



Invitation of Online Bids

RCI, Hyderabad

Tel:040-24306230

Fax:040-24306013

Email:- rci.dcm@rcilab.in

For E-Procurement Query:-

support@procuretiger.com (+91 07940016879)

Tender Enquiry No : RCI/CMM/LP1/OT/1000002700

Government of India

Ministry of Defence

Defence Research & Development Organisation

RCI Vignayana Kancha (P.O), HYDERABAD-500069

Date : 05.02.2018

INVITATION OF ONLINE BIDS FOR SUPPLY OF Audit & Certification for
ISO ISMS 27001:2013 standard, QTY 1 AU

Specifications (if any) attached as Appx.

1. The Director, RCI on behalf of the President of India hereby invites e-tenders from eligible bidders through e-procurement portal for supply of items listed in Part I of this RFP as per **Single Bid System**.

Last Date and Time for uploading of the Bids: On 06.03.2018 (dd/mm/yy) at 10:30 Hrs.

For participating in the above tender through e-tendering process, the bidders shall have to get themselves registered at <https://rci.drdoeproc.in> and get user ID, password. Class 3 digital signature is mandatory to participate in the e-tendering. The Bidders are required to have Digital Signature Certificate (DSC) from one of the authorized Certifying Authorities as detailed in the website. **For any clarification/difficulty regarding e-tendering process flow, please contact on +91 7940016852/891.**

Bidders/Contractors have to submit online bids on tender documents available on the website <https://rci.drdoeproc.in>. Bidders shall also attach scanned copies of all the requisite documents i.e Earnest Money and other certificates/documents specified in the tender document.

2. The address and contact numbers for online submission of Bids or seeking clarifications regarding this RFP are given below:

- | | |
|---|--|
| a) Bids/queries to be addressed to | : The Director, RCI |
| b) Postal address | : RCI Vignayana Kancha (P.O),
HYDERABAD-500069. |
| c) Name & designation of the contact Officer | : Head E-Procurement |
| d) Telephone number(s) of the contact Officer | : 040-24306225/6222 |
| e) Fax number(s) | : 040-24306013 |
| f) e-mail ID of contact Officer | : rci.dcm@rcilab.in |
| g) e-mail ID for E-Procurement support | : rci.dcm@rcilab.in |

3. This RFP is divided into 7 parts as follows:

i) Part I contains Details of the Store(s)/Service(s) Required e.g. Technical Specifications, Delivery Period, Mode of Delivery, Consignee details etc.

ii) Part II contains General Information and Instructions for the Bidders about the RFP such as the time, place of submission and opening of tenders, Validity period of tenders, etc.

iii) Part III contains Standard Terms and Conditions of RFP, which will form part of the Contract/Supply Order (herein after referred as the Contract) with the successful Bidder(s).

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iv)Part IV contains Special Terms and Conditions applicable to this RFP and which will also form part of the Contract with the successful Bidder(s).

v)Part V contains Vendor Qualification Criteria.

vi)Part VI contains Evaluation Criteria of Bids.

vii)Part VII contains Format of Price Bid. Price bid needs to be printed on one side of paper only.

4. This RFP is being issued with no financial commitment and the Buyer reserves the right to change or vary any part thereof or foreclose the procurement case at any stage. The Buyer also reserves the right to disqualify any vendor, should it be necessary, at any stage on grounds of National Security

5. You may contact The Director (RCI), (RCI Vignayana Kancha(P.O), PIN-500069.HYDERABAD.) for any grievance related to bidding condition, bidding process and/or rejection of bid. With regard to bidding condition, this shall be done in writing at least seven days in advance of the stipulated date of submission of bid.

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Part I- Essential Details of Items/Services Required

1. Schedule of Requirements: List of items / services required are as follows -

Name/Description of item(s)/Service(s)	A/U	Qty required
Audit & Certification of ERCS division for ISMS Certification as per ISO 27001:2013 STANDARD	AU	1

2. Technical Details : As Per Annexure-I.

- i) Specifications/Drawings : As Per Annexure - I (if any).
- ii) Technical details with technical parameters - As Per Annexure - I (if any).
- iii) Requirement of training/on-the-job training - As Per Annexure - I (if any).
- iv) Requirement of installation/commissioning - As Per Annexure - I (if any).
- v) Full Inspection details - As Per provisions made in Special Terms & Conditions (if any).
- vi) Requirement of Technical Documentation - As Per Annexure - I (if any).
- vii) Nature of assistance required after completion of warranty - As per provisions made in Special Terms & Conditions (if any).
- viii) Requirement of pre-site inspection - As per provisions made in Special Terms & Conditions (if any).
- ix) Any other details, as considered necessary - As Per Annexure - I (if any).

3. Bidders are required to furnish clause by clause compliance of specifications bringing out clearly the deviations from specification, if any. Bidders are advised to submit compliance statement for the technical parameters separately in the following format along with the Techno-Commercial Bid:

Para of RFP specifications (item-wise)	Specifications of item offered	Compliance to RFP specifications - whether Yes / No	Remarks (In case of non-compliance, deviation from RFP to be specified in unambiguous terms. In case of compliance, catalogue/brochure reference, if available, to be indicated)

For Commercially-Off-The-Shelf (COTS) items, it is mandatory to enclose catalogue/technical brochure to support the claims of compliance.

4. **Delivery Period:** Expected Delivery Period for supply of items/rendering services would be from the Effective Date of the Contract. Please note that the Contract can be cancelled unilaterally by the Buyer in case items are not received within the contracted delivery period. Extension of contracted delivery period with/ without LD clause will be at the sole discretion of the Buyer.

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5. Consignee details:

1. Name : **The Director , RCI**
2. Address : **Research Center Imarat, Vignayanakancha(P.O)**
Hyderabad-500069
3. Contact details : **Phone:040-24306222**
Fax:040-24306013

6. Important Note to Bidders

- a. Pre-Integrity Pact Clause Amt : NA
- b. Tolerance Clause Percentage : NA
- c. Advance Payment : NA
- d. Part Supply and Pro-rata Pymnt : NA
- e. Buy-Back-Timings for Inspn : NA
- f. Buy-Back-Handling over Period : NA
- g. Technical Capabilities
- i. Expertise available in the critical areas to complete the task (NA)
- h. Manufacturing Facilities
- i. Availability of Infrastructure required to carry out the activity (NA)
- i. Financial Capabilities
- i. Should have minimum financial resources to execute the order (NA)
- ii. Numbers of such type of contracts executed in past.
- j. Management Capabilities
- i. Availability of Quality Management System, Quality Control System etc.
- ii. Compliance of delivery schedule NA

7. For Detailed Specifications / Other Information, Please Logon to <http://rcilab.in/> to see remaining pages of this tender enquiry .

9. Last Date and Time for uploading of the Bids: On 23.02.2018 (dd/mm/yy) at 10:30 Hrs.

The online Bid (both Techno-Commercial and Price bid, in case two bids are called for) should be filled and uploaded by the due date and time. The responsibility to ensure this lies with the Bidder.

12. Place of Opening of the Bids: Office of the DCMM

The Bidders may depute their representatives, duly authorized in writing, to attend the opening of Bids on the due date and time. Relevant parts and important commercial/ technical clauses quoted by all Bidders will be read out in the presence of the representatives of the participating Bidders. This event will not be postponed due to non-presence of your representative.

13. Procedure for Submission of Bid:

a) **Single Bid System:** Online Bid shall be submitted as Techno-Commercial compliance and Price as per the format. The bid would be opened on the time and date mentioned above.

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14. Clarification Regarding Contents of the RFP: A prospective bidder who requires clarification regarding the contents of online bidding documents shall notify to the Buyer through mail/in writing about the clarifications sought not later than 14 (fourteen) days prior to the date of opening of the Bids. Any clarification would be posted on the website.

