**IRRIGATION DEPARTMENT KHYBER PAKHTUNKHWA**



**BID SOLICITING DOCUMENTS**

**(Criteria/Guidelines for Submission of Bids)**

**SINGLE STAGE SINGLE ENVELOPE PROCEDURE**

**FOR THE SCHEME**

**ADP NO. 2201-210423 (FINANCIAL YEAR 2023-24)**

**Name of Scheme: CONSTRUCTION, IMPROVEMENT AND EXTENSION**

**OF JINKIKHEL, AZIKHEL & MATORIZI IRRIGATION**

**CHANNEL DISTRICT SWAT.**

**Sub Work: CANAL STRUCTURES2021 PACKAGE-VI (SYPHONS)**

**Estimate Cost: Rs 93.329 Million**

*Office of*  THE EXECUTIVE ENGINEER

SWAT IRRIGATION DIVISION-II MATTA, SAMBAT CHAM MATTA, DISTRICT SWAT

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**INTRODUCTION OF PROJECT**

The Proposed project is aimed to provide assured irrigation water supply to 4874 acres of agricultural land of tehsil khwazakhela and charbagh. The scheme includes improvement of existing channel having total length of about 72000 ft and construction of about 78000 ft long new irrigation channel including affiliated structures i.e aqueducts, siphons, tunnels, conduits, super passages etc.

The existing channel off takes from Swat River near Fatehpur village. Designed discharge at head is 49 cusecs including 16 cusecs discharge for new command area. The proposed command area falls in villages shin, kotanai, asala, khwazakhela, Gashkor, Alam Ganj, Guli Bagh,alabad , Dakork and Charbagh.

The proposed sub work is comprised of construction, Improvement and rehabilitation of existing Channel and structures such as Retaining walls cross drainage structures etc in the identified and vulnerable reaches.

**KPPRA NOTIFICATION**

**NOTICE INVITING TENDER**



**INSTRUCTIONS TO BIDDERS**

**A. GENERAL IB.1 Scope of Bid**

1.1 The Procuring Entity as defined in the Bidding Data hereinafter called “the Procuring Entity” invites bids for the construction and completion of works as described in these Bidding Documents, and summarized in the Bidding Data hereinafter referred to as the “Works”. During execution of the project, scope and cost of work may alter, increase, decrease for which the bidder would have no objection whatsoever.

1.2 The successful bidder will be expected to complete the Works within the time specified in Appendix-A to Bid.

1.3 Throughout these bidding documents, the terms ‘bid’ and ‘tender’ and their derivatives (bidder / tenderer, bid / tender, bidding / tendering etc.) are synonymous.

**IB.2 Source of Funds**

2.1 The expenditure on this project will be met from the PROVINCIAL GOVERNMENT THROUGH Annual Development Programme under the scheme **ADP No. 2201-210423 “Construction, Improvement and Extension of Jinkikhel, Azikhel & Matorizi Irrigation Channel District Swat”.**

**IB.3 Submission of Bids**

**TERMS AND CONDITIONS**

Irrigation Department Government of Khyber Pakhtunkhwa intends to invite Electronic Bids in accordance with KPPRA Procurement Rules 2014 on single stage single envelope procedure for the following works, from Eligible Firms/Contractor having enlistment & renewal for the year 2021-22 with PEC and Government of Khyber Pakhtunkhwa in the required Category. The following conditions to be thoroughly studied and followed while submission of bidding documents:

1. Bid Soliciting Documents containing Instructions to Bidders, advertisement for Notice Inviting Bids and required forms to be filled by the bidders shall be binding upon all firms/contractors and can be downloaded from the official websites of Irrigation Department Khyber Pakhtunkhwa ([**www.irrigation.gkp.pk**](http://www.irrigation.gkp.pk/)).
2. All the bidders are required to have valid registration with Khyber Pakhtunkhwa Revenue Authority (KPRA).
3. The Bidding documents in sealed envelope containing the Bid Security in Original @ 2% of the estimated cost in the shape of Call Deposit, Additional Bid Security (if applicable) as stated in Paras 6 & 7 stated below and Rate Analysis as per para 7, Photocopy of Enlistment as contractor/ Firm/Company with Government of Khyber Pakhtunkhwa for the CFY i.e 2023-24 and Photocopy of Valid Pakistan Engineering Council Registration should reach Office of the Executive Engineer Swat Irrigation Division-II Matta before the closing Date and Time through registered courier/Mail.
4. The Financial Bid shall be submitted electronically through **E-Bidding System of Irrigation Department** on %age above/below system on both SI and NSI items, not later than above specified date & time.
5. The contractor quoting their bids up to a limit of 10% below on engineer estimate shall submit bid security @ 2% only of Engineer estimate.
6. The contractors quoting their bids more than 10% below upto 20% below on engineer's estimate shall submit along with their bids 8% additional security of engineer’s estimated cost in addition to 2% bid security. If the bid is not accompanied with the required amount of additional security then it will be considered as non-responsive and the 2% bid security shall be forfeited in favor of government and the second lowest bidder and so on will be considered accordingly.
7. Similarly a contractor quoting bid more than 20% below shall submit with his bid an additional security on engineer’s estimated cost equal to the differential amount of the submitted bid and engineer’s estimate along with the detailed rate analysis. In case of more than 20% below bids, if the bid is not accompanied by the detailed rate analysis and / or required amount of additional security, then the said bid shall be considered as non-responsive. All the securities submitted along with such non-responsive bid shall be forfeited in favor of government and the second lowest bidder and so on will be considered accordingly.
8. In case detailed rate analysis submitted with the bid is, in view of the procuring entity, not convincing, the head of procuring entity may declare such bids as non-responsive without any forfeiture of bid securities and record reasons thereof.
9. All the Bidders are bound to follow the instructions content KPPRA Notification **No.S.R.O. (14)/Vol: 1-24/2021- 22, dated10-05-2022**.
10. After commencements of work by successful bidder the procuring entity may replace the additional security with a bank guarantee of the same amount from the scheduled bank if the already deposited security is not in the form of bank guarantee.
11. Bidders can either apply separately in sole capacity or in a joint venture only; otherwise their bids would be non-responsive and not considered. The intended Joint Venture of Firms must submit their bids as JV through their Lead Firm.
12. Name and address of the Applicant shall be clearly marked on the envelope.
13. The name of the work published in NIT shall be clearly written on envelope.
14. The JV agreement should be attached with bidding documents (if any).
15. In case of more than one equal lowest bids, the award of tender will be decided through open draw in the presence of lowest bidders.
16. Conditions mentioned in NIT will remain intact.
17. The Competent Authority reserves the right to accept/reject any or all bids at any time prior to acceptance of a bid as per Para 47(i) of KPPRA Rules 2014.
18. Other conditions if any will be communicated before the closing date.
19. After commencement of work by the successful bidder, the additional security shall be released to the bidders in four instalments i.e., 25% to be released after completing 25% of the Project and so on.
20. Electronic bids validity period is 120-days.
21. The bid security shall be forfeited if a bidder withdraws his bid, with in the validity period thereof or, in the case of a successful bidder, who repudiates the contract or fails to furnish performance security.
22. All federal and provincial duties /stamp duty /taxes including sales tax will be recoverable as per directives of the government issued from time to time.
23. Call Deposits of only scheduled Banks shall be acceptable. No Bank Cheque or Pay Order shall be acceptable.
24. Bid Securities of 1st, 2nd & 3rd lowest bidders shall be retained till approval of the bid by the competent authority.
25. Any further information regarding the bid can be obtained from Office of the Undersigned on any working day.

**IB.4 One Bid per Bidder**

4.1 Each bidder shall submit only one bid either by himself as a Single Bidder, or as a partner in a joint venture

**IB.5 Cost of Bidding**

5.1 The bidders shall bear all costs associated with the preparation and submission of their respective bids and the Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

**IB.6 Site Visit**

6.1 The bidders are advised to visit and examine the site of Works and its surroundings and obtain for themselves on their own responsibility all information that may be necessary for preparing the bid and entering into a contract for construction of the Works. All cost in this respect shall be at the bidder’s own expense. The soil classification and social environment in the area may specifically be kept in mind/under consideration.

6.2 The bidders, any of their authorized personnel or agents could inspect the site and the Procurement Entity shall provide all necessary assistance in the interest of the project for obtaining responsive bid. The Procuring Entity shall not be responsible for any risk or damage whatsoever.

**IB 6A Bid Soliciting Documents**

All contents of Bid Soliciting Documents, terms and conditions shall be applicable.

**33.2. Technical Qualification Criteria**N/A

**3.3 Joint Venture (JV)**i) All joint venture partners shall fulfill the minimum criteria of valid registration with PEC along with code of specialization and shall have valid enlistment with Govt of Khyber Pakhtunkhwa works department.

ii) The intending bidder will be allowed to participate only in sole capacity or in Joint venture.

**3.4 Conflict of Interest**3.4.1 The Applicant (including all members of a JV) must not be associated, nor have been  
associated in the past, with the consultant or any other entity that has prepared the design,  
specifications, and other prequalification and bidding documents for the project, or was  
proposed as Engineer for the contract, over the last five years. Any such association may  
result in disqualification of the Applicant.

**(H)**

**(Litigation History)**

|  |
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| Name of Applicant or Partner of a Joint Venture |

Applicants, including each of the partners of a joint venture, should provide information on any history of litigation or arbitration resulting from contracts executed in the last five years or currently under execution. A separate sheet should be used for each partner of joint venture.

No litigation & no blacklisting history may be provided on separate judicial stamp paper.

|  |  |  |  |
| --- | --- | --- | --- |
| **Year** | **Award FOR or AGAINST Applicant** | **Name of client, cause of litigation, and matter in dispute** | **Disputed amount (current value Pak Rs. or equivalent)** |
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**B. BIDDING DOCUMENTS**

**IB.7 Contents of Bidding Documents**

1. Instructions to Bidders.

2. Bidding Data.

3. General Conditions of Contract, Part-I (GCC).

4. Particular Conditions of Contract, Part-II (PCC).

5. Specifications – Special Provisions.

6. Specifications - Technical Provisions.

7. Form of Bid & Appendices to Bid.

8. Bill of Quantities (Appendix-D to Bid).

9. Form of Bid Security.

10. Form of Contract Agreement.

11. Forms of Performance Security and Mobilization Advance Guarantee/Bond.

12. Drawings.

7.2 The bidders are expected to examine carefully the contents of all the above documents. Failure to comply with the requirements of bid submission will be at the Bidders own risk. Pursuant to Clause IB.26, bids which are not substantially responsive to the requirements of the Bidding Documents will be rejected.

**IB.8 Clarification of Bidding Documents**

8.1 Any prospective bidder requiring any clarification (s) in respect of the Bidding Documents may notify the Procuring Entity in writing at the Procuring Entity’s address indicated in the Invitation for Bids. The Procuring Entity will respond to any request for clarification which he receives earlier than 28 days prior to the deadline for submission of bids.

