



The West Bengal Power Development Corporation Limited
(A Government of West Bengal Enterprise)
CIN No. U40104WB1985SGC039154

NOTICE INVITING TENDER NO.
WBPDC/CORP/NIT/E1811/23-24

Tender ID: 2024_WBPDC_667376_1
Published on 15.02.2024

**Tender Document for Selection of MDO for Basalt Mine in the
DPDH Coal Block allotted to the WBPDC**

Registered & Corporate Office:
Bidyut Unnayan Bhaban
Plot No. : 3/C, L.A. Block, Salt Lake City, Sector – III, Kolkata : 700 106

The West Bengal Power Development Corporation Limited (hereinafter referred as WBPDC/Employer/Owner/Purchaser which expression includes its successors and assigns) is a Govt. of West Bengal enterprise and the largest power generating utility in the state of West Bengal. It has an existing installed capacity of 4265 MW with 5 (five) power plants viz.

- i) Kolaghat Thermal Power Station (4 x 210 MW),
- ii) Bakreshwar Thermal Power Station (5 x 210 MW),
- iii) Sagardighi Thermal Power Project (2 x 300 MW+ 2 x 500 MW) ,
- iv) Bandel Thermal Power Station (1 x 60 MW+ 1 x 215 MW) and
- v) Santaldih Thermal Power Station (2 x 250 MW).

The following Coal mines had been allotted to WBPDC by MoC ,GoI :

- i) Barjore Coal Mine
- ii) Barjora North Coal Mine
- iii) Gangaramchak & Gangaramchak-Bhadulia Coal Mine
- iv) Pachchwara North Coal Mine
- v) Tara (East & West) Coal Mine
- vi) Greenfield Coal Mine Deocha Pachami Devanganj Harinsingha was allocated by Ministry of Coal (MoC), Government of India (GoI) to WBPDC on 17th December 2019. The Basalt block area is of 12.29 sq.km (3036.9 Acre) . Out of which a small patch of 1.5 sq.km(370.658 Acre) has been earmarked for development of a basalt mine. The area is free from all encumbrances including habitation . While operationalizing the basalt mine , OB dump will be created within the above said basalt mining area which will have to be re-handled in future. The basalt extracted from the mine will have to be marketed for which the customers have to be identified.

It has been decided for opening up of a basalt mine in Plot no.1267(Govt. Vested Land) with an area of 43.94 Acre (0.1778 sq.km) in Chanda Mouza .

Tender-cum-Forward e-auction is hereby invited by the General Manager (M&C), The West Bengal Power Development Corporation Limited from resourceful and financially sound mine developer & operators and mining MDOs through electronic tendering (e-tendering), for the development and operation of Basalt Mine in the DPDH Coal Block of WBPDC

The bidders are requested to submit their bid in accordance with this NIT to the e-tender portal of Govt. Of West Bengal i.e. <https://wbtenders.gov.in>.

The qualified bids will be evaluated in accordance with the procedure prescribed in the NIT and the successful bidder will be communicated for award of contract.

1. **Title of the NIT** : ***Selection of MDO for Basalt Mine in the DPDH Coal Block allotted to the WBPDC***
2. **NIT NO.** : WBPDC/CORP/NIT/E1811/23-24 dtd.15.02.2024
3. **Scheduled dates of e-tendering :**
 - i) Document Download start date : **15.02.2024 at 18:00 hrs**
 - ii) Site Visit : **Within 26.02.2024 at 17:00 hrs.**
 - iii) Pre-bid queries submission end date and Prebid meeting : **28.02.2024 at 11:00 hrs.**
 - iv) Pre-Bid query reply / upload : **Within 01.03.2024 at 11:00 hrs.**
 - v) Bid submission start date : **01.03.2024 at 12:00 hrs.**
 - vi) Bid submission end date : **11.03.2024 at 12:00 hrs.**
 - vii) Technical Bid opening date : **13.03.2024 at 12:00 hrs.**
 - viii) Uploading of Technical Bid Evaluation sheet : To be notified through system generated message
 - ix) Forward eAuction date : To be notified through system generated message
 - x) Uploading of Financial Bid evaluation sheet : To be notified through system generated message
 - xi) Issue of LoA : To be notified through system generated message
 - xii) Signing of Basalt Mining Agreement : To be notified through system generated message
4. **Mode of tendering** : Open tender cum Forward E-Action
5. **The floor percentage of Revenue Share of The WBPDC** : 15%
6. **Contract period** : **Initially 9 Years with provision of extension of further 6 years for phase-I and further may be extended as per Mine Plan**
7. **Bid Security/ EMD** : Rs. 25 Lakh
8. **Security Deposit BG** : **Rs. 1 Crore**