15. Indian firms need to quote only in Indian Rupees: An Indian firm can quote in FE on behalf of their OEM only if they are either a 100% subsidiary of the OEM or an Indian Agent of the foreign OEM in accordance with their agency agreement. The firms claiming to be:

a) A 100% subsidiary would be required to produce documentary evidence in support of their claim along with their Techno-Commercial bid failing which their bid would be disqualified.

b) An agent of foreign OEM, for submitting the offer on behalf of OEM, would be required to produce a copy of their agency agreement with their principals and a copy of registration/enlistment with DRDO/Ministry of Defence/ DGS&D as an Indian agent, if registered/enlisted, along with their Techno-Commercial bid, failing which their bid would be disqualified. It would be mandatory for an Indian agent to get registered/enlisted with DRDO/Ministry of Defence/ DGS&D as an Indian agent of OEM prior to evaluation of their Price bid, failing which their bid also would be disqualified.

16. Validity of Bids: The Bids should remain valid for 120 days from the last date of submission of Online Bids.

17. Modification and Withdrawal of Bids: A bidder may modify or withdraw his Bid after online submission provided that the written notice of modification or withdrawal is received by the Buyer prior to deadline prescribed for submission of Online bids. A withdrawal notice may be sent by Mail/fax, however, it should be followed by a signed confirmation copy to be sent by post and such signed confirmation should reach the purchaser not later than the deadline for online submission of bids. No bid shall be modified after the deadline for submission of online bids. No bid may be withdrawn in the interval between the deadline for submission of bids and expiration of the specified period of bid validity.

18. Earnest Money Deposit: Bidders are required to upload the scanned copy of Demand Draft towards the Earnest Money Deposit (EMD) in favour of The Director RCI, Hyderabad in the currency of their quote for amount of Rs. or equivalent along with their online bids. Original Demand Draft be submitted by Regd Post to RCI. The EMD may be submitted by Indigenous bidder in the form of an Account Payee Demand Draft, Fixed Deposit Receipt or Bank Guarantee. In case of foreign bidder, EMD is to be submitted in the form of appropriate Bank Guarantee from a first class bank of international repute. EMD is to remain valid for a period of forty-five days beyond the final bid validity period. EMD of the unsuccessful bidders will be returned to them, without any interest whatsoever, at the earliest after expiry of the final bid validity and latest on or before the thirtieth day after the award of the Contract. EMD of the successful bidder would be returned without any interest whatsoever after the receipt of Security Deposit from them as called for in the Contract. EMD is not required to be submitted by those Bidders who are registered with the Central Purchase Organizations (e. g. DGS&D), National Small Industries Corporation (NSIC), Departments of MoD, other DRDO labs and as per the policy of Government of India in vogue. Such bidders would be required to upload the relevant documents in their Techno-Commercial bid in support of the claim. The EMD will be forfeited if the Bidder withdraws, amends, impairs or derogates from the tender in any respect within the validity period of their tender.

19. Security Deposit

The Seller may be required to furnish a Security Deposit by way of Demand Draft (DD)/Bank Guarantee (BG), in favour of The Director, RCI, Hyderabad, for a sum equal upto 10% of the Contract value. The BG should be valid upto 60 days beyond the scheduled date of delivery. The specimen of BG can be provided on request.

The Security Deposit will be forfeited by the Buyer, in case the conditions regarding adherence to delivery schedule and/or other provisions of the contract are not fulfilled by the Seller.

20. Clarification Regarding Contents of the Bids: During evaluation of bids, the Buyer may, at his discretion, ask the bidder for clarification on his Bid. The request for clarification will be given in writing. No clarification on the initiative of the bidder will be entertained after opening of bid.

21. Rejection of Bids: Canvassing by the Bidder in any form, unsolicited letter and post-tender correction may

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invoke summary rejection with forfeiture of EMD. Conditional tenders will be rejected. Non-compliance of applicable General Information will disqualify your Bid.

22. **Unwillingness to Quote:** Bidders unwilling to quote should ensure that intimation to this effect reaches before the due date and time of opening of the Bid, failing which the defaulting Bidder may be de-registered for the range of items in this RFP, as per the policy in vogue.

23. Bids of debarred/blacklisted firms will not be considered for evaluation.

Part II- General Information and Instructions

1. Effective Date of the Contract: In case of placement of a supply order, the date of acceptance of the Supply Order would be deemed as effective date or as agreed by both the parties. In case a contract is to be signed by both the parties, the Contract shall come into effect on the date of signatures of both the parties on the Contract (Effective Date) or as agreed by both the parties. The deliveries and supplies and performance of the services shall commence from the effective date of the Contract.

2. **Law:** The Contract shall be considered and made in accordance with the laws of the Republic of India and shall be governed by and interpreted in accordance with the laws of the Republic of India.

3. **Arbitration:** #All disputes or differences arising out of or in connection with the Contract shall be settled by bilateral discussions. Any dispute, disagreement or question arising out of or relating to the Contract or relating to

product or performance, which cannot be settled amicably, shall be resolved by arbitration in accordance with the following applicable provision:

a) For Central and State PSEs : The case of arbitration shall be referred to the Department of Public Enterprises for the appointment of sole arbitrator by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause.

b) For Defence PSUs: The case of arbitration shall be referred to the Secretary Defence (R&D) for the appointment of arbitrator(s) and proceedings.

c) For other Firms: Any dispute, disagreement or question arising out of or relating to the Contract or relating to product or performance, which cannot be settled amicably, shall be resolved by arbitration in accordance with either of the following provisions:

#The case of arbitration may be referred to respective CFA or a person appointed by him who will be sole arbitrator and the proceedings shall be conducted in accordance with procedure of Indian Arbitration and Conciliation Act, 1996.#

Or

#The case of arbitration may be referred to International Centre for Alternative Dispute Resolution (ICADR) for the appointment of arbitrator and proceedings shall be conducted in accordance with procedure of Indian Arbitration and Conciliation Act, 1996.#

Or

#The case of arbitration may be conducted in accordance with the rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules in India. However, the arbitration proceedings shall be conducted in India under Indian Arbitration and Conciliation Act, 1996.#

4. **Penalty for Use of Undue influence:** The Seller undertakes that he has not given, offered or promised to give, directly or indirectly, any gift, consideration, reward, commission, fees, brokerage or inducement to any person in service of the Buyer or otherwise in procuring the Contract or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the Contract or any other contract with the Government of India

for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Government of India. Any breach of the aforesaid undertaking by the Seller or anyone employed by him or acting on his behalf (whether with or without the knowledge of the Seller) or the commission of any offence by the Seller or anyone employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act, 1986 or any other Act enacted for the prevention of corruption shall entitle the Buyer to cancel the contract and all or any other contracts with the Seller and recover from the Seller the amount of any loss arising from

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such cancellation. A decision of the Buyer or his nominee to the effect that a breach of the undertaking had been committed shall be final and binding on the Seller. Giving or offering of any gift, bribe or inducement or any attempt at any such act on behalf of the Seller towards any officer/ employee of the Buyer or to any other person in a position to influence any officer/ employee of the Buyer for showing any favour in relation to this or any other contract, shall render the Seller to such liability/ penalty as the Buyer may deem proper, including but not limited to termination of the contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the Buyer#.

