalized/schedule bank/is having validity for the total Contract period plus extension period if any plus 90 days. The contractor shall extend the validity of the Bank Guarantee for the corresponding period the contract is extended or the execution of the work is delayed due to whatsoever reasons. The above Performance Guarantee will be discharged and returned to the contractor along with the final bill. The contractor shall keep the bank guarantee current and valid till finalization of the final bill in all respect.

   Or

   iii) The Party has to hypothecate the Plant to EPIL and an amount of 5% shall be deducted towards Performance security from RA Bills.
11.0 Payments shall be made fortnightly as per the quantity of bricks supplied. 95% payment shall be released within 10 days after completion of satisfactory supply against bills raised after making statutory deductions.

The final bill payment to the PARTY shall be released only after PARTY submits Sales Tax clearance/VAT certificates, EPF clearance certificate, all other clearances, approvals, certificates etc. as per agreement of EPI with the Client for the “Works” and as per statutory requirement.

12.0 The prices of PARTY shall be firm and fixed till the completion of supply. The quantity variation shall be considered as (+/-) 25% of quantity quoted and rate for any variation (+/-) shall remain unchanged & same will be applicable as quoted in the Price Schedule.

13.0 In case PARTY is awarded the “Works” and fails to execute the same as per agreed schedule of progress of work and as per specified quality and/or lags behind in activities required for timely completion of “Works”, as determined by EPI/Client, then EPI shall give 15 days’ written notice to PARTY to achieve the specified quality and/or to deploy adequate resources to the satisfaction of EPI, for timely completion of “Works”. Upon expiry of the notice period, if PARTY fails to achieve specified quality and/or fails to take action for timely completion of “Works”, then EPI shall have option to withdraw the remaining work partly or in full from PARTY and get the same executed at the risk and cost of the PARTY from alternative agency/agencies besides encashment of the guarantees submitted by the PARTY to EPI. The decision of EPI in this regard shall be final and binding on the PARTY.

14.0 The PARTY shall be responsible for timely completion of the “Works” within the contractual completion period.

15.0 The PARTY shall hold EPF Code number, CST-TIN, VAT-TIN/Sales tax on Works contract number, Service tax registration number, PAN (Permanent Account Number of Income Tax) etc. and shall be responsible for depositing EPF subscription and contribution for labour and staff employed by it on the “Works” and Service tax, other taxes, duties and dues etc. as per statutory requirements and documentary evidence of same shall be provided to EPI. The PARTY shall also be responsible for labour welfare and for arranging labour and other licenses/ permits/ clearances etc. for the project at their own cost. In case EPI has to take labour license or and other licenses, all expenditure towards the same shall also be borne by the PARTY. The PARTY shall comply with all the requirements as per labour laws/acts. All the records in this regard shall be maintained by PARTY as per statutory requirements and rules and shall be produced by the PARTY on demand if required.

16.0 The PARTY will not deal directly with Client and all the correspondence in matters regarding bills, claims, interpretation of the specifications, conditions and all matters related to the contract with Client, Client’s Consultants, all other agencies including Government and Statutory bodies etc. shall be done through EPI only. PARTY shall prepare and submit all documents pertaining to use of percentage content of fly ash in manufacturing of bricks. This is required for green building certification.

17.0 In case of non-approval of PARTY’s association for the Project by the Client and/or by the corporate office of EPI due to any reasons whatsoever at any stage of the “Works”, the PARTY shall have no claim on EPI.
18.0 Income tax shall be deducted as per income tax act as applicable.

19.0 The PARTY shall plan and execute the “Works” in his scope of work in such a manner that the other works, connected with the “Works” of the PARTY, but not included in PARTY’s scope of work, do not get affected/delayed.