9. **Name, Designation, Address of the tendering authority** : The General Manager(M&C) , Corporate
The West Bengal Power Development Corp. Ltd.
2nd Floor ,Bidyut Unnayan Bhaban, Plot No. 3/C LA-Block, Sector-III, Bidhannagar,Kolkata-700 106
10. **Contact person for any queries related to scope of work** : Sri Amalesh Kumar
The Advisor (Mining), Corporate
E-mail id: a.kumar@wbpdcl.co.in
11. **Address for Communication** : The Sr. Manager (PS) , M&C department, Corporate Office,
The West Bengal Power Development Corp. Ltd.
6th floor , Bidyut Unnayan Bhaban, Plot No. 3/C LA-Block, Sector-III, Bidhannagar,Kolkata-700 106
Contact: [03326813625](tel:03326813625)/[9830616477](tel:9830616477)
[/ichaudhuri@wbpdcl.co.in](mailto:ichaudhuri@wbpdcl.co.in)

Physical submission of the hardcopy of the following documents within 3 days from the date of opening of technical bid :

- a. Power of Attorney (as per applicable format)
- b. Joint Operating Agreement (if applicable)
- c. Consortium Operating Agreement (if applicable)
- d. **Declaration as per annexure –II**
- e. EMD as BG

DISCLAIMER

- 1.1. This document is not an agreement or an offer by WBPDCI to bidders or any third party. The purpose of this document is to provide interested parties with information to facilitate the formulation of their proposal.
- 1.2. This document does not purport to contain all the information each bidder may require. This document may not be appropriate for all persons, and it is not possible for WBPDCI to consider the particular needs of each party who reads or uses this document. The concerned parties should conduct their own investigations and analysis and should verify the accuracy, reliability and completeness of the information in this document and obtain independent advice from appropriate sources.
- 1.3. Neither WBPDCI nor their employees or their MDOs make any representation or warranty as to the accuracy, reliability or completeness of the information in this document.
- 1.4. Neither WBPDCI nor their employees or their MDOs shall have any liability to any bidder or any other person under the law of contract, tort, the principles of restitution or unjust enrichment or otherwise for any loss, expense or damage which may arise from or be incurred or suffered in connection with this document, or any matter deemed to form part of this document, the award of the work, or the information and any other information supplied by or on behalf of WBPDCI or their employees, any MDOs to otherwise arising in any way from the selection process for the project.
- 1.5. The issue of this document does not bind WBPDCI to shortlist technically qualified bidders or select a bidder. WBPDCI reserves the right to annul the bidding process and/or to reject all bids, at any stage, without incurring any liability to the bidders or any third parties.
- 1.6. The bidder should confirm that the document downloaded by them from the NIC Portal is complete in all respects including all annexures and attachments. In the event that the document or any part thereof is mutilated or missing, the bidder shall notify WBPDCI immediately at the following address:

Mrs. Ipsita Chaudhuri, Sr. Manager (M&C), Corporate ,the WBPDCI
Contact: 03326813625/9830616477
/ichaudhuri@wbpdcl.co.in

- 1.7. If no intimation is received within the last date of submission of pre-bid queries, it shall be considered that the bid documents received by the bidder is complete in all respects and that the bidder is fully satisfied with the document.
- 1.8. No extension of time shall be granted to any bidder for submission of its bid on the ground that the bidder did not obtain the complete set of the document.
- 1.9. The NIT comprises of general guidelines and conditions for bidding but not an offer by WBPDCI to bidders or any third party. The purpose of the NIT is to provide interested parties with information to facilitate the formulation of their bids to undertake this Project and to convey the terms on which the work shall be awarded by WBPDCI.
- 1.10. This document and the information contained herein are strictly confidential and privileged and are for the

exclusive use of the bidder to whom it is issued. This document shall not be copied or distributed by the recipient to third parties (other than, to the extent required by applicable law or in confidence to the recipient's professional advisors, provided that such advisors are bound by confidentiality restrictions at least as strict as those contained in this document). In the event that after the issue of the document the recipient does not continue with its involvement in the bidding process for any reason whatsoever, this document and the information contained herein shall be kept confidential by such party and its professional advisors at all times.