5. **Agents/ Agency Commission:** #The Seller confirms and declares to the Buyer that the Seller has not engaged any individual or firm, whether Indian or foreign whatsoever, to intercede, facilitate or in any way to recommend to the Government of India or any of its functionaries, whether officially or unofficially, to the award of the contract to the Seller; nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any such intercession, facilitation or recommendation. The Seller agrees that if it is established at any time to the satisfaction of the Buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that the Seller has engaged any such individual/ firm, and paid or intended to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of this contract, the Seller will be liable to refund that amount to the Buyer. The Seller will also be debarred from entering into any contract with the Government of India for a minimum period of five years. The Buyer will also have a right to consider cancellation of the Contract either wholly or in part, without any entitlement or compensation to the Seller who shall in such an event be liable to refund all payments made by the Buyer in terms of the Contract along with interest at the rate of 2% per annum above (i) Prime Lending Rate of State Bank of India for Indian bidders, and (ii) London Inter Bank Offered Rate (LIBOR) for the foreign bidders. The applicable rates on the date of opening of bid shall be considered for this. The Buyer will also have the right to recover any such amount from any contracts in vogue with the Government of India.

a) Details of all Agents will be disclosed at the time of submission of offers and within two weeks of engagement of an Agent at any subsequent stage of procurement.

b) The Seller is required to disclose termination of the agreement with the Agent, within two weeks of the agreement having been terminated.

c) Buyer /MoD reserves the right to inform the Seller at any stage that the Agent so engaged is not acceptable whereupon it would be incumbent on the Seller either to interact with Buyer / MoD directly or engage another Agent. The decision of Buyer /MoD on rejection of the Agent shall be final and be effective immediately.

d) All payments made to the Agent 12 months prior to tender submission would be disclosed at the time of tender submission and thereafter an annual report of payments would be submitted during the procurement process or upon demand of the Buyer / MoD.

e) The Agent will not be engaged to manipulate or in any way to recommend to any functionaries of the Govt of India, whether officially or unofficially, the award of the contract to the Seller or to indulge in corrupt and unethical practices.

f) The contract with the Agent will not be a conditional contract wherein payment made or penalty levied is based, directly or indirectly, on success or failure of the award of the contract.

g) On demand, the Seller shall provide necessary information/inspection of the relevant financial documents/ information, including a copy of the contract(s) and details of payment terms between the Seller and the Agent engaged by him.

h) If the equipment being offered by the Seller has been supplied /contracted with any organisation, public/ private in India, the details of the same may be furnished in the technical as well as commercial offers. The Sellers are required to give a written undertaking that they have not supplied/is not supplying the similar systems or subsystems at a price lower than that offered in the present bid to any other Ministry/ Department of the Government of India and if the similar system has been supplied at a lower price, then the details regarding the cost, time of supply and quantities be included as part of the commercial offer.

In case of non disclosure, if it is found at any stage that the similar system or subsystem was supplied by the Seller to any other Ministry/Department of the Government of India at a lower price, then that very price, will be applicable to the present case and with due allowance for elapsed time, the difference in the cost would be refunded to the Buyer, if the contract has already been concluded.

Following details are also to be submitted in the Techno-Commercial bid:

i) Name of the Agent

ii) Agency Agreement between the Seller and the agent giving details of their contractual obligation

iii) PAN Number, name and address of bankers in India and abroad in respect of Indian agent

iv) The nature and scope of services to be rendered by the agent and

v) Percentage of agency commission payable to the agent.

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6. **Access to Books of Accounts:** In case it is found to the satisfaction of the Buyer that the Bidder/ Seller has violated the provisions of use of undue influence and/or employment of agent to obtain the Contract, the Bidder/ Seller, on a specific request of the Buyer, shall provide necessary information/ inspection of the relevant financial documents/ information/ Books of Accounts.

7. **Non-disclosure of Contract Documents:** Except with the written consent of the Buyer/ Seller, other party shall not disclose the Contract or any provision, specification, plan, design, pattern, sample or information thereof to any third party.

8. **Handling of Classified Information by Indian Licensed Defence Industry:** Any classified document/ information/ equipment being shared with Indian Licensed Defence Industries will be protected/ handled to prevent unauthorized access as per provisions of Chapter 5 of Security Manual for Indian Licensed Defence Industries issued by MoD (Department of Defence Production).

9. **Withholding of Payment:** In the event of the Seller's failure to submit the Bonds, Guarantees and Documents, supply the stores/goods and conduct trials, installation of equipment, training, etc. as specified in the Contract, the Buyer may, at his discretion, withhold any payment until the completion of the Contract.

10. **Liquidated Damages (LD):** The Buyer may deduct from the Seller, as agreed, liquidated damages at the rate of 0.5% per week or part thereof, of the basic cost of the delayed stores which the Seller has failed to deliver within the period agreed for delivery in the contract. LD can also be levied on the Seller on the basic cost of the stores supplied partially within the scope of the order/ contract that could not be put to use due to late delivery of the remaining stores. The maximum quantum of LD would be 10% of the total order value (excluding taxes & duties).

11. **Termination of Contract:**

a) The store/ service is not received/ rendered as per the contracted schedule(s) and the same has not been extended by the Buyer.

Or

The delivery of the store/service is delayed for causes not attributable to Force Majeure for more than __ months after the scheduled date of delivery and the delivery period has not been extended by the Buyer.

b) The delivery of store/service is delayed due to causes of Force Majeure by more than __ months provided Force Majeure clause is included in the contract and the delivery period has not been extended by the Buyer.

c) The Seller is declared bankrupt or becomes insolvent.

d) The Buyer has noticed that the Seller has violated the provisions of use of undue influence and/ or employment of agent to obtain the Contract.

e) As per decision of the Arbitration Tribunal.

12. **Notices:** Any notice required or permitted by the Contract shall be written in English language and may be delivered personally or may be sent by FAX or registered pre-paid mail/ airmail, addressed to the last known address of the party to whom it is sent.

13. **Transfer and Sub-letting:** The Seller has no right to give, bargain, sell, assign or sublet or otherwise dispose of the Contract or any part thereof, as well as to give or to let a third party take benefit or advantage of the Contract or any part thereof without written consent of the Buyer.

14. **Use of Patents and other Industrial Property Rights:** The prices stated in the Contract/ SO shall be deemed to include all amounts payable for the use of patents, copyrights, registered charges, trademarks and payments for any other Industrial Property Rights. The Seller shall indemnify the Buyer against all claims from a third party at any time on account of the infringement of any or all the rights mentioned in the previous paragraphs, whether such claims arise in respect of manufacture or use. The Seller shall be responsible for the completion of the supplies including spares, tools, technical literature and training aggregates irrespective of the fact of infringement of the supplies or any or all the rights mentioned above.#

15. **Amendments:** No provision of the Contract/ SO shall be changed or modified in any way (including this provision) either in whole or in part except when both the parties are in written agreement for amending the Contract/SO.

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Yours sincerely,

(_____)

For Director

For & on behalf of President of India

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(Annexure-I)
Detailed Specifications

Tender Enquiry No : RCI / CMM / ZOT 1000002700

Date : 02.02.2018

SL.No	Item Description and Spec		Qty	Units of Measure
1	Material : Description : Audit & Certification of ERCS division for ISMS Certification as per ISO 27001:2013 STANDARD		1.000	AU
Item Number	Specification	Specification in detail		
10	(1) Audit & Certification of ERCS division of DICT for ISMS Certification as per ISO 27001:2013 STANDARD	(1) Audit & Certification of ERCS division of DICT for ISMS Certification as per ISO 27001:2013 STANDARD		
10	(2)	(2) Scope of Audit: Technology services, data centre services, IT infrastructure and Maintenance services and IT support services of ER&CS Division in DICT Directorate		
10	(3)	(3) Vendor should be an accredited ISO 27001 certification body. Proof of the same should be submitted along with the bid.		
10	(4)	(4) ISO registration charges if any to be paid by the vendor on RCI behalf.		
10	(5)	(5) Transportation, accomodation if required should be arranged by the vendor.		
10	(6)	(6) Certificate should be valid for three years.		
10	(7)	(7) Vendor should quote 2nd and 3rd year surveillance audit charges seperately		

Part III - Standard Terms and Conditions

The Bidder is required to give confirmation of their acceptance of the Standard Terms and Conditions of the RFP mentioned below which will automatically be considered as part of the Contract concluded with the successful Bidder as selected by the Buyer. Failure to do so may result in rejection of the Bid submitted by the Bidder.