20.0 The PARTY shall deploy sufficient plant & equipment of the required capacity and in good working condition for completion of the works in stipulated time with required quality. The equipment should either be owned by the PARTY or hired/leased. The deployment of equipment by PARTY shall be as decided by EPI and the same shall not be less than the minimum deployment stipulated by the Client, if any, for execution of “Works” and as per schedule agreed with EPI. The PARTY shall make arrangement for regular maintenance including preventive and breakdown maintenance and maintain stock of essential spares at site/near to site so as to ensure minimum breakdown time of equipment. The equipment once brought to site shall not be allowed to be removed without the consent of EPI. In case the PARTY fails to deploy sufficient equipment to the satisfaction of EPI or in case of prolonged breakdown of equipment, EPI at its sole discretion shall arrange the required equipment and debit all the related costs including ten percent overheads of EPI and shall recover the same from the due payments of PARTY, including from its bank guarantees available with EPI.

21.0 PARTY shall ensure compliance with all Central, State and Local Laws, Rules, Regulations etc. as applicable or may be applicable during the course of execution, maintenance etc. of the “Works” and shall indemnify EPI against any claim or damages whatsoever on such accounts. The PARTY shall keep EPI indemnified at all times against infringement of any Patent or Intellectual Property rights.

22.0 EPI is an IS0-9001 and ISO-14001 Company. The conditions of the ISO as applicable should be followed by the PARTY for implementation & maintaining the established procedures of EPI for this purpose. Following documents have been provided by EPI to PARTY & PARTY confirms receipt of the same: -

   a. Quality & Environmental policy  
   b. Objectives & Targets.  
   c. Operational control procedures - Noise.  
   d. Operational control Procedures - wastage.

23.0 The work executed by PARTY shall be subject to audit and quality control checks from Quality Control Division & Technical Audit of EPI, Client, Inspecting Agencies of the Client and Chief Technical Examiner of Central Vigilance Commission, Govt. of India. In the eventuality of any defect/ sub standard works as brought out in the report or noticed otherwise at any time during execution, maintenance period etc., the same shall be made good by the PARTY without any cost to EPI. In case PARTY fails to rectify the defect/sub-standard work within the time period stipulated by EPI, EPI shall get it rectified at the risk and cost of PARTY and shall recover the amount from the dues of the PARTY.

24.0 EPI has agreed to associate PARTY on the basis of details regarding experience profile, financial standing, credentials, fulfillment of statutory obligations, etc. of PARTY submitted by PARTY to EPI. In case, at a later stage it is found that the PARTY has submitted incorrect, false details and
credentials resulting in apprehensions on the capabilities of PARTY with regard to quality & timely completion of works, financial capabilities etc, EPI can terminate the order solely at its option. In this eventuality the PARTY shall be liable for the losses suffered by EPI and further PARTY shall have no claim on EPI, whatsoever.

25.0 The “Parties” shall make efforts to settle disputes, if any, amicably. Only if amicable settlement is not possible, the same shall be referred to the sole arbitration of the Chairman & Managing Director (CMD) of EPI or the person appointed by the CMD. EPI and the decision of the arbitrator shall be final and binding on the “Parties”. Arbitration will be according to “Conciliation & Arbitration” clause, which is enclosed at Annexure–I.

26.0 All other terms and conditions shall be as per the Tender documents of Client and the same shall be applicable between EPI and the PARTY on mutatis mutandis basis. However, if EPI is granted some concession or exempted from certain obligations by Client, by virtue of EPI being a Public Sector Company, the same concessions / exemptions shall not be applicable to the PARTY. The decision of EPI in this regard including interpretation of terms & conditions shall be final & binding on PARTY.

27.0 This agreement shall be governed by the Indian Laws for the time being in force and only the Courts in Patna alone shall have the exclusive jurisdiction to entertain and decide any matter arising out of the agreement/contract.

28.0 **Flyash bricks:**

Flyash bricks supplied shall be of designation Class 10 as per IS 12894-2002 and having average compressive strength 100 kg/Sq.Cm.

29.0 **Quantity Variations:**

The quantity mentioned against individual items in the Price Bid of the tender are tentative and these individual item may vary to any extent. The actual quantities may vary due to actual work condition of the site or due to any other reasons. The tendered rates shall remain firm.

30.0 No Idle charges shall be paid.

31.0 For Materials & for Testing of Materials refer Technical Specification & Addendum of BPBCC. The party shall at his own cost provide all types of manpower for filling cubes, and equipment, water tanks, to carry out test of bricks as per tender specifications. The party shall solely be responsible for the safety, quality and quantity and storage of the material.