- 1.11. WBPDCI reserves the right to change, modify, add or alter the document at any time during the bidding process. All such changes shall be uploaded on the NIC Portal. It is the duty of bidders to visit the NIC Portal and the other sites regularly and keep themselves updated on the bidding process and any communication made in relation to the bidding process.
- 1.12. The bidders or any third party shall not object to such changes/modifications/additions/alterations explicitly or implicitly. Any such objection by the bidder shall make the bidder's bid liable for rejection by WBPDCI. Further objection by any third party shall be construed as infringement on confidentiality & privileged rights of WBPDCI with respect to this document.
- 1.13. WBPDCI reserves the right in its sole discretion, without any obligation or liability whatsoever, to accept or reject any or all of the bids at any stage of the bidding process without assigning any reasons. Further WBPDCI reserves the right to annul the bidding process and / or to reject any or all bids at any stage prior to the signing of the Basalt mining agreement without thereby incurring any liability to the affected bidders or any obligation to inform the affected bidders of the grounds for WBPDCI's action. Decision of WBPDCI shall be final and binding in this regard.
- 1.14. The bidder shall not make any public announcements with respect to this bidding process or this document. Any public announcements to be made with respect to this bidding process or this document shall be made exclusively by WBPDCI. Any breach by the bidder of this clause shall be deemed to be in non-compliance with the terms and conditions of this document and shall render the bid liable for rejection. WBPDCI's decision in this regard shall be final and binding on the bidder.
- 1.15. It is clarified that the provisions of clauses 1.9, 1.10 and 1.12 shall not apply to information relating to this document already available in the public domain prior to the issue of this document.
- 1.16. The bidder shall bear all costs associated with the preparation and submission of all the bids and communications associated with the NIT. WBPDCI and their MDOs shall not, under any circumstances, be responsible or liable for any such costs.
- 1.17. By responding to the NIT, the bidder shall be deemed to have confirmed that it has fully satisfied and understood the terms and conditions of the NIT. The bidder hereby expressly waives any and all claims in respect thereof.

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INFORMATION TO BIDDERS

1. GENERAL INFORMATION OF THE BASALT BLOCK UNDER SCOPE

DEOCHA PACHAMI COAL MINE

MINE PROFILE

Features	Details
Block	Deocha Pachami Basalt Block
Mouza	Chanda
Plot	1267(p)
JL No	002
C.D Block	Md. Bazar
District	Birbhum
State	WestBengal
Nearest Rail Head	The nearest railway station is Mallarpur Railway Station on the Sahibganj-loop line of the Eastern Railway running about 10km eastern periphery of the area.
Road	The block is located north of Panagarh-Moregram expressway (NH-60) that connects National Highway NH-2 and NH-34 and can be approached from either Suri or Rampurhat. Several unmetalled roads connect the interior parts of the block.
Block Area	43.94 Acre . Initially the size of the mine will be of 12 acre and will be gradually extended with the rest of the area to the tune of 43.94 acre in phase-I & further may be extended upto 326 acres, in future in next phase(s).
Forest Area	NIL
Non-Forest Area	Approx 100%
Mean Annual Rainfall	1321.5mm
Temperature (Min. – Max.)	12.3 ^o C-36.7 ^o C
Local Surface Drainage Channels	Small channels and tributaries of Bramhani River, which is Dwarka flows around the area
Rivers	Brahmani River
Mineable reserve of basalt	10.292 Million Tonnes & May be extended as per availability of land, in future
Overburden	2.36 Mcum & May be extended as per availability of land, in future

- **Approved Geological Report (GR) on Deocha Pachami Basalt Block lease area (43.94 acres) Mouza- Chanda, Block: Md. Bazar, Distt.- Birbhum, WB is available (the same will be uploaded in the etender portal as addenda). The exploration data of the total block is available and the successful bidder/MDO will be provided the same for further extension of the block, with prior approval of WBPDC.**
- **Initially a mining plan of the area 12 acre has been prepared & submitted for approval (the same will be uploaded in etender portal prior to pre-bid meeting). However, the successful bidder / MDO may extend the same after all due formalities as per rule., with prior approval of WBPDC.**
- **Initially, Lol for Prospecting License-and/or Mining Lease for mining of minor mineral (s) on private land has been approved for an area of 4.856 ha for Black Stone. Issuance of grant order & execution of mining lease is under process.**