1. Taxes and Duties:

a) In respect of Foreign Bidders: All taxes, duties, levies and charges which are to be paid for the delivery of stores/services, including advance samples, shall be paid by the parties under the Contract in their respective countries. However, the corporate/ individual income tax, if applicable, will continue to be paid by the concerned party/ individual.

#DRDO is a public funded research institution and has been exempted from the payment of Customs Duty, as per the description of stores and conditions thereon, under Customs Notification No. 51/96 as amended and Notification No. 39/96 as amended. However, if required, Basic Custom Duty and applicable cess is to be paid as per prevailing notification. [Applicable where INCOTERM is DDP (destination)].

b) In respect of Indigenous Bidders:

(i) General:

Bidders must indicate separately the relevant taxes/ duties likely to be paid in connection with delivery of completed goods specified in RFP. In absence of this, the total cost quoted by them in their bids will be taken into account in the ranking of bids.

If a Bidder is exempted from payment of any duty/ tax upto any value of supplies from them, he should clearly state that no such duty/ tax will be charged by them up to the limit of exemption which they may have. If any concession is available in regard to rate/ quantum of any Duty/ tax, it should be brought out clearly. In such cases, relevant certificate will be issued by the Buyer later to enable the Seller to obtain exemptions from taxation authorities.

Any changes in levies, taxes and duties levied by Central/ State/ Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product upward as a result of any statutory variation taking place within contract period shall be allowed reimbursement by the Buyer, to the extent of actual quantum of such duty/ tax paid by the Seller. Similarly, in case of downward revision in any such duty/ tax, the actual quantum of reduction of such duty/ tax shall be reimbursed to the Buyer by the Seller. All such adjustments shall include all reliefs, exemptions, rebates, concession etc, if any, obtained by the Seller. Section 64-A of Sales of Goods Act will be relevant in this situation.

Levies, taxes and duties levied by Central/ State/ Local governments such as excise duty, VAT, Service tax, Octroi/ entry tax, etc on final product will be paid by the Buyer on actuals, based on relevant documentary evidence, wherever applicable. Taxes and duties on input items will not be paid by Buyer and they may not be indicated separately in the bids. Bidders are required to include the same in the pricing of their product.

TDS as per Income Tax Rules will be deducted and a certificate to that effect will be issued by the Buyer.

(ii) Customs Duty:

(No Custom Duty)

(iii) Excise Duty:

DRDO is a public funded research institution and has been exempted from the payment of Excise Duty, as per the description of stores and conditions thereon, under Notification No. 64/95 as amended and 10/97 as amended.

The successful bidder would be issued Excise Duty Exemption Certificate (EDEC) by this office under the said notification at the time of dispatch of finished material from the factory for goods manufactured against the Contract.

Bidders may note that EDEC would be issued ONLY in favour of beneficiary of the Contract unless otherwise specified in the SO/ Contract.

Unless otherwise specifically agreed to in terms of the Contract, the Buyer shall not be liable for any claim on account of fresh imposition and/or increase of Excise Duty on raw materials and/or components used directly in the manufacture of the contracted stores taking place during the pendency of the contract.

CENVAT Excise Duty: Bidders are advised to specifically mention the rate of Excise Duty payable in spite of issuance of EDEC. In the absence of such explicit declaration, it would be deemed that quoted prices include applicable CENVAT Excise Duty.

(iv) Octroi Duty & Local Taxes:

Normally, materials to be supplied to Government Departments against Government Contracts are exempted from levy of Town Duty, Octroi Duty, Terminal Tax and other levies of local bodies. The local Town/Municipal Body regulations at times, however, provide for such exemption only on production of such exemption certificate from any authorised officer. Seller should ensure that stores ordered against contracts placed by this office are exempted from levy of Town Duty/ Octroi Duty, Terminal Tax or other local taxes and duties. Wherever required, they should obtain the exemption certificate from the Buyer, to avoid payment of such local taxes or duties.

In case where the Municipality or other local body insists upon payment of these duties or taxes, the same should be paid by the Seller to avoid delay in supplies and possible demurrage charges. After the issue of exemption certificate by the Buyer, the Seller may get the reimbursement from the local authority.#

2. **Denial Clause:** Denial clause informs Seller that the Buyer reserves the right to admit additional payment due to upward revision of statutory levies beyond the original delivery schedule in case Seller fails to deliver the goods as per schedule.

Variations in the rates of statutory levies within the original delivery schedule will be allowed if taxes are explicitly mentioned in the contract/ supply order and delivery has not been made till the revision of the statutory levies. Buyer reserves the right not to reimburse the enhancement of cost due to increase in statutory levies beyond the original delivery period of the supply order/ contract even if such extension is granted without imposition of LD.

3. **Pre-Contract Integrity Pact Clause:** An #Integrity Pact# would be signed between the Ministry of Defence/ Buyer and the Bidder and the Bidder shall be asked to deposit Rs. ____ crore as Earnest Money Deposit (EMD), in favour of The Director (Lab Name), (Place), in the form of appropriate Bank Guarantee (from a first class bank of

international repute confirmed by the State Bank of India in case of foreign Seller). This EMD would be submitted by the Bidder along with Integrity Pact (IP) (as per format at Annexure #H#) at the time of submission of bid in a separate envelope clearly marked as #IP and EMD# put together in an envelope containing the bid. This is a binding agreement between the Buyer and the Bidders for specific contracts in which the Buyer promises not to accept bribes during the procurement process and Bidders promise that they will not offer bribes. Under this Pact, the Bidders for specific services or contracts agree with the Buyer to carry out the procurement in a specified manner. The essential elements of the Pact are as follows:

- a) A pact (contract) between the Government of India (Ministry of Defence) (the authority or the #Principal#) and firms submitting a bid for this specific activity (the #Bidder#);
- b) An undertaking by the Principal that its officials will not demand or accept any bribes, gifts etc., with appropriate disciplinary or criminal proceedings in case of violation;
- c) A statement by each Bidder that they have not paid, and will not pay, any bribes;
- d) An undertaking by each Bidder to disclose all payments made in connection with the Contract in question to anybody (including agents and other middlemen as well as family members, etc., of officials); the disclosure would be made either at the time of submission of Bids or upon demand of the Principal, especially when suspicion of a violation by that Bidder emerges;
- e) The explicit acceptance by each Bidder that the no-bribery commitment and the disclosure obligation as well as the attendant sanctions remain in force for the winning Bidder until the contract has been fully executed.
- f) Undertaking on behalf of a Bidding company will be made #in the name and on behalf of the company#s Chief Executive Officer#.
- g) Any or all of the following set of sanctions could be enforced for any violation by a Bidder of its commitments or undertakings:
 - (i) Denial or loss of contracts;
 - (ii) Forfeiture of the EMD and Performance cum Warranty Bond;
 - (iii) Liability for damages to the Principal and the competing Bidders; and
 - (iv) Debarment of the violator by the Principal for an appropriate period of time.
- h) Bidders are also advised to have a company code of conduct clearly rejecting the use of bribes and other unethical behavior and compliance program for the implementation of the code of conduct throughout the company.
- i) The draft Pre-Contract Integrity Pact is attached as Annexure #H#. The Bidders are required to sign the pact and submit it separately along with the Techno-Commercial and Price bid.

4. **Undertaking from the Bidders:** An undertaking will be obtained from the Bidder/firm/company/vendor that in the past they have never been banned/debarred for doing business dealings with Ministry of Defence/Govt. of India/ any other Govt. organisation and that there is no enquiry going on by CBI/ED/ any other Govt. agency against them.
" Bidder must send this under taking along with all Bids".