**IB.9 Amendment of Bidding Documents**

9.1 At any time prior to the deadline for submission of bids, the Procuring Entity may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective bidder, modify the Bidding Documents by issuing addendum.

9.2 Any addendum thus issued shall be part of the Bidding Documents pursuant to Sub- Clause 7.1 hereof and shall be communicated in writing to all purchasers of the Bidding Documents. Prospective bidders shall acknowledge receipt of each addendum in writing to the Procuring Entity.

9.3 To afford prospective bidders reasonable time in which to take an addendum into account in preparing their bids, the Procuring Entity may extend the deadline for submission of bids in accordance with Clause IB.20

**C. PREPARATION OF BIDS IB.10 Language of Bid**

10.1 The bid and all correspondence and documents related to the bid exchanged by a bidder and the Procuring Entity shall be in the bid language stipulated in the Bidding Data and Particular Conditions of Contract.

**IB.11 Documents Accompanying the Bid**

11.1 Each bidder shall:

(a) Submit a written power of attorney authorizing the signatory of the bid to act for and on behalf of the bidder;

(b) Furnish a technical proposal taking into account the various Appendices to Bid specially the following:

Appendix-E to Bid Proposed Construction Schedule Appendix-F to Bid Method of Performing the Work Appendix-G to Bid List of Major Equipment

Appendix-K to Bid Organization Chart for Supervisory Staff and other pertinent information such as mobilization program etc;

11.2 Bids submitted by a joint venture of two (2) or more firms shall comply with the following requirements:

(a) the bid and in case of a successful bid, the Form of Contract Agreement shall be signed so as to be legally binding on all partners;

(b) one of the joint venture partners shall be nominated as being in charge; and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the joint venture partners;

(c) the partner-in-charge shall always be duly authorized to deal with the Procuring Entity regarding all matters related with and/or incidental to the execution of Works as per the terms and Conditions of Contract and in this regard to incur any and all liabilities, receive instructions, give binding undertakings and receive payments on behalf of the joint venture;

(d) all partners of the joint venture shall at all times and under all circumstances be liable jointly and severally for the execution of the Contract in accordance with the Contract terms and a statement to this effect shall be included in the authorization mentioned under Sub-Para (b) above as well as in the Form of Bid and in the Form of Contract Agreement (in case of a successful bid); and

(e) a copy of the agreement entered into by the joint venture partners shall be submitted with the bid stating the conditions under which it will function, its period of duration, the persons authorized to represent and obligate it and which persons will be directly responsible for due performance of the Contract and can give valid receipts on behalf of the joint venture, the proportionate participation of the several firms forming the joint venture, and any other information necessary to permit a full appraisal of its functioning. No amendments / modifications whatsoever in the joint venture agreement shall be agreed to between the joint venture partner without prior written consent of the Procuring Entity.

11.3 Bidders shall also submit proposals of work methods and schedule, in sufficient detail to demonstrate the adequacy of the Bidders’ proposals to meet the technical specifications and the completion time referred to in Sub-Clause 1.2 hereof.

**IB.12 Bid Prices**

12.1 The bidders shall quote their bids on percentage above/below on the uploaded BOQ.

12.2 All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause, as on the date 28 days prior to the deadline for submission of bids shall be included in the rates and prices and the total Bid Price submitted by a bidder.

Additional / reduced duties, taxes and levies due to subsequent additions or changes in legislation shall be reimbursed / deducted as per Sub-Clause 70.2 of the General Conditions of Contract Part-I.

12.3 The rates and prices quoted by the bidders are subject to adjustment during the performance of the Contract in accordance with the provisions of Clause 70 of the Conditions of Contract. The Procuring Entity shall furnish the prescribed information for the price adjustment formulae in Appendix-C to Bid, and shall submit with their bids such other supporting information as required under the said Clause.

**IB.13 Currencies of Bid and Payment**

13.1 The unit rates and the prices shall be quoted by the bidder entirely in Pak rupees.

**IB.14 Bid Validity**

14.1 Bids shall remain valid for the period stipulated in the Bidding Data.

14.2 In exceptional circumstances, prior to expiry of the original bid validity period, the Procuring Entity may request that the bidders extend the period of validity for a specified additional period which shall in no case be more than the original bid validity period. The request and the responses thereto shall be made in writing. A bidder may refuse the request without forfeiting his Bid Security. A bidder agreeing to the request will not be required or permitted to modify his bid, but will be required to extend the validity of his Bid Security for the period of the extension, and in compliance with Clause IB.15 in all respects. The bidder shall bear all costs to be incurred on such extensions.

**IB.15 Bid Security**

15.1 Each bidder shall furnish, as part of his bid, a Bid Security/Securities in the amount stipulated in the Bidding Data in Pak Rupees as per Bid Soliciting Documents.

15.5 The bid security of the successful bidder be retained with the Procuring Entity till completion of the defect liability period as well as operation of the canal on full design discharge to the satisfaction of Employer and Engineer.

15.6 The Bid Security may be forfeited:

(a) if the bidder withdraws his bid except as provided in Sub-Clause 22.1;

(b) if the bidder does not accept the correction of his Bid Price pursuant to

Sub-Clause 27.2 hereof.

(c) If the bidder fails to comply the Paras pertaining to forfeiture of bid security of the Terms and conditions .

(d) In the case of successful bidder, if he fails within the specified time limit to:

(i) furnish the required Performance Security; or

(ii) sign the Contract Agreement.

**IB.16 Alternate Proposals by Bidder**

16.1 Not Applicable

**IB.17 Pre-Bid Meeting**

17.1 The Procuring Entity may, on his own motion or at the request of any prospective bidder(s), hold a pre-bid meeting to clarify issues and to answer any questions on matters related to the Bidding Documents or any other matter that may be raised at that stage. The date, time and venue of pre- bid meeting, if convened, is as stipulated in the Bidding Data. All prospective bidders or their authorized representatives shall be invited to attend such a pre- bid meeting.

17.2 The bidders are requested to submit questions, if any, in writing so as to reach the Procuring Entity not later than seven (7) days before the proposed pre-bid meeting.

17.3 Minutes of the pre-bid meeting, including the text of the questions raised and the replies given, will be transmitted without delay to all purchasers of the Bidding Documents. Any modification of the Bidding Documents listed in Sub-Clause 7.1 hereof which may become necessary as a result of the pre-bid meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to Clause IB.9 and not through the minutes of the pre-bid meeting.

17.4 Absence at the pre-bid meeting will not be a cause for disqualification of a bidder.

**IB.18 Format and Signing of Bid**

18.1 Bidders are particularly directed that the amount entered on the Form of Bid shall be for performing the Contract strictly in accordance with the Bidding Documents.

18.2 All appendices to Bid are to be properly completed and signed.

18.3 No alteration is to be not made in the Form of Bid nor in the Appendices thereto except in filling up the blanks as directed. If any such alterations be made or if these instructions be not fully complied with, the bid may be rejected.

18.4 Each bidder shall prepare by filling out the forms completely and without alterations one (1) original and number of copies, specified in the Bidding Data, of the documents comprising the bid as described in Clause IB.7 and clearly mark them “ORIGINAL” and “COPY” as appropriate. In the event of discrepancy between them, the original shall prevail.

18.5 The original and all copies of the bid shall be typed or written in indelible ink (in the case of copies, Photostats are also acceptable) and shall be signed by a person or persons duly authorized to sign on behalf of the bidder pursuant to Sub- Clause 11.1(a) hereof. All pages of the bid shall be initialed and stamped by the person or persons signing the bid.

18.6 The bid shall contain no alterations, omissions or additions, except to comply with instructions issued by the Procuring Entity, or as are necessary to correct errors made by the bidder, in which case such corrections shall be initialed by the person or persons signing the bid.

18.7 Bidders shall indicate in the space provided in the Form of Bid their full and proper addresses at which notices may be legally served on them and to which all correspondence in connection with their bids and the Contract is to be sent.

18.8 Bidders should retain a copy of the Bidding Documents as their file copy.

**D. SUBMISSION OF BIDS IB.19 Sealing and Marking of Bids**

19.1 Each bidder shall submit his bid as under:

(a) ORIGINAL and each copy of the Bid shall be separately sealed and put in separate envelopes and marked as such.

(b) The envelopes containing the ORIGINAL and copies will be put in one sealed envelope and addressed / identified as given in Sub- Clause 19.2 hereof.

19.2 The inner and outer envelopes shall:

(a) Be addressed to the Procuring Entity at the address provided in the Bidding data;

(b) Bear the name and identification number of the contract as defined in the Bidding Data; and

(c) Provide a warning not to open before the time and date for bid opening, as specified in the Bidding Data.

19.3 In addition to the identification required in Sub- Clause 19.2 hereof, the inner envelope shall indicate the name and address of the bidder to enable the bid to be returned unopened in case it is declared “late” pursuant to Clause IB.21

19.4 If the outer envelope is not sealed and marked as above, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the Bid.

**IB.20 Deadline for Submission of Bids**

|  |  |  |
| --- | --- | --- |
| 20.1 | (a) | Complete Bids must be received by the Procuring Entity at the address specified no later than the time and date stipulated in the Bidding Data In the event of the specified date for the submission of bids declared a holiday for the Procuring Entity, the Bids will be received up to the appointed time on the next working day. |
|  | (b) | Bids with charges payable will not be accepted, nor will arrangements be undertaken to collect the bids from any delivery point other than that specified above. Bidders shall bear all expenses incurred in the preparation and delivery of bids. No claims will be entertained for refund of such expenses. |
|  | (c) | Where delivery of a bid is by mail and the bidder wishes to receive an acknowledgment of receipt of such bid, he shall make a request for such acknowledgment in a separate letter attached to but not included in the sealed bid package. |
|  | (d) | Upon request, acknowledgment of receipt of bids will be provided to those making delivery in person or by messenger. |

20.2 The Procuring Entity may, at his discretion, extend the deadline for submission of bids by issuing an amendment in accordance with Clause IB.9, in which case all rights and obligations of the Procuring Entity and the bidders previously subject to the original deadline will thereafter be subject to the deadline as extended. Corrigendum to this effect may be published in the National Press as well as Procuring Entity Website

**IB.21 Late Bids**

21.1 (a) Any bid received by the Procuring Entity after the deadline for submission of bids prescribed in Clause IB.20 will be returned unopened to such bidder.

(b) Delays in the mail, delays of person in transit, or delivery of a bid to the wrong office or due to any other reason, shall not be accepted as an excuse for failure to deliver a bid at the proper place and time. It shall be the bidder’s responsibility to determine the manner in which timely delivery of his bid will be accomplished either in person, by messenger or by mail.

**IB.22 Modification, Substitution and Withdrawal of Bids**

22.1 Any bidder may modify**,** substitute or withdraw his bid after bid submission provided that the modification, substitution or written notice of withdrawal is received by the Procuring Entity prior to the deadline or the extended deadline pursuant to clause IB.20.2, for submission of bids.