2. SCOPE OF WORK OF MDO

The scope of work for the MDO will broadly include the following:

a.	Area	: Initially the size of the mine will be of 12 acre and will be gradually extended with the rest of the area to the tune of 43.94 acre in phase-I & further may be extended upto 326 acres, in future in next phase(s).
b.	Depth of the quarry	: 80 Mtr. (approx) & May extend as per availability of land, in future
c.	Life of the mine	: As per mine plan
d.	Mineable reserve of basalt	: 10.29 MMT & May be extended as per availability of land, in future
e.	OB	: 2.36 Million cum & May be extended as per availability of land, in future
f.	Sizing of Basalt	As required by customer/buyer as per market survey and as per consent received from WBPDC
g.	Lead distance	As per mine plan

- i) drilling ,charging /blasting in OB and Basalt (including supply, transportation and storage cost of explosives),
- ii) excavation of OB and basalt,
- iii) **crushing & sizing of basalt as required by the customer/buyer towards maximization of revenue.**
- iv) **loading and transportation of OB and Basalt in a specified place at a lead distance as per mine plan**
- v) operation and maintenance of the connecting roads,
- vi) **procurement, operations and maintenance of mining machineries and other required machineries like jaw crusher as well as cone crusher unit with accessories (screener) etc. to produce different sizes of stone aggregate (from grit to ballast of Rly specification) as per market demand.**
- vii) **Commissioning of any electrical substation or erection of overhead line as required.,**
- viii) loading, transportation, dumping, pumping and drainage of mine water,
- ix) lighting, water sprinkling
- x) fire-fighting arrangement,
- xi) Installation of weighbridge at the mine for weighment of each and every empty and loaded truck
- xii) **construction of related infrastructure facilities The civil works like construction of mine office, boundary fencing etc. shall be funded and constructed by the MDO .**
- xiii) **Sale related all activities as per clause no.2.1**

- xiv) **Initial & Periodic (quarterly) In-situ measurement of the basalt for reconciliation of the basalt output will be done / get done by WBPDC in presence of the successful bidder / MDO.**
Saleable Basalt output shall be considered as minimum 70 % of the in-situ measurement.
Sales will be determined higher of the following:
 - a. sales details submitted by the MDO
 - b. sales computed on the basis of in situ measurement.

Note :

- i. **Detailed scope will be determined during execution of Basalt mining agreement.**
- ii. **The Mine Operator shall at all times conform to the provisions of the Mining Plan, or any revision thereof, prepared by MDO and duly approved in accordance with Applicable Laws.**

2.1 SALE OF BASALT

The parties to the Agreement to be executed between WBPDCI & the successful bidder (MDO) / SPV agree that the basalt extracted/ excavated from the Mines belongs to the WBPDCI, however, the Mine Operator shall act as an agency responsible for Selling of basalt at market driven price through auction process on behalf of the WBPDCI. The auction will be conducted by the Mine Operator in an open and efficiently transparent manner on a portal decided by the WBPDCI and any charges related to auction shall be borne by the Mine Operator. The total sale proceeds received from the Buyer(s) shall be deposited by the buyer(s) into an escrow account opened by the WBPDCI and Mine Operator for the purpose of the Basalt Mining Agreement.

- i. Sales billing (including issuance of sale order, debit note/credit note and adjustment of short lifting) and related statutory compliance will be done by the WBPDCI.
- ii. Money shall be remitted from the escrow account on monthly basis in the following manner subject to the terms and conditions of escrow agreement.

First charge: Amount of applicable statutory charges related to production and Selling of basalt including royalty, cess, GST and any other tax and after adjustment on account of debit/credit note,, if any on production of documentary evidences.

Second Charge: Amount of money as Revenue Share of WBPDCI , penalty imposed by WBPDCI , amount calculated for reconciled quantity and amount of money with respect to all reimbursement to be made by the Mine Operator to the WBPDCI for the applicable period.

Third charge: Remaining amount of money includes revenue share of Mine Operator and liability of all applicable taxes including GST on revenue share of Mine Operator. The revenue share of Mine Operator includes payments made by the Mine Operator for statutory wages, etc.