RESERVED

Part IV - Special Terms and Conditions

1. **Apportionment of Quantity:** Buyer reserves the right to apportion the quantity among ____ bidders in the ratio of - _____ starting from Lowest Bidder (L1) and proceeding to Next Higher Bidder and so on subject to their consent to meet the L1's rates as well as terms and conditions, as negotiated. The bidders are requested to submit the price bid catering the need of apportioned quantity as well as total quantity, else the unit cost of the store(s) for total quantity will be considered for the apportioned quantity while evaluating the bid.# (Splitting of the quantity should be in favour of L1).

2. Performance cum Warranty Bond:

a) **Indigenous Bidder:** The Seller may be required to furnish a Performance cum Warranty Bond by way of Banker's Cheque/ Fixed Deposit Receipt/ Demand Draft (DD)/ Bank Guarantee (BG), in favour of the Director (Lab Name), (Place), for a sum equal to ____% of the Contract value (excluding taxes). The Bond submitted by way of Banker's Cheque/ Fixed Deposit Receipt/ Demand Draft (DD)/ Bank Guarantee (BG) should be valid up to 60 days beyond the date of completion of all contractual obligations, including warranty obligation. The specimen of bond can be provided on request.

b) **Foreign Bidder:** The Seller may be required to furnish a Performance cum Warranty Bond by way of Bank Guarantee (BG) from Seller's Bank through an internationally recognized first class bank, in favour of The Director (Lab Name), (Place), for a sum to ____% of the Contract value. The BG should be valid up to 60 days beyond the date of completion of all contractual obligations, including warranty obligation. The specimen of bond can be provided on request.

#The Performance cum Warranty Bond will be forfeited by the Buyer, in case the conditions regarding adherence to delivery schedule and/or other provisions of the Contract/ SO are not fulfilled by the Seller.#

3. **Tolerance Clause:** To take care of any change in the requirement during the period starting from issue of RFP till placement of the Contract, Buyer reserves the right to increase or decrease 25% of the quantity of the required goods, proposed in the RFP, without any change in the terms and conditions and rates quoted by the Seller. While awarding the Contract, the quantity ordered can be increased or decreased by the Buyer within this tolerance limit.

4. **Option Clause:** The Contract will have an Option Clause, wherein the Buyer can exercise an option to procure an additional 50% of the original contracted quantity (rounded up to the next whole number) in accordance with the same terms and conditions of the Contract. This will be applicable within the currency of the Contract. It will be entirely the discretion of the Buyer to exercise this option or not.

5. **Repeat Order Clause:** This clause empowers the Buyer to place additional orders up to 50% quantity of the original contracted quantity (rounded up to the next whole number), within six months from the date of completion of supply under the original Contract/ SO, at the rates on not exceeding basis while the terms and conditions will remain unchanged.

The Contract will have a Repeat Order Clause, wherein the Buyer can order up to 50% quantity of the original contracted quantity (rounded up to the next whole number) under the Contract within six months from the date of completion of supply under the original Contract/ SO. The Repeat Order will have rates on not exceeding basis while the terms and conditions will remain unchanged. It will be entirely the discretion of the Buyer to exercise the Repeat order or not.

6. **Purchase Preference Clause:** Purchase preference will be granted to the nominated agencies for the specified quantity as per the policy of Govt. of India in Vogue.

7. **Transfer of Technology (ToT):** ToT is the process of transferring skills, knowledge, technologies, methods of manufacturing and facilities by one party to other. This is to ensure that the scientific and technological developments are accessible to Labs/Estts to further develop and exploit the technology for development of new product, processes, applications, materials or services.

Buyer is desirous of license production of (generic name of store(s)) under ToT. Buyer reserves the right to negotiate ToT terms subsequently but the availability of ToT would be a pre-condition for any further procurements. If negotiations for ToT are not held as a part of the negotiations for store(s), then subsequent and separate ToT negotiations would continue from the stage where the store(s) has been

selected.

(In such cases, Labs/Estts. would spell out the requirements and scope of ToT depending upon the depth of the technology which is required).

8. **Permissible Time Frame for Submission of Bills:** RFP should explicitly state about the timeline for submission of bills for claiming payment.

To claim payment (part or full), the Seller shall submit the bill(s) along with the relevant documents within ____ days from the completion of the activity/ supply.# (Lab should mention the no. of days and the activity from which the counting will start)

9. **Payment Terms:** Payment terms are of great importance to both Buyer and Seller as the cost of finance plays a very important role in deciding the cost of an item or service being contracted for. RFP should clearly state the terms of payment including stage payment/ advance payment, if any, as well as the mode of payment. The payment terms should normally be in accordance with the options given in RFP as any change of payment terms specified in the RFP can alter L1 determination. In case where the payment terms offered by the bidders differ from the options given in the RFP, DCF technique may be utilized for LI determination.

a) **For Indigenous Seller:** The payment will be made as per the following terms, on production of the requisite documents:

(i) 100% payment within 30 days after receipt, satisfactory installation and acceptance of stores/equipment in good condition or the date of receipt of the bill whichever is later.

Or

Stage-wise/Pro rata payments as per the milestone/time described here. (Payment milestone/time shall be identified by the Lab and mentioned here.)

(ii) Pro rata payment for the services rendered will be made as per the frequency described here. (The frequency shall be pre-defined by the Lab)

b) For Foreign Seller:

(i) 100% payment within 30 days after receipt, satisfactory installation and acceptance of stores/equipment in good condition or after receipt of necessary documents warranted by delivery terms. 60

Or

Stage-wise/Pro rata payments as per the milestone/time described here. (Payment milestone/time shall be identified by the Lab and mentioned here.)

(ii) Pro rata payment for the services rendered will be made as per the frequency described here. (The frequency shall be pre-defined)

c) Advance Payments:

No advance payment will be made.

Or

Interest free mobilization advance payment of ____ % of the Contract value may be made, preferably in not less than two installments, against submission of Bank Guarantee, in favour of The Director (Lab Name), (Place), of 110% of advance payment (from first class bank of international repute in case of foreign Seller) by the private firm or against submission of Indemnity Bond by the Govt. organizations/ PSUs. In case of termination of the Contract/ extension of delivery period due to default of the Seller or where advance taken has not been/ could not be used for the purpose of order execution, interest free mobilization advance would be deemed as interest bearing advance, compounded quarterly, at the rate of 2% above (i) Prime Lending Rate of State Bank of India for Indian Seller, and (ii) LIBOR rate for the foreign Seller. The rates as applicable on the date of receipt of advance will be considered for this.

d) **Part Supply and Pro rata Payment:**

Part supply will not be acceptable.

Or

Full supply may be accepted in maximum as per the Supply order nos. of lots. However, Pro rata payment will not be

made for the part supplies of the stores(s) made.

Or

Full supply may be accepted in maximum as ~~per supply order nos.~~ of lots. Pro rata payment will be made as per the

applicable payment terms for the part supply of the stores(s).

e) **Mode of Payment:**

(i) For Indigenous Sellers: It will be mandatory for the Bidders to indicate their bank account numbers and other relevant e-payment details to facilitate payments through ECS/EFT mechanism instead of payment through cheque, wherever feasible.

(ii) For Foreign Seller: The payment will be arranged through Letter of Credit from Reserve Bank of India/ State bank of India/ any other Public Sector Bank, as decided by the Buyer, to the Bank of the Foreign Seller as per mutually agreed terms and conditions. The Letter of Credit will preferably be opened with validity of 90 days from the date of its opening, on extendable basis by mutual consent of both the parties. Letter of Credit opening charges in India will be borne by the Buyer. However, the extension charges, if any, will be borne by the party responsible for the extension.

For the contract costing up to US \$ 100,000 (or equivalent) or the payment of Training/ Installation & Commissioning/ AMC charges, preferable mode of payment will be by Direct Bank Transfer (DBT). DBT payment will be made within 30 days of receipt of clean Bill of Lading/ AWB/ Proof of shipment and such other documents indicating completion of the contractual obligation on part of the Seller as provided for in the contract, but such payments will be subject to the deductions of such amounts as the Seller may be liable to pay under the agreed terms of the Contract.