22.2 The modification, substitution or notice for withdrawal of any bid shall be prepared, sealed, marked and delivered in accordance with the provisions of Clause IB.19 with the outer and inner envelopes additionally marked MODIFICATION”SUBSTITUTION” Or “WITHDRAWAL” as appropriate.

22.3 No bid may be modified by a bidder after the deadline for submission of bids except in accordance with Sub-Clauses 22.1 and 27.2.

22.4 Withdrawal of a bid during the interval between the deadline for submission of bids and the expiration of the period of bid validity specified in the Form of Bid may result in forfeiture of the Bid Security in pursuance to Clause IB.15.

**E. BID OPENING AND EVALUATION**

**IB.23 Bid Opening**

23.1 The Procuring Entity will open all the bids received (except those received late), including withdrawals, substitution and modifications made pursuant to Clause IB.22, in the presence of bidders’ or their representatives who choose to attend, at the time, date and location stipulated in the Bidding Data. In the event of the specified date for the opening of bids being declared a holiday for the Procuring Entity, the Bids will be opened at the appointed time and location on the next working day. The bidders’ representatives who are present shall sign a register evidencing their attendance.

23.2 The bidder’s name, total Bid Price and price of any Alternate Proposal(s), any discounts, bid modifications, substitution and withdrawals, the presence or absence of Bid Security and such other details as the Procuring Entity may consider appropriate, will be announced by the Procuring Entity at the opening of bids.

23.3 Procuring Entity shall prepare minutes of the bid opening including the information disclosed to those present in accordance with the Sub-Clause 23.3.

**IB.24 Process to be Confidential**

24.1 Information relating to the examination, clarification, evaluation and comparison of bid and recommendations for the award of a contract shall not be disclosed to bidders or any other person not officially concerned with such process before the announcement of the final result of the bid evaluation which shall be done at least ten (10) days prior to issue of Letter of Acceptance and place the same on its and Authority’s Website (KP-PPRA Rule-45). The announcement to all Bidders will include table(s) comprising read out prices, discounted prices, price adjustments made, final evaluated prices and recommendations against all the bids evaluated. Any effort by a bidder to influence the Procuring Entity’s processing of bids or award decisions may result in the rejection of such bidder’s bid. Whereas any bidder feeling aggrieved may lodge a written complaint not later than fifteen (15) days after the announcement of the bid evaluation report; however mere fact of lodging a complaint shall not warrant suspension of the procurement process.

**IB.25 Clarification of Bids**

* 1. To assist in the examination, evaluation and comparison of bids, the Procuring Entity may, at his discretion, ask any bidder for clarification of his bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing but no change in the price or substance of the bid shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the bids in accordance with Clause IB.28.

**IB.26 Technical Qualification Criteria**

**N/A**

**26.2 Joint Venture (JV)**

i) All joint venture partners shall fulfill the minimum criteria of valid registration with PEC along with code of specialization and shall have valid enlistment with government of Khyber Pakhtunkhwa.

ii) The intending bidder will be allowed to participate only in sole capacity or in Joint venture.

**IB.27 Correction of Errors**

27.1 Bids determined to be substantially responsive will be checked by the Procuring Entity for any arithmetic errors. Errors will be corrected by the Procuring Entity as follows:

(a) where there is a discrepancy between the amounts in figures and in words, the amount in words will govern and

(b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the Procuring Entity there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern and the unit rate will be corrected.

27.2 The amount stated in the Form of Bid will be adjusted by the Procuring Entity in accordance with the above procedure for the correction of errors and with the concurrence of the bidder, shall be considered as binding upon the bidder. If the bidder does not accept the corrected bid price, his bid will be rejected and the Bid Security shall be forfeited in accordance with Sub- Clause 15.6(b) hereof.

**IB.28 Evaluation and Comparison of Bids**

28.1 The Procuring Entity will evaluate and compare only the bids determined to be substantially responsive.

28.2 In evaluating the bids, the Procuring Entity will determine for each bid the evaluated Bid Price by adjusting the Bid Price as follows:

(a) making any correction for errors pursuant to Clause IB.27;

(b) making an appropriate adjustment for any other acceptable variation or deviation, including discounts or other price modification in the bids.

28.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in Bid evaluation.

**F. AWARD OF CONTRACT**

**IB.29 Award**

29.1 Subject to Clauses IB.30 and IB.34, the Procuring Entity will award the Contract to the bidder whose bid has been determined to be substantially responsive to the Bidding Documents and who has offered the lowest evaluated Bid Price**,** provided that such bidder has been determined to be eligible in accordance with the provisions of Clause IB.3 and qualify pursuant to Sub-Clause IB 29.2.

29.2 The Procuring Entity, at any stage of the bid evaluation, having credible reasons for or *prima facie* evidence of any defect in supplier’s or contractor’s capacities, may require the suppliers or contractors to provide information concerning their professional, technical, financial, legal or managerial competence whether already pre-qualified or not:

Provided that such qualification shall only be laid down after recording reasons therefore in writing. They shall form part of the records of that bid evaluation report.

**IB.30 Procuring Entity’s Right to Accept any Bid and to Reject any or all Bids**

30.1 Notwithstanding Clause IB.29, the Procuring Entity reserves the right to accept or reject any Bid, and to annul the bidding process and reject all bids, at any time prior to award of Contract, without thereby incurring any liability to the affected bidders or any obligation except that the grounds for rejection of all bids shall upon request be communicated to any bidder who submitted a bid, without justification of grounds. Rejection of all bids shall be notified to all bidders promptly.

**IB.31 Notification of Award**

31.1 Prior to expiration of the period of bid validity prescribed by the Procuring Entity, the Procuring Entity will notify the successful bidder in writing (“Letter of Acceptance”) that his Bid has been accepted. This letter shall name the sum which the Procuring Entity will pay the Contractor in consideration of the execution and completion of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Conditions of Contract called the “Contract Price”).

31.2 No Negotiation with the bidder having evaluated as lowest responsive or any other bidder shall be permitted, however, Procuring Entity may have clarification meetings to get clarify any item in the bid evaluation report.

31.3 The notification of award and its acceptance by the bidder will constitute the formation of the Contract, binding the Procuring Entity and the bidder till signing of the formal Contract Agreement.

31.3 Upon furnishing by the successful bidder of a Performance Security, the Procuring Entity will promptly notify the other bidders that their Bids have been unsuccessful and return their bid securities.

**IB.32 Performance Security**

32.1 The successful bidder shall furnish to the Procuring Entity a Performance Security in the form and the amount stipulated in the Bidding Data and the Conditions of Contract plus additional security for unbalanced bids in accordance KPPRA notification No S.R.O (14)/ Vol: 1-24/2021-22 dated 10-05-2022 .

32.2 Failure of the successful bidder to comply with the requirements of Sub- Clause IB.32.1 or Clauses IB.33 or IB.35 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security.

**IB.33 Signing of Contract Agreement**

33.1 Within 14 days from the date of furnishing of acceptable Performance Security under the Conditions of Contract, the Procuring Entity will send the successful bidder the Contract Agreement in the form provided in the Bidding Documents, incorporating all agreements between the parties.

33.2 The formal Agreement between the Procuring Entity and the successful bidder shall be executed within 14 days of the receipt of the Contract Agreement by the successful bidder from the Procuring Entity

**IB.34 General Performance of the Bidders**

The Procuring Entity reserves the right to obtain information regarding performance of the bidders on their previously awarded contracts/works. The Procuring Entity may in case of consistent poor performance of any Bidder as reported by the Procuring Entities of the previously awarded contracts, inter alia, reject his bid and/or refer the case to the Pakistan Engineering Council (PEC) and KPPRA. Upon such reference, PEC / KPPRA in accordance with its rules, procedures and relevant laws of the land take such action as may be deemed appropriate under the circumstances of the case including black listing of such Bidder and debarring him from participation in future bidding for similar works.

**IB.35 Integrity Pact**

The Bidder shall sign and stamp the Integrity Pact provided at Appendix-L to Bid in the Bidding Documents for all procurement contracts exceeding Rupees ten million. Failure to provide such Integrity Pact shall make the bidder non- responsive.

**IB.36 Instructions not Part of Contract**

Bids shall be prepared and submitted in accordance with these Instructions which are provided to assist bidders in preparing their bids, and do not constitute part of the Bid or the Contract Documents

**BIDDING DATA**

**BD-1**

**BIDDING DATA**

This Section is intended to assist the Procuring Entity in providing the specific information in relation to corresponding clauses in Instructions to Bidders (IB) and should be prepared to suit each individual contract.

The Procuring Entity should provide in the Bidding Data information and requirements specific to the circumstances of the Procuring Entity, the processing of the Bid, the applicable rules regarding Bid Price and currency, and the Bid evaluation criteria that will apply to the Bids.In preparing this section, the following aspects should be checked:

(a) Information that specifies and complements the provisions of section; Instruction to

Bidders must be incorporated.

(b) Amendments and/or supplements, if any, to the provisions of Instructions to Bidders, necessitated by the circumstances of each individual contract, can be introduced only in this section since Instructions to Bidders will remain unchanged

**BD-2**

**BIDDING DATA**

Instructions to Bidders

Clause Reference

* 1. **Name and address of the Procuring Entity:**

*`Office of the Chief Engineer (North) Irrigation Department, Warsak Road Peshawar.*

*Phone No. 091-9212123, Email: chiefnorthirr@gmail.com mentioned in the NIT)*

* 1. **Name of the Project & Summary of the Works**

**Name of Project: 2201 (210423) Construction, Improvement and Extension of Jinkikhel, Azikhel & Matorizi Irrigation Channel District Swat:**

2.1 Name of the Source of Financing”

Govt of Khyber Pakhtun khwa through the water sector ADP

8.1 Time limit for clarification:

**Before 07-03-2024 the deadline date for submission of bids.**

10.1 Bid language:

**English**

11.1 (a) Single Stage Single Envelope Procurement Process of KPPRA shall be applicable.