- iii. Notwithstanding anything contained in the Agreement, GST or any other tax shall not be deducted from the second charge.
- iv. The modality of auction will be finalized with mutual agreement.

2.2 SECURITY MEASURES

i. Mixed material (Basalt) shall be stacked at Pit head at placed (Stock area) approved by the WBPDCI .

ii. Entire stock area to be fenced by barbed wire fencing / trench with a security check-post at the entry /exit gate.

iii. CCTV camera , ANPR camera and Geo-fencing shall be installed in the stock area for continuous monitoring of the dispatch of Basalt . Access of CCTV camera , ANPR camera and Geo-fencing are to be provided by the WBPDCI.

3. QUALIFICATION REQUIREMENT

A) QUALIFICATION CRITERIA (*note : last FY 2022-23*)

i)The net worth of the bidder in each of the last 3 (three) financial years must be POSITIVE.

AND

ii)The average annual turnover of the bidder in the last 3 (three) financial years should be at least Rs. 50 Crore

B) CREDENTIAL OF SUBSIDIARIES/ SUBSIDIARIES OF HOLDING COMPANY/ HOLDING COMPANY

i)A Bidder (whether it is a single bidder or a member of a consortium) may fulfill the above Criteria either on its own or on the basis of its own as well as up to 2 (two) of its Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company.

ii) Such Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company shall be added and considered for meeting the above Criteria. The Bidder may use up to 2 (two) such Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company only.

iii)A Bidder who uses its Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company shall submit as part of its BID a legally enforceable **Joint Operating Agreement**, executed between such companies and the Bidder. **The format for the Joint Operating Agreement is provided hereof.**

C) CONSORTIUM

i)The Bidder may be a consortium having up to 2 (two) corporate entities; the credentials of the consortium members shall be added up and considered for meeting the Criteria. **All the members of the consortium should fulfil QR 3 A.i .- positive network clause.**

ii)The consortium members shall nominate one of the members as the Lead Member through a binding **Consortium Operating Agreement** as per the format provided hereof.

The Lead Member should fulfill at least this condition :

Atleast 50% of the Financial Criteria for average annual turnover (clauses QR 3 A.ii) shall be met by the Lead Member.

iii)The members of the consortium shall execute a legally enforceable **Consortium Operating Agreement** and submit the same as part of the BID,

holding themselves jointly and severally liable to WBPDC to perform all the contractual obligations. The Consortium Operating Agreement shall be in force for the entire Contract Period and shall be as per the format provided hereof.

iv)The consortium members shall form a project specific company if awarded the contract and submit the proof of the same to WBPDC prior to signing of the Basalt Mining Agreement, failing which the LOA is liable to be cancelled and the Bid Security forfeited. The Project specific company shall be a limited liability company under the Companies Act, 2013 and shall be the entity which shall undertake and perform the obligations and exercise the rights of the consortium under the LOA, including the obligation to enter into the Basalt Mining Agreement pursuant to the LOA for undertaking the Project. **The Lead Member shall hold a share of at least 51% of the equity of the consortium throughout the Contract Period.** The non-lead member shall hold at least 26% of the equity of the consortium.

D) CHANGE IN OWNERSHIP

Change in the members of the consortium of the MDO shall not be permitted during the Bidding Process and throughout the Contract Period, except with prior written permission from WBPDC. Such prior written approval of WBPDC may be issued at its sole discretion subject to the condition that if the Selected Bidder is a single entity it shall continue to hold during the Contract Period at least 75% of equity in the SPV even after such change. **However, if the Selected Bidder is a Consortium, the Lead Member shall hold a share of at least 51% of the equity of the SPV/MDO throughout the Contract Period.** The non-lead member shall hold at least 26% of the equity of the SPV/ MDO during the Contract Period. The SPV shall not undertake any other business during the Contract Period except for execution of the Project or in connection therewith.

INSTRUCTION TO BIDDERS

4. GENERAL GUIDANCE FOR E-TENDERING

Interested bidders are requested to log on to the website <https://wbtenders.gov.in> to participate in the bid.