32.0 **Water & Electricity**

The party shall make his own arrangement for power/electricity /fuel for operation of flyash brick making plant and other equipment.

**Water**

Contractor shall make own arrangement.

33.0 **Price Bid:** The Bidders can quote for Alternate-1 or Alternate-2 or Alternate-3 to fulfill the total required supply of fly ash bricks at Bihar Police Academy Project Site at Rajgir, District Nalanda,Bihar. In case bidder chooses Alternate-3, the bidder shall specify the quantity of bricks to be supplied under each option (i.e. from existing plant & establishing own plant inside EPI Rajgir campus.)
CONCILIATION AND ARBITRATION

Before resorting to arbitration as per the clause given below, the parties if they so agree may explore the possibility of conciliation as per the provisions of Part – III of the Arbitration Conciliation and Act. 1996. When such conciliation has failed, the parties shall adopt the following procedure for arbitration:-

1. Except where otherwise provided for in the contract, any disputes and differences relating to the meaning of the specifications, designs, drawings and instructions herein before mentioned and so to the quality of workmanship or materials used in the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to the Sole Arbitration of the Chairman and Managing Director (CMD) of Engineering Projects (India) Limited (EPI), or any other person discharging the functions of CMD of EPI and if CMD or such person discharging the functions of CMD of EPI is unable to act, to the Sole Arbitration of some other person appointed by the CMD of EPI or such other person discharging the functions of CMD of EPI. There will be no objection if the arbitrator so appointed is an employee of EPI. However, such an employee shall not have directly dealt with the said contract or the works there under on behalf of EPI. Such Arbitrator shall be appointed within 30 days of the receipt of letter of invocation of arbitration duly satisfying the requirements of this clause.

2. If there arbitrator so appointed resigns his appointment, is unable or unwilling to act due to any reason whatsoever, or dies the Chairman & Managing Director aforesaid or in his absence the person discharging the duties of the CMD of EPI may appoint a new arbitrator in accordance with these terms and conditions of the contract, to act in his place and the new arbitrator so appointed may proceed from the stage at which it was left by his predecessor.

3. It is a terms of the contract that the party invoking the arbitration shall specify the dispute/ differences or questions to be referred to the arbitrator under this clause together with the amounts claimed in respect of each dispute.

4. The arbitrator may proceed with the arbitration ex-parte, if either party, in spite of a notice from the arbitrator, fails to take part in the proceeding.

5. The work under the contract shall continue, if required, during the arbitration proceedings.

6. The Arbitrator shall make speaking Award and give reasons for his decision in respect of each dispute/ claim along with the sums awarded separately on each individual item of dispute or difference or claims. The Arbitrator shall make separate award on each reference made to him.

7. The award of the arbitrator shall be final, conclusive and binding on both the parties.
8. Subject to the aforesaid, the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modifications or re-enactment thereof and the Rules made there under and for the time being in force shall apply to the arbitration proceedings and arbitrator shall publish his award accordingly.

Note: Notwithstanding anything contained here in above, this clause shall not be applicable where the dispute is between EPI and an another Public Sector Enterprise or Govt. Department for which a separate Arbitration Clause is provided vide Clause No. A given below:-

A. ARBRATION BETWEEN PUBLIC SECTOR ENTERPRISE INTERSE/GOVERNMENT DEPARTMENTS.

1. In the event of any dispute or difference relating to the Interpretation and application of the provisions of the contract, such dispute or difference shall be referred by either party to the arbitration as per the Instructions (Office Memorandums/circulars) issued by Govt. Deptt. and another, one Govt. Deptt. and a Public Sector Enterprise and Public Sector Enterprises interse.

2. Subject to any amendment that may be carried out by the Government of India from time to time, the procedure to be followed in arbitration shall be as is contained in D.O. No. DPE/4 (10)/2001 –PMA – GLI dated 22/01/2004 of Department of Public Enterprise Ministry of Heavy Industries and Public Enterprise or any modification issued in this regard.