**BD-3**

13.1 Bidders to quote entirely in Pak rupees:

**Bidders shall quote their bids in Pak rupees**

14.1 Period of Bid Validity:

**120 days which can be extended due to genuine reasons**

15.1 Amount of Bid Security:

**As per NIT**

17.1 Venue, time, and date of the Pre-Bid Meeting:

N/A

18.4 Number of copies of the Bid to be submitted:

**ONE Original Copy**

19.2(a) Procuring Entity's address for the purpose of Bid submission:

**Address:** *Office of the Executive Engineer Swat Irrigation Division-II Mattat, village Sambat Tehsil Matta.*

*Phone No. 0946-791221, Email: xenirrimatta@gmail.com mentioned in the NIT)*

19.2(b)Name and Number of the Contract:

**ADP No. 2201 (210423) Construction, Improvement and Extension of Jinkikhel, Azikhel & Matorizi Irrigation Channel District Swat.**

**Sub Work: CANAL STRUCTURES2021 PACKAGE-VI (SYPHONS)**

20.1(a)Deadline for submission of bids:

**Upto 1200 hrs Dated 07-03-2024**

**BD-4**

**23.1** Venue time and date & date of Bid Opening

**Bids will be opened at 1230 hrs on 07-03-2024**

**Venue:** *` Office of the Executive Engineer Swat Irrigation Division-II Mattat, village Sambat Tehsil Matta.*

*Phone No. 0946-791221, Email: xenirrimatta@gmail.com mentioned in the NIT)*

32.1 Standard form and amount of Performance Security acceptable to the Procuring Entity:

**10% of the contract Price.**

**FORM OF BID AND**

**APPENDICES TO BID**

**FORM OF BID**

**As attached in Bid Soliciting Documents**

**BA-1**

**Appendix-A to Bid**

**SPECIAL STIPULATIONS**

**Clause**

**Conditions of Contract**

|  |  |  |  |
| --- | --- | --- | --- |
| *1.* | *Engineer’s Authority to issue Variation in*  *Emergency* | *2.1* | *15 % of the Contract Price stated in the Letter of Acceptance.* |
| 2. | Amount of Performance Security | 10.1 | 10% of Contract Price stated in the Letter  of Acceptance or as per applicable KPPRA Rules.. |
| 3. | Time for Furnishing Program | 14.1 | Within 45 days from the date of receipt of  Letter of Acceptance. |
| 4. | Minimum amount of Third Party Insurance | 23.2 | N/A |
| 5. | Time for Commencement | 41.1 | Within 07 days from the date of receipt of Engineer’s Notice to commence after signing of Contract Agreement. |
| 6. | Time for Completion | 43.1,  48.2 | 30 Months |
| 7. | a) Amount of Liquidated Damages | 47.1 | 0.5% of the contract price for each day of delay in completion of the Works subject to a maximum of 10% of Contract Price. |
|  | b) Amount of Bonus | 47.3 | Not Applicable. |
| 8. | Defects Liability Period | 49.1 | 90 days from the effective date of  Taking Over Certificate and successful test operation of canal on design discharge. |
| 9. | Percentage of Retention Money | 60.2 | 8% deductions from IPCs |
| 10. | Limit of Retention Money | 60.2 | 5% of the Contract Price stated in the Letter of acceptance. |
| 11. | Minimum amount of Interim Payment  Certificates (Running Bills) | 60.2 | Rs. 3.00 Million (No limit within contract cost, as per avaiblable funds, work importance and work done |
| 12 | Time of Payment from delivery of Engineer’s  Interim Payment Certificate to the Procuring Entity. | 60.10 | After release of funds and verification of work as per Specification and due consideration of other works in head and importance of each work (DDO Decision) |
| 13 | Mobilization Advance [\*Interest Free]1 | 60.12 | 10% of Contract Price. |

**BB-1**

**Appendix-B to Bid**

**FOREIGN CURRENCY REQUIREMENTS**

**(NOT APPLICABLE)**

**BC-1**

**Appendix-C To Bid**

**PRICE ADJUSTMENT UNDER CLAUSE 70**

**OF CONDITIONS OF CONTRACT**

The source of indices and the weightages or coefficients for use in the adjustment formula under Clause 70 shall be as follows:

(To be filled by the Procuring Entity ).

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Cost | Description | Weightages | Applicable index | |  |
| Element |  |  |  |  |  |
| 1 | 2 | 3 |  |  | 4 |
| (i) | Fixed Portion | 0.25 |  |  |  |
| (ii) | Local Labour  Skilled  Unskillèd | 0.12  0.17 | Government | of | Pakistan (GP) |
|  |  |  | Federal Bureau of Statistics (FBS) | | |
|  |  |  | Monthly Statistical Bulletin. | | |
| (iii) | Cement – in bags | 0.14 | “ | “ | “ |
| (iv) | Reinforcing Steel | 0.18 | “ | “ | “ |
| (v) | High Speed Diesel (HSD) | 0.14 | “ | “ | “ |
|  | Total | 1.000 |  |  |  |

**Notes:**

1. Indices for “(ii)” to “(v)” are taken from the Government of Pakistan Federal Bureau of Statistics, Monthly Statistical Bulletin. The base cost indices or prices of the escalating items shall be those prevailing for the month falling on the date 28 days prior to the latest date for submission of the Bid. Current indices or prices shall be for the month falling on the date 28 days prior to the last day of the billing period.
2. In case the rate is not contained in Bureau of Statistic then any other authentic source to be approved by the Employer

Any fluctuation in the indices or prices of materials other than those given above shall not subject to adjustment of the Contract Price.

**BD-1**

**Appendix-D to Bid**

**BILL OF QUANTITIES**

**(As Attached/uploaded on PE’s Website)**

**BE-1**

**Appendix-E to Bid**

**PROPOSED CONSTRUCTION SCHEDULE**

**(TO BE PROVIDED BY THE BIDDER)**

**BF-1**

**Appendix-F to Bid**

**METHOD OF PERFORMING THE WORK**

[The Bidder is required to submit a narrative outlining the method of performing the work]

**BG-1**

**Appendix-G to Bid**

**LIST OF MAJOR EQUIPMENT – RELATED ITEMS**

(**TO BE PROVIDED BY THE BIDDERS)**

**BH-1**

**Appendix-H to Bid**

**CONSTRUCTION CAMP AND HOUSING FACILITIES**

The Contractor in accordance with Clause 34 of the Conditions of Contract shall provide

description of his construction camp’s facilities and staff housing requirements.

The Contractor shall be responsible for pumps, electrical power, water and electrical distribution systems, and sewerage system including all fittings, pipes and other items necessary for servicing the Contractor’s construction camp.

The Bidder shall list or explain his plans for providing these facilities for the service of the

Contract as follows:

1. Site Preparation (clearing, land preparation, etc.).

2. Provision of Services.

a) Power (expected power load, etc.).

b) Water (required amount and system proposed). c) Sanitation (sewage disposal system, etc.).

3. Construction of Facilities

a) Contractor’s Office. Workshop and Work Areas (areas required and proposed layout, type of construction of buildings, etc.).

b) Warehouses and Storage Areas (area required, type of construction and layout).

c) Housing and Staff Facilities (Plans for housing for proposed staff, layout, type of construction, etc.).

4. Construction Equipment Assembly and Preparation (detailed plans for carrying out this activity).

1. Other Items Proposed (Security Services etc)

**BI-1**

**Appendix-I to Bid**

**LIST OF SUBCONTRACTORS**

**(NOT APPLICABLES)**

**BJ-1**

**Appendix-J to Bid**

ESTIMATED PROGRESS PAYMENTS

Bidder’ estimate of the value of work which would be executed by him during each of the periods stated below, based on his Program of the Works and the Rates in the Bill of Quantities, expressed in thousands of Pakistani Rupees:

|  |  |
| --- | --- |
| **Quarter/ Year/ Period** | **Amounts**  **(Rs M)** |
| **1** | **2** |
| Ist Quarter |  |
| 2nd Quarter |  |
| 3rd Quarter |  |
| 4th Quarter |  |
| 5th Quarter |  |
| 6th Quarter |  |
| 7th Quarter |  |
| 8th Quarter |  |
| 9th Quarter |  |
| 10th Quarter |  |
| 11th Quarter |  |
| 12th Quarter |  |
| **Bid Price** |  |

**BK-1**

**Appendix-K to Bid**

**ORGANIZATION CHART FOR THE**

**SUPERVISORY STAFF AND LABOUR**

**(TO BE PROVIDED BY THE BIDDER)**

**BL-1**

**Appendix-L to Bid**

**(INTEGRITY PACT)**

**DECLARATION OF FEES, COMMISSION AND BROKERAGE ETC. PAID BY THE SUPPLIERS OF GOODS, SERVICES & WORKS IN CONTRACTS WORTH RS. 10.00 MILLION OR MORE**

Contract No. Dated Contract Value:

Contract Title:

………………………………… [name of Supplier] hereby declares that it has not obtained or induced the procurement of any contract, right, interest, privilege or other obligation or benefit from Government of Pakistan (GoP) or any administrative subdivision or agency

thereof or any other entity owned or controlled by GoP through any corrupt business practice.

Without limiting the generality of the foregoing, [name of Supplier] represents and warrants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any natural or juridical person, including its affiliate, agent, associate, broker, consultant, director, promoter, shareholder, sponsor or

subsidiary, any commission, gratification, bribe, finder’s fee or kickback, whether described

as consultation fee or otherwise, with the object of obtaining or inducing the procurement of

a contract, right, interest, privilege or other obligation or benefit in whatsoever form from

GoP, except that which has been expressly declared pursuant hereto.

[name of Supplier] certifies that it has made and will make full disclosure of all agreements and arrangements with all persons in respect of or related to the transaction with GoP and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

[name of Supplier] accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of this declaration, representation and warranty. It agrees that any contract, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other rights and remedies available to GoP under any law, contract or other instrument, be voidable at the option of GoP.

Notwithstanding any rights and remedies exercised by GoP in this regard, [name of Supplier] agrees to indemnify GoP for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to GoP in an amount equivalent to ten time the sum of any commission, gratification, bribe, finder’s fee or kickback given by [name of Supplier] as aforesaid for the purpose of obtaining or inducing the procurement of any contract, right, interest, privilege or other obligation or benefit in whatsoever form from GoP.

Name of Buyer: ……………… Name of Seller/Supplier: ………… Signature: …………………… Signature: …………………………

[Seal] [Seal]

**FORMS**

**CONTRACT AGREEMENT**

**MOBILIZATION ADVANCE GUARANTEE/BOND**

**CA-1**

**FORM OF CONTRACT AGREEMENT**

THIS CONTRACT AGREEMENT (hereinafter called the “Agreement”) made on the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of (month 20 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(hereafter called the “Procuring Entity”) of the one part and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereafter called the “Contractor”) of the other part.

WHEREAS the Procuring Entity is desirous that certain Works, viz should be executed by the Contractor and has accepted a Bid by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

NOW this Agreement witnesseth as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.

2. The following documents after incorporating addenda, if any, except those parts relating to Instructions to Bidders shall be deemed to form and be read and construed as part of this Agreement, viz:

(a) The Contract Agreement; (b) The Letter of Acceptance;

(c) The completed Form of Bid;

(d) Special Stipulations (Appendix-A to Bid);

(e) The Particular Conditions of Contract – Part II; (f) The General Conditions – Part I;

(g) The priced Bill of Quantities (Appendix-D to Bid);

(h) The completed Appendices to Bid (B, C, E to L); (i) The Drawings;

(j) The Specifications.

K) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(any other)\_

3. In consideration of the payments to be made by the Procuring Entity to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Procuring Entity to execute and complete the Works and remedy defects therein in conformity and in all respects with the provisions of the Contract.

4. The Procuring Entity hereby covenants to pay the Contractor, in consideration of the execution and completion of the Works as per provisions of the Contract, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the contract.\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CA-2**

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on the day, month and year first before written in accordance with their respective laws.

Signature of the Contactor Signature of Procuring Entity

(Seal) (Seal)

Signed, Sealed and Delivered in the presence of:

Witness: Witness:

(Name, Title and Address) (Name, Title and Address)

MG-1

**MOBILIZATION ADVANCE GUARANTEE**

Guarantee No. Date

WHEREAS (hereinafter called the 'Procuring Entity') has entered into a Contract for

(Particulars of Contract)

with (hereinafter called the "Contractor').