➤ Registration of Bidders

Bidders willing to take part in the process of e-tendering are required to obtain Digital Signature Certificate (DSC) from any authorized Certifying Authority (CA) under CCA, Govt of India. (viz. nCode Solution, Safescrypt, e-Mudhra, TCS, MTNL, IDRBT) or as mentioned in e-tendering portal of GOWB <https://wbtenders.gov.in>. DSC is given as a USB e-Token. After obtaining the Class II/III Digital Signature Certificate (DSC) from the approved CA they are required to register the Digital Signature Certificates through the registration system available in the website.

➤ Collection of Tender Documents

Interested bidders will have to download the tender documents from the website <https://wbtenders.gov.in> directly with the help of the e-Token provided. This is the only mode of collection of tender documents.

5. SITE VISIT

- i) Bidders who have downloaded the Bid Document may visit the mine and apprise themselves of the site conditions and its surroundings and obtain for itself, on its own responsibility, all information that may be necessary for preparing their Bids and entering into the Basalt Mining Agreement.
- ii) **During the site visit, bidders should assess and satisfy themselves as to the existing local conditions such as the existing mine shape and profile, time and land required to restart OB (Basalt) production, land requirements for advance of the mine, road, nallah and other existing infrastructure that may need to be shifted, R&R requirements, if any, approach roads to the site, feasibility of transporting Basalt/OB from the mine pit top to the railway siding at Delivery Point, adequacy of existing culverts/bridges/roads for bringing its equipment and machinery to the site, water and power supply conditions, accommodation facilities as may be required, river regime, river water levels, other details of river, major drains and their water levels in normal rainy season, climatic conditions, local terrain, availability of manpower, construction materials, details of taxes, royalties, duties and levies as applicable and any other information required.**

Bidder should also take up a detail market survey before bidding.

- iii) Bidders shall bear their own costs and make own arrangements required for visiting the site.
- iv) The schedule of the site visit is given in the Schedule of Bidding Process hereof. Bidders who are interested to visit the site shall inform the Nodal Officer of the Project at least 2 (two) days before scheduled dates of the site visit, along with the names and contact numbers of their representatives who would be participating in the site visit.
- v) A maximum of (four) representatives from each Bidder shall be allowed to participate in the site visit. The representatives of the Bidder should carry a copy of the confirmation of payment of Bid Document Cost by the Bidder. Bidders shall send their requests for site visit to the email address mentioned in the Data Sheet hereof and the email shall have the subject line "MDO Basalt Mine - Request for Site Visit".

6. PRE-BID DISCUSSION

The queries for Pre-Bid within the stipulated date mentioned in the schedule of e-tendering (in NOTICE) in order to seek any additional information or to furnish additional clarification , if any , needed on the scope of work and NIT .

Clarification (signed copy of the pre-bid queries) has to be sought by the bidders through wbtenders.gov.in "clarification" module. Ref. Bidder manual for the same available in wbtenders.gov.in.

Editable word document of the pre-bid queries has to be sent to email ID : **ichaudhuri@wbpdcI.co.in**.

The pre-bid meeting shall be held at the Corporate Office , WBPDCI as per the schedule given in this document.

Attendance of the Bidders at the pre-bid meeting is not mandatory. A maximum of 2 (two) representatives from each Bidder shall be allowed to attend the pre-bid meeting.

However, WBPDCI may in its sole discretion respond to such queries submitted by any Bidder or amend the NIT as required, but is under no obligation to do so.

The clarification (s) /decision(s) against the queries/points as would be given by WBPDCI and such decision shall form the integral part of this NIT & shall be binding on all the participating bidders. The outcome of the pre –bid meeting shall be uploaded in the e-tender portal as an integral part of the NIT .