10. **Documents to be furnished for Claiming Payment:** RFP should clearly spell out the list of documents required from the Seller for claiming payment. The standard text of this clause is as under:

a) **Indigenous Sellers:** The payment of bills will be made on submission of the following documents by the Seller to the Buyer

(i) Ink-signed copy of Contingent Bill.

(ii) Ink-signed copy of Commercial Invoice / Seller's Bill.

(iii) Bank Guarantee for Advance, if applicable.

(iv) Guarantee/ Warranty Certificate.

(v) Details for electronic payment viz. Bank name, Branch name and address, Account Number, IFS Code, MICR Number (if these details are not already incorporated in the Contract).

(vi) Original copy of the Contract and amendments thereon, if any.

(vii) Any other document/ certificate that may be provided for in the Contract.

(Note # Lab may specify any other documents required as per need)

b) **Foreign Sellers:** In case of payment through Letter of Credit (LC), paid shipping documents are to be provided to the Bank by the Seller as a proof of dispatch of goods as per contractual terms/ LC conditions so that the Seller gets payment from LC. The Bank will forward these documents to the Buyer for getting the goods/ stores released from the Port/ Airport. However, where the mode of payment is DBT, the paid shipping documents are to be provided to the paying authority by the Buyer. Documents will include:

(i) Clean on Board Airway Bill/Bill of Lading

(ii) Original Invoice

(iii) Packing List

(iv) Certificate of Origin from Seller's Chamber of Commerce, if any.

(v) Certificate of Quality and year of manufacture from OEM.

(vi) Dangerous Cargo Certificate, if applicable.

(vii) Insurance Policy of 110% value in case of CIF/ CIP contract

(viii) Certificate of Conformity and Acceptance Test at PDI, if any.

(ix) Phyto-sanitary/ Fumigation Certificate, if any.

(x) Any other documents as provided for in the Contract.#

(Note #Lab may specify any other documents required as per need)

11. **Exchange Rate Variation (ERV) Clause:** To cover the exchange rate fluctuation due to volatile market in a long term contract, it may be necessary to make a provision for such variation in exchange rates. This clause will be applicable only in case the delivery period exceeds 12 Months from the Effective Date of the Contract which involves import content (foreign exchange).

a) Detailed time schedule for procurement of imported material and their value at the FE rates adopted for the Contract is to be furnished by the Bidder as per the format given below.

Year Wise and Major Currency Wise Import Content Break up

Year Total Cost of
Material (Import)
FE Content Outflow (Equivalent in Rs. in crores)
\$ € £ Others

b) ERV will be payable/ refundable depending upon movement of exchange rate with reference to exchange rate adopted for the valuation of the Contract. Base Exchange rate of each major currency used for calculating FE content of the Contract will be the SBI selling rate of the foreign exchange element on the date of the opening of Price Bids.

c) The base date for ERV would be the Date of opening of Price Bid and variation on the base date will be given up to the midpoint of manufacture unless the Bidder indicates the time schedule within which material will be imported by them. Based on information given above, the cut-off date/dates within the Delivery schedule for the imported material will be fixed for admissibility of ERV.

d) ERV clause will not be applicable under following circumstances:

(i) Cases where delivery periods for imported content are subsequently to be refixed /extended except for reasons solely attributable to the Buyer or Force Majeure.

(ii) Cases where movement of exchange rate falls within the limit of $\pm 2\%$ of the reference exchange rate adopted for the valuation of the Contract.

e) The impact of notified ERV shall be computed on a yearly basis for the outflow as mentioned by the Bidder in their bid and shall be paid / refunded before the end of the financial year based on certification by the Buyer.#

12. **Force Majeure Clause:** Force majeure clause allows a party to suspend or terminate the performance of its obligation when certain circumstances beyond their control arise, making performance inadvisable, commercially impracticable, illegal or impossible. The provision may state that the contract is temporarily suspended, or that it is terminated in the event of force majeure continues for a prescribed period of time.

a) Neither party shall bear responsibility for the complete or partial non-performance of any of its obligations, if the non-performance results from such Force Majeure circumstances as Flood, Fire, Earth Quake and other acts of God as well as War, Military operations, blockade, Acts or Actions of State Authorities or any other circumstances beyond the parties control that have arisen after the conclusion of the present contract.

b) In such circumstances the time stipulated for the performance of an obligation under the Contract is extended correspondingly for the period of time commensurate with actions or circumstances and their consequences.

c) The party for which it becomes impossible to meet obligations under the Contract due to Force Majeure conditions, is to notify in written form to the other party of the beginning and cessation of the above circumstances immediately, but in any case not later than 10 (Ten) days from their commencement.

d) Certificate of a Chamber of Commerce (Commerce and Industry) or other competent authority or organization of the respective country shall be considered as sufficient proof of commencement and cessation of the above circumstances.

e) If the impossibility of complete or partial performance of an obligation lasts for more than 6 (six) months, either party hereto reserves the right to terminate the Contract totally or partially upon giving prior written notice of 30 (thirty) days to the other party of the intention to terminate without any liability other than reimbursement on the terms provided in the agreement for the goods received.

13. **Buy-Back:** In case where Buyer is interested to trade the existing old goods while purchasing the new ones, the appropriate provision shall be mentioned in the RFP.

The Buyer is interested to trade the existing old goods while purchasing the new ones. Bidders may formulate and submit their bids accordingly. Interested Bidders can inspect the old goods to be traded through this transaction. The Buyer reserves the right to trade or not to trade the old goods while purchasing the new ones and the Bidders are to frame their bids accordingly covering both the options. Details for buy-back offer are as under:

- a) Details of Items for Buy-Back Scheme # Make/ Model, Specs, Year of Production/ Purchase, Period of Warranty/ AMC etc.
- b) Place for Inspection of Old Items # Address, Telephone, Fax, e-mail, Contact personnel, etc.
- c) Timings for Inspection # All working days between the time of ____ to ____.
- d) Last Date for Inspection # 1 day before the last date of submission of bids.
- e) Period of Handing Over of Old Items to Successful Bidder # Within ____ days of _____
(No. of days and condition to be specified by the Lab)
- f) Handling charges and transportation expenses to take out the old items will be on account of the successful Bidder.

14. **Export License:** RFP should specifically seek the details and format for end use certificate required by the Seller for obtaining export clearance.

"The Bidder is required to furnish full details and formats of End Use Certificate required for obtaining export clearance from the country of origin. This information will be submitted along with Techno-Commercial bid. In the absence of such information, it would be deemed that no document is required from the Buyer for export clearance from the country of origin."

15. **Free Issue of Material (FIM):**

Free Issue of Material (FIM) as raw material

FIM is government property and will be secured through a Bank Guarantee. In cases where cost of FIM exceeds the order value, Seller will submit the BG for the order value and insurance cover is taken by the Buyer for the balance amount through Nationalized Insurance Agency or their subsidiaries in favour of the Director of Lab/Estt. Indemnity Bond instead of Bank Guarantee may be accepted from PSUs and other Government organizations.

Or

Stores issued as FIM for repair/ maintenance etc.: FIM is government property and will be secured through a comprehensive insurance cover taken by Lab/Estt from Nationalized Insurance Agency or their subsidiaries

16. **Terms of Delivery:** Terms of delivery plays direct role in determining cost of the contract/ SO.

- a) For Foreign Bidder: Foreign bidders are required to quote both on CIF/CIP (destination) and FCA/FOB (Gateway) basis. If CIP/CIF cost is not available, an additional 10% of FCA/FOB cost over and above quoted FCA/FOB cost will be loaded on their respective bid for comparison purposes.
- b) For Indigenous Bidder: The delivery of goods shall be on FOR (RCI) basis.