AND WHEREAS, the Procuring Entity has agreed to advance to the Contractor, at the Contractor's request, an amount of Rupees (Rs ) which amount shall be advanced to the Contractor as per provisions of the Contract.

AND WHEREAS, the Procuring Entity has asked the Contractor to furnish Guarantee to secure the mobilization advance for the performance of his obligations under the said Contract.

AND WHEREAS,

(Scheduled Bank in Pakistan acceptable to the Procuring Entity) (hereinafter called the “Guarantor”) at the request of the Contractor and in consideration of the Procuring Entity agreeing to make the above advance to the Contractor, has agreed to furnish the

said Guarantee.

NOW, THEREFORE, the Guarantor hereby guarantees that the Contractor shall use the advance for the purpose of above mentioned Contract and if he fails and commits default in fulfillment of any of his obligations for which the advance payment is made, the Guarantor shall be liable to the Procuring Entity for payment not exceeding the aforementioned amount.

Notice in writing of any default, of which the Procuring Entity shall be the sole and final judge, on the part of the Contractor, shall be given by the Procuring Entity to the Guarantor, and on such first written demand, payment shall be made by the Guarantor of all sums then due under this Guarantee without any reference to the Contractor and without any objection.

This Guarantee shall remain in force until the advance is fully adjusted against payments from the Interim Payment Certificates of the Contractor or until

whichever is earlier. (Date)

The Guarantor's liability under this Guarantee shall not in any case exceed the sum of Rupees

(Rs ).

This Guarantee shall remain valid up to the aforesaid date and shall be null and void after the aforesaid date or earlier if the advance made to the Contractor is fully adjusted against payments from Interim Payment Certificates of the Contractor provided that the Guarantor agrees that the aforesaid period of validity shall be deemed to be extended if on the above mentioned date the advance payment is not fully adjusted.

**MG-2**

GUARANTOR (BANK)

1. Signature

2. Name

3. Title

WITNESS

1.

Corporate Secretary (Seal)

2.

(Name Title & Address) Corporate Guarantor(Seal)

The Conditions of Contract comprise two parts:

|  |  |  |
| --- | --- | --- |
| **(a)** | **Part I -** | **General Conditions of Contract** |
| **(b)** | **Part II -** | **Particular Conditions of Contract** |

**PART I – GENERAL CONDITIONS OF CONTRACT**

**(FIDIC GCOC SHALL BE APPLICABLE)**

**PART II - PARTICULAR CONDITIONS OF CONTRACT**

**(Mandatory Provisions not to be Amended / Substituted except as instructed by KPPRA)**

**1.1 Definitions**

(a) (i) The Procuring Entity is Irrigation Department Khyber Pakhtunkhwa through Chief Engineer (North) Irrigation Department Warsak Road Peshawar.

(a) (iv) The Engineer is Resident Engineer /**Project Manager of the supervisory consultants to be hired for the project** Or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Engineer. Provided always that except in cases of professional misconduct, the outgoing Engineer is to formulate his certifications/recommendations in relation to all outstanding matters, disputes and claims relating to the execution of the works during his tenure.

The Employer is Executive Engineer Swat Irrigation Division –II Matta on behalf of Chief Engineer (North) Irrigation Department KP

Address: *Office of*  THE EXECUTIVE ENGINEER SWAT IRRIGATION DIVISION-II MATTA, SAMBAT CHAM MATTA, DISTRICT SWAT

Phone # 0946-791221 Email Add: xenirrimatta@gmail.com

The following paragraph is added:

(a)(vi) “Bidder or Tenderer” means any person or persons, company, corporation, firm or joint venture submitting a Bid or Tender.

(b)(v) The following is added at the end of the paragraph:

The word “Tender” is synonymous with “Bid” and the word “Tender Documents”

with “Bidding Documents”.

The following paragraph is added:

(b)(ix) “Program” means the program to be submitted by the Contractor in accordance

with Sub-Clause 14.1 and any approved revisions thereto.

(e)(i) The text is deleted and substituted with the following:

“Contract Price” means the sum stated in the Letter of Acceptance as payable to the Contractor for the execution and completion of the Works subject to such additions thereto or deductions therefrom as may be made and remedying of any defects therein

in accordance with the provisions of the Contract.

**2.1** **Engineer's Duties and Authority**

With reference to Sub-Clause 2.1(b), the following provisions shall also apply;

The Engineer shall obtain the specific approval of the Procuring Entity before carrying

out his duties in accordance with the following Clause.

(i) Consenting to the sub-letting of any part of the Works under Sub-Clause 4.1

“Subcontracting”

(ii) Certifying additional cost determined under Sub-Clause 12.2 “Not Foreseeable

Physical Obstructions or Conditions”.

(iii) Any action under Clause 10 “Performance Security” and Clauses 21,23,24 &

25 “Insurance” of sorts.

(iv) Any action under Clause 40 “Suspension”.

(v) Any action under Clause 44 “Extension of Time for Completion”.

(vi) Any action under Clause 47 “Liquidated Damages for Delay” or Payment of

Bonus for Early Completion of Works (PCC Sub-Clause 47.3).

(vii) Issuance of “Taking Over Certificate” under Clause 48.

(viii) Issuing a Variation Order under Clause 51,except:

a) in an emergency\* situation, as stated here below, or

b) if such variation would increase the Contract Price by less than the amount stated in the Appendix-A to Bid.

(ix) Fixing rates or prices under Clause 52.

(x) Extra payment as a result of Contractor’s claims under Clause 53.

(xi) Release of Retention Money to the Contractor under Sub-Clause 60.3

“Payment of Retention Money”.

(xii) Issuance of “Final Payment Certificate” under Sub-Clause 60.8. (xiii) Issuance of “Defect Liability Certificate” under Sub-Clause 62.1.

(xiv) Any change in the ratios of Contract currency proportions and payments thereof under Clause 72 “Currency and Rate of Exchange”.

(Note: Employer may further vary according to need of the project)

\* (If in the opinion of the Engineer an emergency occurs affecting the safety of life or of the Works or of adjoining property, the Engineer may, without relieving the Contractor of any of his duties and responsibilities under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall forthwith comply with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the Employer.)

**2.2 Engineer’s Representative**

The following paragraph is added:

The Employer shall ensure that the Engineer’s Representative is a Professional Engineer as defined in the Pakistan Engineering Council Act 1975 (V of 1976)

The following Sub-Clauses 2.7 and 2.8 are added:

**2.7 Engineer Not Liable**

Approval, reviews and inspection by the Engineer of any part of the Works does not relieve the Contractor from his sole responsibility and liability for the supply of materials, plant and equipment for construction of the Works and their parts in accordance with the Contract and neither the Engineer's authority to act nor any decision made by him in good faith as provided for under the Contract whether to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Engineer to the Contractor, any Subcontractor, any of their representatives or employees or any other person performing any portion of the Works.

**2.8 Replacement of the Engineer**

“If the Employer intends to replace the Engineer, the Employer shall, not less than 14 days before the intended date of replacement, give notice to the Contractor, of the name, address and relevant experience of the intended replacement Engineer. The Employer shall not replace the Engineer with a person against whom the Contractor raises reasonable objection by notice to the Procuring Entity, with supporting particulars.”

**5.1 Language(s) and Law**

(a) The Contract Documents, shall be drawn up in the English language.

(b) The Contract shall be subject to the Laws of Islamic Republic of Pakistan.

**5.2 Priority of Contract Documents**

The documents listed at (1) to (6) of the Sub-Clause are deleted and substituted with the following:

(1) The Contract Agreement (if completed); (2) The Letter of Acceptance;

(3) The completed Form of Bid;

(4) Special Stipulations (Appendix-A to Bid);

(5) The Particular Conditions of Contract – Part II; (6) The General Conditions – Part I;

(7) The priced Bill of Quantities (Appendix-D to Bid);

(8) The completed Appendices to Bid (B, C, E to L); (9) The Drawings;

(10) The Specifications; and

(11) NIT/ Bids Soliciting Documents

In case of discrepancies between drawings, those of larger scale shall govern unless they are superseded by a drawing of later date regardless of scale. All Drawings and Specifications shall be interpreted in conformity with the Contract and these Conditions. Addendum, if any, shall be deemed to have been incorporated at the

appropriate places in the documents forming the Contract.

The following Sub-Clauses 6.6 and 6.7 are added:

**6.6 Shop Drawings**

The Contractor shall submit to the Engineer for review 3 copies of all shop and erection drawings applicable to this Contract as per provision of relevant Sub-Clause of the Contract.

Review and approval by the Engineer shall not be construed as a complete check but will indicate only that the general method of construction and detailing is satisfactory and that the Engineer’s review or approval shall not relieve the Contractor of any of his responsibilities under the Contract.

**6.7 As-Built Drawings**

At the completion of the Works under the Contract, the Contractor shall furnish to the Engineer 6 copies and one reproducible of all drawings amended to conform with the Works as built. The price of such Drawings shall be deemed to be included in the Contract Price.

**10.1 Performance Security**

The Contractor shall provide Performance Security to the Employer in the prescribed form. The said Security shall be furnished or caused to be furnished by the Contractor within 28 days after the receipt of the Letter of Acceptance. The Performance Security shall be of an amount equal to 10% of the Contract Price stated in the Letter of Acceptance. Such Security shall, at the option of the bidder, be in the form of either (a) bank guarantee from any Scheduled Bank in Pakistan or (b) bank guarantee from a bank located outside Pakistan duly counter-guaranteed by a Scheduled Bank in Pakistan.

The cost of complying with requirements of this Sub-Clause shall be borne by the

Contractor.

10.3 **Claim under Performance Security**

Sub Clause 10.3 of General Conditions is deleted.

The following Sub-Clause10.4 is added:

**10.4 Performance Security Binding on Variations and Changes**

The Performance Security shall be binding irrespective of changes in the quantities or variations in the Works or extensions in Time for Completion of the Works which are granted or agreed upon under the provisions of the Contract.

**14.1 Program to be Submitted**

The program shall be submitted within 42 days from the date of receipt of Letter of

Acceptance, which shall be in the form of:

i) a Bar Chart identifying the critical activities. ii) a CPM identifying the critical path/activities.

*(Employer to select appropriate one)*

The programme shall be revised every ninety first day and should include a chart of updated principal quantities of works, forecast for execution fornightly and updated schedule of payment expected to be made to the contractor by the employer.

**14.3 Cash Flow Estimate to be Submitted**

The detailed Cash Flow Estimate shall be submitted within 21 days from the date of receipt of Letter of Acceptance

The following Sub-Clause 14.5 is added:

**14.5 Detailed Program and Monthly Progress Report**

a) For purposes of Sub-Clause 14.1, the Contractor shall submit to the Engineer detailed program for the following:

(1) Execution of Works; (2) Labour Employment;

(3) Local Material Procurement; (4) Material Imports, if any; and

(5) Other details as required by the Engineer.