7. ISSUE OF CORRIGENDUM AND AMENDMENT TO THE BIDDING DOCUMENTS

- i) At any time prior to the Bid Submission Date, WBPDCI may at its own initiative or in response to a clarification requested by a Bidder, amend the provisions of NIT Documents by issuing Corrigendum (a) / Amendment(s) to the NIT Documents which shall be freely available for download on the NIC Portal. The Corrigendum (a) / Amendment(s) shall be binding on the bidders and it will be assumed that the information contained therein will have been taken into account by the bidder in its bid. Bidders are also advised to regularly check the NIC Portal regarding posting of Amendments, if any.
- ii) Any corrigendum (a) / amendment(s) issued by WBPDCI subsequent to the issue of NIT document will also be considered an integral part of the Bidding Document and any reference to the NIT document in the Basalt Mining Agreement shall include such corrigendum (a)/amendment(s) also.
- iii) No verbal clarifications and information provided by WBPDCI and/or its employee(s) and/or its representative(s) or its MDO(s) shall in any way be binding on WBPDCI unless subsequently confirmed through the issuance of corrigendum (a)/amendment(s).
- iv) In order to afford prospective Bidders reasonable time in which to take the corrigendum (a)/ amendment(s) into account, WBPDCI may, at its discretion, extend the Bid Submission Date.
- v) WBPDCI shall in no way responsible if the bidder fails to take notice or act in accordance to the addenda/ Amendments issued time to time. WBPDCI may, at its discretion, extend the deadline for the submission of bids by amending the Bidding documents, in which case all rights and obligations of WBPDCI and bidders previously subject to the deadline, will thereafter be subject to the deadline as extended.

8. ACKNOWLEDGEMENT BY THE BIDDER

- i) It shall be deemed that by submitting the Bid, the Bidder has:
 - made a complete and careful examination of the Bidding Documents
 - received all relevant information requested from WBPDCI;
 - accepted the risk of inadequacy, error or mistake in the information provided in the NIT or furnished by or on behalf of WBPDCI relating to any of the matters referred to in Clause 7 of this NIT document;
 - satisfied itself about all matters, things and information necessary and required for submitting an informed bid, execution of the Project in accordance with the bidding documents and performance of all of its obligations thereunder;
 - acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the bidding documents or ignorance of any of the matters shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from WBPDCI; and
 - agreed to be bound by the undertakings provided by it under and in terms hereof.

- ii) WBPDC shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the NIT or the Bidding Process, including any error or mistake therein or in any information or data given by WBPDC.

9. EARNEST MONEY DEPOSIT

- A) Value of EMD:** Rs. 25 Lakh
B) Mode of submission:

EMD shall be submitted ONLINE through this portal.

To submit BG, bidders shall have to opt for EXEMPTION in this portal and scanned copy of the BG is to be uploaded in the portal. After completion of the bid-submission period, the original BG must be submitted at the office of General Manager (M&C), Corporate Office, WBPDC, at the specified date and time. Otherwise, your bid shall not be considered for evaluation.

Bank Guarantee (BG) shall be from any scheduled bank authorized to do the business in India. Bank Guarantee will be in the name of "The West Bengal Power Development Corporation Limited." The Bank Guarantees (BG), if submitted, should remain valid for six months' period from the date of opening of the technical bid .

Bank Details for BG:

NAME OF BANK: ICICI BANK,

BRANCH NAME: R.N. Mukherjee Road , Kolkata.

A/C NO: 000605035298

IFSC CODE: ICIC0000006

A/C Name: THE WEST BENGAL POWER DEVELOPMENT CORPORATION LIMITED

Bank Guarantee (BG) of following categories of Banks may be accepted:

- Any scheduled bank incorporated in India. BG issued by foreign branches /foreign offices of such scheduled banks should be counter guaranteed by the Indian branch of that scheduled bank incorporated in India.

Or

- Any branch of an international bank situated in India or registered with Reserve bank of India (RBI) as a scheduled foreign bank.

Or

- Any foreign bank which is not a scheduled bank in India provided the BG issued by such bank is counter guaranteed by any scheduled bank incorporated in India.

Note: Under no circumstances would any guarantee be accepted from any Regional Rural Bank or State Co-operative Bank or Urban Co-operative Bank.

C) Refund of EMD:

- i. In case of unsuccessful bidder(s):

EMD amount (deposited online) of the unsuccessful bidders, shall automatically be returned to the respective debited accounts from the e-tender portal. Earnest Money (if deposited through BG) will be refunded within seven (07) days from the date of finalization of the contract on the successful bidder and against a request letter to the GM (M&C), Corporate, the WBPDC.

- ii. In case of rejected bid(s):

EMD amount (deposited online) of the bidders, shall automatically be returned to the respective debited accounts from the e-tender portal .

Earnest Money (if deposited through BG) will be refunded accordingly against a request letter to the GM (M&C), Corporate, the WBPDC .