17. **Packing and Marking Instructions:** Following clause shall be retained in the RFP:

- a) The Seller shall provide packing and preservation of the equipment and spares/goods contracted so as to ensure their safety against damage in the conditions of land, sea and air transportation, transshipment, storage and weather hazards during transportation, subject to proper cargo handling. The Seller shall ensure that the stores are packed in containers, which are made sufficiently strong. The packing cases should have provisions for lifting by crane/ fork lift truck. Tags with proper marking shall be fastened to the special equipment, which cannot be packed.
- b) The packing of the equipment and spares/goods shall conform to the requirements of specifications and standards in force in the territory of the Seller's country.
- c) A label in english shall be pasted on the carton indicating the under mentioned details of the item contained in the carton. The cartons shall then be packed in packing cases as required.
 - (i) Part number :
 - (ii) Nomenclature :
 - (iii) Contract annex number :
 - (iv) Annex serial number :
 - (v) Quantity contracted :
- d) One copy of the packing list in english shall be inserted in each cargo package, and the full set of the packing lists shall be placed in case No.1 painted in a yellow colour.
- e) The Seller shall mark each package with indelible paint in english language as follows:-
 - (i) Contract No. _____
 - (ii) Consignee _____
 - (iii) Port / airport of destination _____
 - (iv) Ultimate consignee _____
 - (v) Package No. _____

- (vi) Gross/net weight _____
(vii) Overall dimensions/volume _____
(viii) The Seller's marking _____

f) If necessary, each package shall be marked with warning inscriptions: <Top>, <Do not turn over>, category of cargo etc.

g) Should any special equipment be returned to the Seller by the Buyer, the latter shall provide normal packing, which protects the equipment and spares/goods from damage or deterioration during transportation by land, air or sea. In such case the Buyer shall finalize the marking with the Seller.

18. **Inspection Instructions:** Detailed procedure for following inspection (applicable) to be spelt upfront in the RFP:

a) Raw material inspection

b) Part inspection

c) Stage/Subsystem inspection

d) Pre-Delivery Inspection e)

Factory Acceptance Test

f) Post Delivery inspection on receipt of store

g) Inspection Authority: The Inspection will be carried out by a representative of the Lab/Estt duly nominated by the Director.

(The Lab shall choose clauses as applicable and provide detailed procedure for inspection for each of the clauses. Any other inspection instruction, if required, may be added.)

19. **Franking Clause:** The fact that the stores have been inspected after the delivery period and accepted by the inspectorate does not bind the Buyer, unless at his discretion he agrees, to accept delivery thereof. A suitable provision shall be made in the RFP to address such type of concern.

a) In Case of Acceptance of Store(s): #The fact that the goods have been inspected after the delivery period and passed by the Inspecting Officer will not have the effect of keeping the contract alive. The goods are being passed without prejudice to the rights of the Buyer under the terms and conditions of the Contract#.

b) In Case of Rejection of Store(s): #The fact that the goods have been inspected after the delivery period and rejected by the Inspecting Officer will not bind the Buyer in any manner. The goods are being rejected without prejudice to the rights of the Buyer under the terms and conditions of the contract.#

20. **Claims:**

a) The quantity claims for deficiency of quantity and/ or the quality claims for defects or deficiencies in quality noticed during the inspection shall be presented within 45 days of completion of inspection.

b) The Seller shall collect the defective or rejected goods from the location indicated by the Buyer and deliver the repaired or replaced goods at the same location, within mutually agreed period, under Seller's arrangement without any financial implication on the Buyer.

21. **Warranty:** Following clause should be provided in the RFP where warranty of goods being procured is required:

a) #The Seller will declare that the goods, stores articles sold/ supplied shall be of the best quality and workmanship and new in all respects and shall be strictly in accordance with the specifications and particulars contained/ mentioned in the contract. The Seller will guarantee that the said goods/ stores/ articles would continue to conform to the description and quality for a period of, N/A from the date of acceptance/ installation of the said goods stores/ articles. If during the aforesaid period of N/A, the said goods/ stores are discovered not to conform to the description and quality aforesaid, not giving satisfactory performance or have deteriorated, the Buyer shall be entitled to call upon the Seller to rectify the goods/ stores/ articles or such portion thereof as is found to be defective by the Buyer within a reasonable period without any financial implication on the Buyer.#

b) #In cases of procurement of software, Seller shall issue/provide up grades of the software free of cost during the warranty period.#

22. **Product Support:** Following clause should be provided in the RFP where product support beyond a period of warranty is required:

a) The Seller agrees to provide product support for the stores, assemblies/ sub-assemblies, fitment items, spares and consumables, Special Maintenance Tools (SMT)/ Special Test Equipments (STE) for a minimum period of As per tender Document/So/Specs years including As per tender Document/So/Specs years of warranty period after the delivery.

b) The Seller agrees to undertake a maintenance contract for a minimum period of As per _____
tender Document/So/Specs years/ months.

The Seller is required to quote the price for both comprehensive and non-comprehensive maintenance of the equipment after the expiry of warranty period in the price bid.

23. Annual Maintenance Contract (AMC) Clause: In case of AMC or where AMC is also required along with the procurement of goods, a clause to cover such maintenance contract may be incorporated in the RFP.

a) The Seller would provide a Non- Comprehensive AMC for a period of ____ years. Or

The Seller would provide a Comprehensive AMC for a period of ____ years. The AMC services should cover the repair and maintenance of all the equipment and systems purchased under the Contract and specify following:

(i) Maximum repair turnaround time for equipment/system would be ____ days.

(ii) Required spares that may be stored at site by the Seller at their own cost to avoid complete breakdown of the equipment/system and to ensure serviceability.

b) The AMC services would be provided in two distinct ways:

(i) Preventive Maintenance Service: The Seller will provide a minimum of ____ Preventive Maintenance Service visits during a year to the operating base to carry out functional checkups and minor adjustments/ tuning as may be required.

(ii) Breakdown Maintenance Service: In case of any breakdown of the equipment/system, on receiving a call from the Buyer, the Seller is to provide prompt maintenance service to make the equipment/ system serviceable.

c) Response Time: The response time of the Seller should not exceed ____ hours / days from the time breakdown intimation is provided by the Buyer.

d) Serviceability of ____% per year is to be ensured. This amounts to total maximum downtime of ____ days per year. Also un-serviceability should not exceed ____ days at any given time. Total down time would be calculated at the end of the year. If downtime exceeds permitted limit, LD/ Extension/ Termination may be considered as per merit of the case as decided by the Buyer.

e) Technical Documentation: All necessary changes in the documentation (Technical and Operators Manual) for changes carried out on hardware and software of the equipment will be provided.

f) During the AMC period, the Seller shall carry out all necessary servicing/repairs to the equipment/system under AMC at the current location of the equipment/system. Prior permission of the Buyer would be required in case certain components/sub systems are to be shifted out of location. On such occasions, before taking over the goods or components, the Seller will give suitable bank guarantee to the Buyer to cover the estimated current value of items being taken out of location.

g) Period of AMC may be extended as per mutual agreement subject to satisfactory performance.

h) The Buyer reserves the right to terminate the maintenance contract at any time without assigning any reason whatsoever, after giving a notice of ____ months. The Seller will not be entitled to claim any compensation against such termination. However, while terminating the Contract, if any payment is due to the Seller for maintenance services already performed in terms of the Contract, the same would be paid as per the Contract terms.