(b) During the period of the Contract, the Contractor shall submit to the Engineer not later than the 8th day of the following month, 5 copies each of Monthly Progress Reports

covering:

(1) A Construction Schedule indicating the monthly progress in percentage; (2) Description of all work carried out since the last report;

(3) Description of the work planned for the next 56 days sufficiently detailed to

enable the Engineer to determine his program of inspection and testing; (4) Monthly summary of daily job record;

(5) Photographs to illustrate progress ;and

(6) Information about problems and difficulties encountered, if any, and proposals to overcome the same.

(c) During the period of the Contract, the Contractor shall keep a daily record of the work progress, which shall be made available to the Engineer as and when requested. The

daily record shall include particulars of weather conditions, number of men working, deliveries of materials, quantity, location and assignment of Contractor’s equipment.

The following Sub-Clauses 15.2 and 15.3 are added:

**15.2 Language Ability of Contractor’s Representative**

The Contractor’s authorized representative shall be fluent in the Urdu/English language. Alternately an interpreter with ability of English language shall be provided by the Contractor on full time basis. The Engineer / Procuring Entity, however, may relax conditions of the language from English to other local languages if deemed appropriate.

**15.3 Contractor’s Representative**

The Contractor’s authorized representative and his other professional engineers

working at Site shall register themselves with the Pakistan Engineering Council. The Contractor’s authorized representative at site shall be authorized to exercise adequate administrative and financial powers on behalf of the Contractor so as to achieve completion of the works as per the Contract.

The following Sub-Clauses 16.3 and 16.4 are added:

**16.3 Language Ability of Superintending Staff of Contractor**

A reasonable proportion of the Contractor's superintending staff shall have a working knowledge of the English language. If the Contractor’s superintending staff are not fluent in English language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer.

**16.4 Employment of Local Personnel**

The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour from sources within KPK particularly from the project area.

The following Sub-Clauses 19.3 and 19.4 are added:

**19.3 Safety Precautions**

In order to provide for the safety, health and welfare of' persons, and for prevention of damage of any kind, all operations for the purposes of or in connection with the Contract shall be carried out in compliance with the Safety Requirements of the Government of Pakistan and KPK with such modifications thereto as the Engineer may authorize or direct and the Contractor shall take or cause to be taken such further measures and comply with such further requirements as the Engineer may determine to be reasonably necessary for such purpose.

The Contractor shall make, maintain and submit reports to the Engineer concerning safety, health and welfare of persons and damage to property, as the Engineer may from time to time prescribe.

**19.4 Lighting Work at Night**

In the event of work being carried out at night, the Contractor shall at his own cost, provide and maintain such good and sufficient light as will enable the work to proceed satisfactorily and without danger. The approaches to the Site and the Works where the night-work is being carried out shall be sufficiently lighted. All arrangement adopted

for such lighting shall be to the satisfaction of the Engineer’s Representative.

**20.4 Employer’s Risks**

The Procuring Entity’s risks are:

Delete the text and substitute with the following:

(a) insofar as they directly affect the execution of the Works in KPK

(i) war and hostilities (whether war be declared or not), invasion, act of foreign enemies,

(ii) rebellion, revolution, insurrection, or military or usurped power, or civil war, (iii) ionizing radiations, or contamination by radioactivity from any nuclear fuel, or

from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof,

(iv) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,

(v) riot, commotion or disorder, unless solely restricted to the employees of the

Contractor or of his Subcontractors and arising from the conduct of the Works;

(b) loss or damage due to the use or occupation by the Employer of any Section or part of the Permanent Works, except as may be provided for in the Contract;

(c) loss or damage to the extent that it is due to the design of the Works, other than any part of the design provided by the Contractor or for which the Contractor is responsible; and

(d) any operation of the forces of nature (insofar as it occurs on the Site) which an experienced contractor:

(i) could not have reasonably foreseen, or

(ii) could reasonably have foreseen, but against which he could not reasonably have taken at least one of the following measures:

(a) prevent loss or damage to physical property from occurring by taking appropriate measures, or

(b) insure against.

**21.2 Scope of Cover**

Paragraph (a) of sub clause 21.2 is amended by deletion of words “… from start of work at site…” And by substitution thereof by words “… from first working day after the commencement date

**21.4 Exclusions**

The text is deleted and substituted with the following:

There shall be no obligation for the insurances in Sub-Clause 21.1 to include loss or damage caused by the risks listed under Sub-Clause 20.4 para (a) (i) to (iv).

The following Sub-Clause 25.5 is added:

**25.5 Insurance Company**

The Contractor shall be obliged to place all insurances relating to the Contract (including, but not limited to, the insurances referred to in Clauses 21, 23 and 24) with either National Insurance Company of Pakistan or any other insurance company operating in Pakistan and acceptable to the Employer

Costs of such insurances shall be borne by the Contractor. The following Sub-Clause 31.3 is added:

**31.3 Co-operation with other Contractors**

During the execution of the Works, the Contractor shall co-operate fully with other contractors working for the Employer at and in the vicinity of the Site and also shall provide adequate precautionary facilities not to make himself a nuisance to local residents and other contractors.

The following Sub-Clauses 34.2 to 34.12 are added:

**34.2 Rates of Wages and Conditions of Labour**

The Contractor shall pay rates of' wages and observe conditions of labour not less favourable than those established for the trade or industry where the work is carried out. In the absence of any rates of wages or conditions of labour so established, the Contractor shall pay rates of wages and observe conditions of labour which are not less favourable than the general level of wages and conditions observed by other Employers whose general circumstances in the trade or in industry in which the Contractor is engaged are similar.

**34.3 Employment of Persons in the Service of Others**

The Contractor shall not recruit his staff and labour from amongst the persons in the services of the Employer or the Engineer; except with the prior written consent of the Employer or the Engineer, as the case may be.

**34.4 Housing for Labour**

Save insofar as the Contract otherwise provides, the Contractor shall provide and

maintain such housing accommodation and amenities as he may consider necessary for all his supervisory staff and labour, employed for the purposes of or in connection with the Contract including all fencing, electricity supply, sanitation, cookhouses, fire prevention, water supply and other requirements in connection with such housing accommodation or amenities. On completion of the Contract, these facilities shall be handed over to the Employer or if the Employer so desires, the temporary camps or housing provided by the Contractor shall be removed and the Site reinstated to its original condition, all to the approval of the Engineer.

**34.5 Health and Safety**

Due precautions shall be taken by the Contractor, and at his own cost, to ensure the safety of his staff and labour at all times throughout the period of the Contract. The Contractor shall further ensure that suitable arrangements are made for the prevention of epidemics and for all necessary welfare and hygiene requirements.

**34.6 Epidemics**

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government, or the local medical or sanitary authorities, for purpose of dealing with and overcoming the same.

**34.7 Supply of Water**

The Contractor shall, so far as is reasonably practicable, having regard to local conditions**,** provide on the Site, to the satisfaction of the Engineer or his representative, adequate supply of drinking and other water for the use of his staff and labour.

**34.8 Alcoholic Liquor or Drugs**

The Contractor shall not, otherwise than in accordance with the Statutes, Ordinances and Government Regulations or Orders for the time being in force, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or suffer any such importation, sale, gift, barter or disposal by his Subcontractors, agents, staff or labour.

**34.9 Arms and Ammunition**

The Contractor shall not give, or otherwise dispose of to any person or persons, any arms or ammunition of any kind or permit or suffer the same as aforesaid.

**34.10 Festivals and Religious Customs**

The Contractor shall in all dealings with his staff and labour have due regard to all recognized festivals, days of rest and religious and other customs.

**34.11 Disorderly Conduct**

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst staff and labour and for the preservation of peace and protection of persons and property in the neighbourhood of the Works against the same.

**34.12 Compliance by Subcontractors**

The Contractor shall be responsible for compliance by his Subcontractors of the provisions of this Clause.

The following Sub-Clauses 35.2 and 35.3 are added:

**35.2 Records of Safety and Health**

The Contractor shall maintain such records and make such reports concerning safety, health and welfare of persons and damage to property as the Engineer may from time to time prescribe.

**35.3 Reporting of Accidents**

The Contractor shall report to the Engineer details of any accident as soon as possible after its occurrence. In the case of any fatality or serious accident, the Contractor shall, in addition, notify the Engineer immediately by the quickest available means.

The following Sub-Clause 36.6 is added:

**36.6 Use of Pakistani Materials and Services**

The Contractor shall , so far as may be consistent with the Contract, make the maximum use of materials, supplies, plant and equipment indigenous to or produced or fabricated in Pakistan and services, available in Pakistan preferably in KPK provided such materials, supplies, plant, equipment and services shall be of required standard.

**41.1 Commencement of Works**

The text is deleted and substituted with the following:

The Contractor shall commence the Works on Site within the period named in Appendix-A to Bid from the date of receipt by him from the Engineer of a written Notice to Commence. Thereafter, the Contractor shall proceed with the Works with due expedition and without delay.

The following Sub-Clause 47.3 is added:

**41.1 Commencement of Works**

The Contractor shall commence the Works as soon as is reasonably possible after the receipt by him of notice to this effect from the Engineer, which notice shall be issued within the time stated in the Appendix to Tender after the date of the Letter of Acceptance. Thereafter, the Contractor shall proceeded with the Works with due expedition and without delay.

**42.1 Possession of Site and Access Thereto**

Save insofar as the Contract may prescribe:

(a) The extent of portions of the Site of which the Contractor is to be given possession from time to time,

(b) The order in which such portions shall be made available to the Contractor,

and, subject to any requirement in the Contract as to the order in which the Works shall be executed, the Employer will, with the Engineer's notice to commence the Works, give to the Contractor possession of

(c) So much of the Site, and

(d) such access as, in accordance with the Contract, is to be provided by the Employer as may be required to enable the Contractor to commence and proceed with the execution of the Works in accordance with the programme referred to in Clause 14, if any, and otherwise in accordance with such reasonable proposals as the Contractor shall, by notice to the Engineer with a copy to the Employer, make. The Employer will, from time to time as the Works proceed, give to the Contractor possession of such further portions of the Site as may be required to enable the Contractor to proceed with the execution of the Works with due dispatch in accordance with such programme or proposals, as the case may be.

**42.2 Failure to Give Possession**

If the Contractor suffers delay and/or incurs costs from failure on the part of the Employer to give possession in accordance with the terms of Sub-Clause 42.1, the Engineer shall, after due consultation with the Employer and the Contractor, determine:

(a) Any extension of time to which the Contractor is entitled under Clause 44, and

(b) The amount of such costs, which shall be added to the Contract Price,

and shall notify the Contractor accordingly, with a copy to the Employer.

**42.3** **Rights of Way and Facilities**

The Contractor shall bear all costs and charges for special or temporary wayleaves required by him in connection with access to the Site. The Contractor shall also provide at his own cost any additional facilities outside the Site required by him for the purposes of the Works.

**43.1** **Time for Completion**

The whole of the Works and, if applicable, any Section required to be completed within a particular time as stated in the Appendix to Tender, shall be completed, in accordance with the provisions of Clause 48, within the time stated in the Appendix to Tender for the whole of the Works or the Section (as the case may be), calculated from the Commencement Date, or such extended time as may be allowed under Clause 44.

**44.1 Extension of Time for Completion**

In the event of:

(a) The amount or nature of extra or additional work,

(b) Any cause of delay referred to in these Conditions,

(c) Exceptionally adverse climatic conditions,

(d) Any delay, impediment or prevention by the Employer, or

(e) Other special circumstances which may occur, other than through a default of or breach of contract by the Contractor or for which he is responsible,

being such as fairly to entitle the Contractor to an extension of the Time for Completion of the Works, or any Section or part thereof, the Engineer shall, after due consultation with the Employer and the Contractor, determine the amount of such extension and shall notify the Contractor accordingly, with a copy to the Employer.

**44.2** **Contractor to Provide Notification and Detailed Particulars**

Provided that the Engineer is not bound to make any determination unless the Contractor has

(a) within 28 days after such event has first arisen notified the Engineer with a copy to the Employer, and

(b) within 28 days or such other reasonable time as may be agreed by the Engineer, after such notification submitted to the Engineer detailed particulars of any extension of time to which he may consider himself entitled in order that such submission may be investigated at the time.

**44.3** **Interim Determination of Extension**

Provided also that where an event has a continuing effect such that it is not practicable for the Contractor to submit detailed particulars within the period of 28 days referred to in Sub-Clause 44.2(b), he shall nevertheless be entitled to an extension of time provided that he has submitted to the Engineer interim particulars at intervals of not more than 28 days and final particulars within 28 days of the end of the effects resulting from the event. On receipt of such interim particulars, the Engineer shall, without undue delay, make an interim determination of extension of time and, on receipt of the final particulars, the Engineer shall review all the circumstances and shall determine an overall extension of time in regard to the event. In both such cases the Engineer shall make his determination after due consultation with the Employer and the Contractor and shall notify the Contractor of the determination, with a copy to the Employer. No final review shall result in a decrease of any extension of time already determined by the Engineer.

**45.1** **Restriction on Working Hours**

Subject to any provision to the contrary contained in the Contract, none of the Works shall, save as hereinafter provided, be carried on during the night or on locally recognized days of rest without the consent of the Engineer, except when work is unavoidable or absolutely necessary for the saving of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer. Provided that the provisions of this Clause shall not be applicable in the case of any work which it is customary to carry out by multiple shifts.

**46.1** **Rate of Progress**

If for any reason, which does not entitle the Contractor to an extension of time, the rate of progress of the Works or any Section is at any time, in the opinion of the Engineer, too slow to comply with the Time for Completion, the Engineer shall so notify the Contractor who shall thereupon take such steps as are necessary, subject to the consent of the Engineer, to expedite progress so as to comply with the Time for Completion. The Contractor shall not be entitled to any additional payment for taking such steps. If, as a result of any notice given by the Engineer under this Clause, the Contractor considers that it is necessary to do any work at night or on locally recognised days of rest, he shall be entitled to seek the consent of the Engineer so to do. Provided that if any steps, taken by the Contractor in meeting his obligations under this Clause, involve the Employer in additional supervision costs, such cost shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be recoverable from the Contractor by the Employer, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.

**47.1 Liquidated Damages for Delay**

If the Contractor fails to comply with the Time for Completion in accordance with Clause 48, for the whole of the Works or, if applicable, any Section within the relevant time prescribed by Clause 43, then the Contractor shall pay to the Employer the relevant sum stated in the Appendix to Tender as liquidated damages for such default and not as a penalty (which sum shall be the only monies due from the Contractor for such default) for every day or part of a day which shall elapse between the relevant Time for Completion and the date stated in a Taking-Over Certificate of the whole of the Works or the relevant Section, subject to the applicable limit stated in the Appendix to Tender. The Employer may, without prejudice to any other method of recovery, deduct the amount of such damages from any monies due or to become due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works, or from any other of his obligations and liabilities under the Contract.

**47.2** **Reduction of Liquidated Damages**

If, before the Time for Completion of the whole of the Works or, if applicable, any Section, a Taking-Over Certificate has been issued for any part of the Works or of a Section, the liquidated damages for delay in completion of the remainder of the Works or of that Section shall, for any period of delay after the date stated in such Taking-Over Certificate, and in the absence of Alternative provisions in the Contract, be reduced in the proportion which the value of the part so certified bears to the value of the whole of the Works or Section, as applicable. The provisions of this Sub-Clause shall only apply to the rate of liquidated damages and shall not affect the limit thereof.

**48.1 Taking Over Certificate**

And “and commissioning” after the word “completion” in line 17 in the text of this clause under General Conditions.

**48.2 Taking Over of Sections or Parts**

Taking over by parts is not envisaged.

**49.5 Extension of Defect Liability**

The following new Sub Clause is added:

The provisions of this sub clauseshall apply to all replacement or renewal of plant carried out by the Contractor to remedy defects and damages as if the replacements and renewals had been taken over on the date they are completed. The defect liability period for the works shall be extended by a period equal to the period equal to the period during which the works cannot be used by reason of a defect or damage. If only part of the works is affected, the Defects Liability Period shall be extended only for that part. In neither case, defect liability period shall be extended beyond (02) years from date of taking over.

When progress in respect of plant has been suspended under clause 40 the Contractor’s obligations under this clause shall not apply to any defects occurring more than three years after the time for completion established on the date of letter of acceptance.

**51.2 Instructions for Variations**

At the end of the first sentence, after the word “Engineer", the words “in writing” are added.

**52.1 Valuation of Variations**

In the tenth line, after the words “Engineer shall” the following is added:

within a period not exceeding one-eighth of the completion time subject to a

minimum of 28 days from the date of disagreement whichever is later.

**53.4 Failure to Comply**

This Sub-Clause is deleted in its entirety.

**54.3 Customs Clearance**

(Procuring Entity may vary this Sub-Clause)

**54.5 Conditions of Hire of Contractor’s Equipment**

The following paragraph is added:

The Contractor shall, upon request by the Engineer at any time in relation to any item of hired Contractor’s Equipment, forthwith notify the Engineer in writing the name and address of the Owner of the equipment and shall certify that the agreement for the hire thereof contains a provision in accordance with the requirements set forth above.

**60.1 Monthly Statements**

In the first line after the word “shall”, the following is added:

“on the basis of the joint measurement of work done under Clause 56.1,”

In Para (c) the words “the Appendix to Tender” are deleted and substituted with the words “ Sub-Cause 60.11 (a)(6) hereof”. (in case Clause 60.11 is applicable)

**60.2 Monthly Payments**

In the first line, “28” is substituted by “14”.

**60.10 Time for Payment**

The text is deleted and substituted with the following:

The amount due to the Contractor under any Interim Payment Certificate issued by the Engineer pursuant to this Clause, or to any other terms of the Contract, shall , subject to Clause 47, be paid by the Procuring Entity to the Contractor within 30 days after such Interim Payment Certificate has been jointly verified by Procuring Entity, Engineer and Contractor, or, in the case of the Final Certificate referred to in Sub Clause 60.8, within 60 days after such Final Payment Certificate has been jointly verified by Employer, Engineer and Contractor; Provided that the Interim Payment shall be caused in 42 days and Final Payment in 60 days in case of foreign funded project.

The following Sub-Clause 60.11 is added:

**60.11 Secured Advance on Materials**

a) The Contractor shall be entitled to receive from the Employer Secured Advance against an indemnity bond acceptable to the Employer of such sum as the Engineer may consider proper in respect of non-perishable materials brought at the Site but not yet incorporated in the Permanent Works provided that:

(1) The materials are in accordance with the Specifications for the

Permanent Works

(2) Such materials have been delivered to the Site and are properly stored and protected against loss or damage or deterioration to the satisfaction of the Engineer but at the risk and cost of the Contractor;

(3) The Contractor’s records of the requirements, orders, receipts and use of materials are kept in a form approved by the Engineer, and such records shall be available for inspection by the Engineer;

(4) The Contractor shall submit with his monthly statement the estimated value of the materials on Site together with such documents as may be required by the Engineer for the purpose of valuation of materials and providing evidence of ownership and payment therefor;

(5) Ownership of such materials shall be deemed to vest in the Employer and these materials shall not be removed from the Site or otherwise disposed of without written permission of the Employer; and

(6) The sum payable for such materials on Site shall not exceed 75 % of the (i) landed cost of imported materials, or (ii) ex-factory / ex-warehouse price of locally manufactured or produced materials, or (iii) market price of other materials.

(b) The recovery of Secured Advance paid to the Contractor under the above provisions shall be effected from the monthly payments on actual consumption basis.

**60.12 Financial Assistance to Contractor**

Financial assistance shall be made available to the Contractor by the Employer by adopting any one of the following three Alternatives:

*(Appropriate* alternative only to be retained) Alternative One: Mobilization Advance

1. An interest-free Mobilization Advance 10% of the Contract Price stated in the Letter of Acceptance shall be paid by the Employer to the Contractor in two equal parts upon submission by the Contractor of a Mobilization Advance Guarantee**/** for the full amount of the Advance in the specified form from a Scheduled Bank in Pakistan or an Insurance Company acceptable to Employer:

(1) First part within 14 days after signing of the Contract Agreement or date of receipt of Engineer’s Notice to Commence, whichever is earlier; and

(2) Second part within 42 days from the date of payment of the first part, subject to the satisfaction of the Engineer as to the state of mobilization of the Contractor.

(b) This Advance shall be recovered in equal installments; first installment at the expiry of third month after the date of payment of first part of Advance and the last installment two months before the date of completion of the Works as per Clause 43 hereof.

(Employer may opt either “Secured Advance on Materials” or “Financial Assistance to Contractor”)

**63.1 Default of Contractor**

The following para is added at the end of the Sub-Clause:

Provided further that in addition to the action taken by the Employer against the Contractor under this Clause, the Employer may also refer the case of default of the Contractor to Pakistan Engineering Council for punitive action under the Construction and Operation of Engineering Works Bye-Laws 1987, as amended from time to time as well as under the prevailing rules of KPPRA.

**65.2 Special Risks**

The text is deleted and substituted with the following:

The Special Risks are the risks defined under Sub-Clause 20.4 sub paragraphs (a) (i)

to (a) (v).

**67. 3 Arbitration**

In the sixth to eight lines, the words “shall be finally settled .......... appointed under

such Rules” are deleted and substituted with the following:

shall be finally settled under the provisions of the Arbitration Act, 1940 as amended or any statutory modification or re-enactment thereof for the time being in force.

The following paragraph is added:

The place of arbitration shall be Peshawar Pakistan.

**68.1 Notice to Contractor**

The following paragraph is added:

For the purposes of this Sub-Clause, the Contractor shall, immediately after receipt of Letter of Acceptance, intimate in writing to the Employer and the Engineer by registered post, the address of his principal place of business or any change in such address during the period of the Contract.