24. Price Variation (PV) Clause:

a) #(Applicable only if DP is more than 18 Months) #DGS&D Manual provides Standardised Price Variation Clauses. Any of those clauses could be considered for inclusion. A sample clause is indicated below)

The formula for Price Variation should ordinarily include a fixed element, a material element and a labour element. The figures representing the material element and the labour element should reflect the corresponding proportion of input costs, while the fixed element may range from 10 to 25%. That portion of the price represented by the fixed element will not be subject to variation. The portions of the price represented by the material element and labour element will attract Price Variation. The formula for Price Variation will thus be:

where

P1 Adjustment amount payable to the Seller (a minus figure will indicate a reduction in the Contract Price)

P0 Contract Price at the base level

F Fixed element not subject to Price Variation

a Assigned percentage to the material element in the Contract

Price b Assigned percentage to the labour element in the Contract

Price L0 Wage indices at the base month and year

L1 Wage indices at the month and year of calculation

M0 Material indices at the base month and year

M1 Material indices at the month and year of calculation

If more than one major item of material is involved, the material element can be broken up into two or three components such as Mx, My, Mz . Where price variation clause has to be provided for services (with insignificant inputs of materials) as for example, in getting technical assistance normally paid in the form of per diem rate, the price variation formula should have only two elements, viz. a high fixed element and a labour element. The fixed element can in such cases be 50% or more, depending on the mark-up by the seller of the per diem rate vis-à-vis the wage rates.

b) Following conditions would be applicable to price adjustment:

(i) Base date shall be due date of opening of price bids.

(ii) Date of adjustment shall be midpoint of manufacture.

(iii) No price increase is allowed beyond original Delivery Period unless the delay is attributable to the Buyer or Force Majeure.

(iv) Total adjustment will be subject to maximum ceiling of ____ %.

(v) No price adjustment shall be payable on the portion of the payment made as an advance payment made in the Contract to the Seller.

25. **Intellectual Property Rights (IPR):** The rights of Intellectual Property, developed under the Contract, will be either the property of Govt. of India or jointly owned by the Govt. of India and the Development Partner. The holding of rights of intellectual property will be decided by the Buyer based on the merits of the case. Even where IPR is jointly held, Govt. of India will have the marching rights on IPR, i.e., the Development Partner will have to give technical knowhow/design data for production of the item to the designated Production Agency nominated by Govt. of India. The Development Partner will, however, be entitled to license fee / royalty from designated agency as per agreed terms and conditions. The Development Partner will also be entitled to use these intellectual properties for their own purposes, which specifically excludes sale or licensing to any third party.#

PART V- Vendor Qualification Criteria
(To be filled only by vendors who are not registered with RCI/any DRDO Lab)

The broad criteria for qualifications of bidders should be in the following terms:

i) Technical Capabilities

1. Expertise available in the critical areas to complete the task ()

ii) Manufacturing Facilities

1. Availability of Infrastructure required to carry out the activity ()

iii) Financial Capabilities

1. Should have minimum financial resources to execute the order ()
2. Numbers of such type of contracts executed in past.

iv) Management Capabilities

1. Availability of Quality Management System, Quality Control System etc.
2. Compliance of delivery schedule.

Note - For Turnover related yardstick, guidelines issued by CVC on pre-qualification criteria vide OM No. 12-02-1-CTE-6 of 17.12.2002 as amended should be referred.

Part VI - Evaluation Criteria of Bids

1.Evaluation and Acceptance Process: The bid will be considered and selected based on instructions contained in Part I of the RFP for further evaluation of bids as per sequence given below:

i)**Techno-Commercial Bid Evaluation:** Bids will be evaluated based on vendor qualification requirement as per Part IV of RFP, if applicable, and bids of the qualified bidders will be considered for further evaluation as mentioned in Part V of the RFP.

ii)**Price Bid Evaluation:** The Price bid of those bidders whose Techno -Commercial bid (if applicable) has been accepted will be opened and comparative statement will be prepared. The best acceptable bid will be decided upon the lowest price quoted by the particular Bidder as per the Price Format given at Part VII of the RFP. (The Lab should mention the basis for evaluation of commercial bid i.e. whether line wise or lot wise).

2.Procedure for Cost Comparison: The basis for comparison of cost in different situations would be as follows:

a) If competition is only among Indian bidders, the financial implication should be considered on the basis of FOR prices at destination, i.e., all inclusive cost viz. basic price plus taxes, freight, insurance etc. payable by the DRDO Lab/Estt after availing various benefits of exemptions from taxes/duties as applicable to DRDO.

b) In import cases, all the foreign quotes will be brought to a common denomination in Indian Rupees by adopting the exchange rate as BC selling rate of the State Bank of India on the date of the opening of Price Bids.

c) If competition is among foreign bidders, the basis for comparison should be the landed price at the destination (designated port) in accordance with Para 19 of Part-III of the RFP.

d) If competition is amongst Indian and foreign bidders, the CIP/CIF cost quoted by the foreign bidders would be the basis for comparison with the basic cost (FOR) offered by Indian bidders, after off loading the Excise Duty, Custom Duty, Central Sales Tax (CST) / Value Added Tax (VAT) and other local taxes and levies. The term Indian bidders would also include DPSUs and Indian Ordnance Factories.

e) The Buyer reserves the right to evaluate the offers received by adopting Discounted Cash Flow (DCF) method with a discounting rate in consonance with the existing Government borrowing rate. DCF method would be used for evaluation of bids in the following cases:

i)To compare different payment terms, including advance payments and progressive stage payments so as to bring them to a common denomination for determining lowest bidder.

ii)To deal with cases where entering into AMC for period in excess of one year is a part of the contract for evaluation of the bid.

f) **Net Present Value (NPV):** NPV method is a variant of DCF method which may be used for evaluation of tenders. The NPV of a contract is equal to the sum of the present values of all the cash flows associated with it. When choosing among the various bids, the bid with the lowest NPV will be selected. The following formula may be used for calculating NPV of a bid :

$$NPV = \sum_{t=0}^N \frac{A_t}{(1+i)^t}$$

Where

- A_t : Expected cash flow at time t
- t : Time of expected cash flow
- N : Total period
- i : Discount rate

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g) Discount rate to be used under the method is to be the Prime Lending Rate of State Bank of India on the Date of Opening of Price Bids.

h) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price will prevail and the total price will be corrected accordingly.

i) If there is a discrepancy between words and figures, the amount in words will prevail for calculation of price.

3. The best acceptable bid will be considered further for placement of the Contract after price negotiation as decided by the Buyer.

Part VII - Price Bid Format

1. Price Bid Format: The Price Bid Format as given below is required to be filled by

Bidders: i) Basic cost of the item/items:

Sl. No	Description of Item	Qty.	Unit Cost (In Rs.)	Tax Rate (In %)	Tax (Description)	Total Tax	Total Unit Cost (In	Total Cost (In Rs.)	Remarks
		0	0	0		0	0	0	
Grand Total		0							

ii) Accessories

iii) NRE

iv) Installation / Commissioning charges

v) Training

vi) Technical literature/Documentation

vii) Tools

viii) Any other item

ix) Quantum of discount, if offered

x) Is Excise Duty (ED) extra? If yes, then mention following -

a) Total value of items on which Excise Duty is leviable:

b) Rate of Excise duty (item-wise, if different ED is

applicable): c) Surcharge on Excise duty, if applicable?

d) Total value of excise duty payable:

xi) Is Excise Duty Exemption (EDE) required:

xii) Is VAT extra? If yes, then mention following:

a) Total value on which VAT is leviable:

b) Rate of VAT:

c) Total value of VAT leviable:

xiii) Is Service Tax extra? If yes, then mention following:

a) Total value of Services on which Service Tax is leviable:

b) Rate of Service Tax leviable:

c) Total value of Service Tax leviable:

xiv) Is Custom Duty Exemption (CDE) required: If yes, then mention following:

- a)CIF value of stores to be imported:
- b)Rate of Customs Duty payable:
- c)Total amount of Customs Duty payable:
- xv)Octroi / Entry taxes:
- xvi)Any other Taxes / Duties / Overheads / Other costs:
- xvii)Grand Total:
- xviii)Comprehensive AMC cost
- xix)Non- Comprehensive AMC cost
- xx)ToT Cost

RESERVED