**68.2 Notice to Procuring Entity and Engineer.**

For the purposes of this Sub-Clause, the respective address are:

**a)** The Employer:

*Executive Engineer Swat Irrigation Division-II on behalf of Chief Engineer (North) Irrigation Department KP*

**b)** The Engineer:

*Resident Engineer/Project Manager of supervisory Consultants to be hired for the project*

69.1 default of employer

Payment to the contractor shall be ensured in time as stated in Sub-Clause 60.1, subject to:

1. Availability of funds for the project.
2. If the project is in Revision Stage i.e. ‘’R’’ Stage, then Contractor’s payment beyond the effective contract price will be measured, but payment to the Contractor shall be made upon approval of the revised scope through revised administrative approval from the competent authority.

In such events, the Contractor would not be entitled to terminate his employment under the contract, by giving notice to the employer.

69.4 CONTRACTOR’S ENTITLEMENT TO SUSPEND WORK

Without prejudice to the Contractor’s entitlement Sub-Clause 60.1, the Contractor, shall not be entitled to terminate the contract for reasons covered under Sub-Clause 69.4.

**70.1 Increase or Decrease of Cost**

Sub-Clause 70.1 is deleted in its entirety, and substituted with the following:

The amounts payable to the Contractor, pursuant to Sub-Clause 60.1, shall be adjusted in respect of the rise or fall in the cost of labor, materials, and other inputs to the Works, by applying to such amount the formula prescribed in this Sub-Clause.

**(a) Other Changes in Cost**

To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other Clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.

(b) Adjustment Formula

The price adjustment formula shall not be applied before expiry of one year from date fixed for receiving of tenders and price of works and goods done or delivered during that period are not subject to escalation.

The adjustment to the monthly statements in respect of changes in cost shall be determined from the following formula:-

……………….

Where:

“Pn” is a price adjustment factor to be applied to the amount for the payment of the work carried out in the subject month, determined in accordance with Paragraph 60.1 (a), and with Paragraphs 60.1 (b) and (e), where any variations and day work are not otherwise subject to adjustment;

“A” is a constant, specified in Appendix-C to Bid, representing the nonadjustable portion in contractual payments;

b, c, d, etc., are weightages or coefficients representing the estimated proportion of each cost element (labour, cement and reinforcing steel etc.) in the Works or Sections thereof, net of Provisional Sums and Prime Cost; the sum of A, b, c, d, etc., shall be one;

“Ln”, “Mn”, “En”, etc., are the current cost indices or reference prices of the cost elements for month “n”, determined pursuant to Sub-Clause 70.1(d), applicable to each cost element; and

“Lo”, “Mo”, “Eo”, etc., are the base cost indices or reference prices corresponding to the above cost elements at the date specified in Sub-Clause 70.1(d).

(c) Sources of Indices and Weightages

The sources of indices shall be those listed in Appendix-C to Bid, as approved by the Engineer. As the proposed basis for price adjustment, the Contractor shall have submitted with his bid the tabulation of Weightages and Source of Indices if different than those given in Appendix-C to Bid, which shall be subject to approval by the Engineer.

(d) Base, Current, and Provisional Indices

The base cost indices or prices shall be those prevailing on the day 28 days prior to the latest date for submission of bids. Current indices or prices shall be those prevailing on the day 28 days prior to the last day of the period to which a particular monthly statement is related. If at any time the current indices are not available, provisional indices as determined by the Engineer will be used, subject to subsequent correction of the amounts paid to the Contractor when the current indices become available.

(e) Adjustment after Completion

If the Contractor fails to complete the Works within the Time for Completion prescribed under Clause 43, adjustment of prices thereafter until the date of completion of the Works shall be made using either the indices or prices relating to the prescribed time for completion, or the current indices or prices, whichever is more favorable to the Employer, provided that if an extension of time is granted pursuant to Clause 44, the above provision shall apply only to adjustments made after the expiry of such extension of time.

(f) Weightages

The weightages for each of the factors of cost given in Appendix-C to Bid shall be adjusted if, in the opinion of the Engineer, they have been rendered unreasonable, unbalanced, or inapplicable as a result of varied or additional work executed or instructed under Clause 51. Such adjustment(s) shall have to be agreed in the variation order.

(g) Subsequent Legislation

If, after the date 28 day prior to the latest date for submission of tenders for the Contract, there occur in Pakistan changes to any National or State Statute, Ordinance, Decree or other Law or any regulation or by-law of any local or other duly constituted authority or the introduction of any such State Statute, Ordinance, Law, regulation or by-law which causes additional or reduced cost to the Contractor, other than under the preceding Sub-Clauses of this Clause, in the execution of the Contract, such additional or reduced cost shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be added to or deducted from the Contract Price and the Engineer shall notify the Contractor accordingly, with a copy of the Employer. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same shall already have taken into account in the indexing of any inputs to the Price Adjustment Formula in accordance with the provisions of Sub-Clauses 70.1 a through f.

The following Sub-Clauses 73.1, 73.2, 74.1, 75.1, 76.1, 77.1and 78.1 are added:

**73.1 Payment of Income Tax**

The Contractor, Subcontractors and their employees shall be responsible for payment

of all their income tax, super tax and other taxes on income arising out of the Contract and the rates and prices stated in the Contract shall be deemed to cover all such taxes.

73.2 foreign taxation

The prices bided by the Contractor shall include all taxes, duties and other charges imposed outside the Employer’s country on the production, manufacture, sale and transport of the Contractor’s Equipment, Plant, materials and supplies to be used on or furnished under the Contract and on the services performed under the Contract.

(Employer may incorporate provisions where applicable).

73.3 Local Taxation

The prices bided by the Contractor shall include all customs duties, import duties, business taxes, income and other taxes that may be levied in accordance to the laws and regulations in force as of the date 28 days prior to the closing date for submission of tenders in Pakistan on the Contractor’s Equipment, Plant, material and supplies (permanent, temporary and consumable) acquired for the purpose of the Contract and on the services performed under the Contract. Nothing in the contract shall relieve the Contractor from his responsibility to pay any tax that may be levied in Pakistan on profits made by him in respect of the Contract.

73.4 Income Taxes on Staff

The Contactor’s staff personnel and labour will be liable to pay personal income taxes in Pakistan in respect of such of their salaries and wages as are chargeable under the laws and regulations for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such laws and regulations.

73.5 Advance Income Tax

Deduction of advance income tax from the net payable bill amounts shall be made in accordance with prevalent Income Tax Laws of the Government of Pakistan. These deductions shall be deposited, in the Government Treasury by the Employer, to the account of the Contractor.

73.6 Duties on Contractor’s Equipment

Notwithstanding the provisions of Sub Clause 73.3, Contractor’s Equipment including essential spare parts therefore, imported by the Contractor for the sole purpose of executing the Contract shall be exempt from the payment of custom duties, import duties and taxes levied in Pakistan, and any such duties and taxes so paid by the Contractor shall be reimbursed by the Employer to the Contractor which shall not include any other cost, profits or overheads. Reimbursement shall be made subject to the provisions of the Sub Clauses 73.7, 73.8 and 73.9.

73.7 Refund of Duty Drawback

On the re-export of Contractor’s Equipment, a portion of duties and taxes paid on the import of the same are refunded by Government of Pakistan which are called Duty Drawback. The Contractor shall receive and pay the same Duty Drawback to the employer.

73.8 Sale of Contractor’s Equipment in Pakistan

(a) If the Contractor’s Equipment is not re – exported after removal from Site and is used elsewhere or sold in Pakistan, then the portion of duties and taxes reimbursed under Sub – Clause 73.6 proportionate to the residual value of the Contractor’

(b) In case on the import of Contractor’s Equipment, no or partial duties and taxes are imposed by the Government of Pakistan on all or any portion thereof and consequently no or partial imbursements are made by the Employer and

the Contractor, at any time during or after the completion of Works, desires to sell in Pakistan any such equipment then prior permission of the Government of Pakistan will be required who may impose duties and taxes on such sales. Any such duties and taxes paid by the Contractor to the Government shall not be reimbursed by the Employer to the Contractor.

73.9 Non – reimbursable costs of contractor

(a) In case partial or total exemption of any duty or tax is permissible on Contractor’s Equipment an any case due to Government rules and regulations which the Contractor can get by due and timely application to the appropriate authority and the Contractor fails to get this exemption then the payment made by the Contractor of duties and taxes to the extent of exemption permissible, will not be reimbursed.

(b) any element of duty or tax inherent in the price of locally produced goods and services shall be deemed to be included in the rates and prices stated in the priced Bill of Quantities and will not separately reimbursed.

**74.1 Integrity Pact**

If the Contractor or any of his Subcontractors, agents or servants is found to have violated or involved in violation of the Integrity Pact signed by the Contractor as Appendix-L to his Bid, then the Procuring Entity shall be entitled to:

(a) recover from the Contractor an amount equivalent to ten times the sum of any commission, gratification, bribe, finder’s fee or kickback given by the Contractor or any of his Subcontractors, agents or servants;

(b) terminate the Contract; and

(c) recover from the Contractor any loss or damage to the Employer as a result of such termination or of any other corrupt business practices of the Contractor or any of his Subcontractors, agents or servants.

The termination under Sub-Para (b) of this Sub-Clause shall proceed in the manner prescribed under Sub-Clauses 63.1 to 63.4 and the payment under Sub-Clause 63.3 shall be made after having deducted the amounts due to the Procuring Entity under Sub-Para (a) and (c) of this Sub-Clause.

**75.1 Termination of Contract for Procuring Entity's Convenience**

The Employer shall be entitled to terminate the Contract at any time for the Employer’s convenience after giving 56 days prior notice to the Contractor, with a copy to the Engineer. In the event of such termination, the Contractor:-

(a) shall proceed as provided in Sub-Clause 65.7 hereof; and

(b) shall be paid by the Employer as provided in Sub-Clause 65.8 hereof.

**76.1 Liability of Contractor**

The Contractor or his Subcontractors or assigns shall follow strictly, all relevant

labour laws including the Workmen's Compensation Act and the Employer shall be fully indemnified for all claims, damages etc. arising out of any dispute between the Contractor, his Subcontractors or assigns and the labour employed by them.

**77.1 Joint and Several Liability**

If the Contractor is a joint venture of two or more persons, all such persons shall be jointly and severally bound to the Employer for the fulfillment of the terms of the Contract and shall designate one of such persons to act as leader with authority to bind the joint venture. The composition or the constitution of the joint venture shall not be altered without the prior consent of the Employer.

**78.1 Details to be Confidential**

The Contractor shall treat the details of the Contract as private and confidential, save in so far as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the prior consent in writing of the Employer or the Engineer. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract, the same shall be referred to the decision of the Engineer whose award shall be final.

**SPECIFICATIONS- SPECIAL PROVISIONS**

**(MRS-2021 Applied)**

**SPECIFICATION**

**TECHNICAL**

**PROVISIONS**

**(Technical Sanction)**

**DRAWINGS**