- iii. In case of cancellation of the tender, the deposited EMD amounts shall be returned to the respective bidders automatically to the respective debited accounts from the e-tender portal . Earnest Money (if deposited through BG) will be refunded accordingly against a request letter to the GM (M&C), Corporate, the WBPDC.
- iv. In case of successful bidder: EMD (deposited either through ONLINE or through BG) will be refunded against a request letter to the GM (M&C), Corporate, the WBPDC , mentioning the reference to NIT No., date of tender, amount and mode of Earnest money deposit-all in a complete form. Earnest Money deposited by the successful bidder will be released after deposition of entire 'Security Deposit'. In case of EMD submitted online , it may be adjusted with the total Security deposit amount of the entire contract and in that case, it will be refunded after the completion of contractual period covering claim period.

D) Forfeiture of Security Deposit/Earnest Money:

The Bid Security shall be forfeited and appropriated by WBPDC as a genuine pre-estimated compensation and damages payable to WBPDC for, inter alia, the time, cost and effort of WBPDC without prejudice to any other right or remedy that may be available to WBPDC hereunder, or otherwise, under the following conditions:

- i) if the Bidder withdraws or alters or modifies or revokes its Bid, partially or fully, during the Bid Validity Period or any extension granted thereof as per terms of this NIT document,
- ii) if any of the documents submitted by a bidder as part of the bid is found to be not genuine or forged or any claims, confirmations, statements or declarations of the Bidder is found to be incorrect or inconsistent or in case of any material misrepresentation of facts at any point of time during the bid evaluation process;

- iii) if the Selected Bidder fails to submit proof of formation of SPV within 21 (twenty one) days from the date of issuance of the Letter of Award
- iv) if the Selected Bidder fails to furnish the Performance Guarantee within 21 (twenty one) days from the date issuance of the Letter of Award ;if the Selected Bidder fails to sign the Basalt Mining Agreement within 30 (thirty) days from the date of issuance of the Letter of Award;
- v) if a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice, restrictive practice, collusive bidding or bid rigging as specified in this NIT document
- vi) if a Bidder withdraws its Bid before completion of the Bidding Process during the Bid Validity Period,
- vii) If the bidder is otherwise in breach of the terms of this document.
- viii) in case the Selected Bidder, does not comply with the requirements of the Financial Proposal;
- ix) in case the Cover-I of the BID of a Bidder contains any information on the Financial Proposal of the Bidder;
- x) if a Bidder submits more than one Bid, either as a single Bidder or as part of a consortium.

There is no exemption in EMD.

No interest shall be payable by the Corporation on the Earnest Money that is refunded to unsuccessful bidders under any circumstances.

**10. SUBMISSION OF
TENDER DOCUMENTS**

A) Bidders must download tender specific documents (NIT, BOQ etc) from <https://wbtenders.gov.in>, prepare the required documents and upload the scanned documents in Portable Document Format (PDF) to the portal in the designated locations viz.

Cover #1 : "Fee/PreQual/Technical" &

Cover #2 : "Finance" for BOQ sheet duly filled up. Bidders needs to fill up the rates of items in the BOQ, downloaded for the supply, in the designated cell of the BOQ spreadsheet and upload the same in designated location of Cover #2 .

➤ The bid and other supporting documents uploaded by the bidders should be in only English language. **Bid in any other language is liable to be rejected.**

➤ Currency should be in INR.

B) No alteration in the Bid or in the amount(s) or any addition by way of special stipulation will be permitted.

C) Any Bid which is incomplete, ambiguous, or not in compliance with the Bid Document is liable to be rejected.

11. ONE BID PER BIDDER

a) Each Bidder shall be allowed to submit only one Bid. A bidder who submits more than one Bid will be disqualified.

b) The NIT/Bid is not transferable.

12. COVER 1 DOCUMENTS: TECHNICAL BID

i) For the Qualification Criteria in Clauses 3.A.i, 3.A.ii, the Bidder/ each member of the consortium shall submit its audited financial statements for the last 3 (three) financial years (last FY 2022-23) as a standalone entity. Audited annual accounts must be accompanied by certificates from a chartered accountant.

ii) Bidder information sheet as per Annexure-I furnishing name, residential address, phone no, e-mail address and place of business of person (s) authorized to sign the tender with signature of appropriate authority with designation and seal of the Company and submit Power of Attorney / authorization to bid on behalf of the bidder in case the bidder himself is not signing the tender document alongwith copies of following documents [**to be submitted by the bidder , as and where applicable**] :

- a. Valid PAN Card
- b. Valid GST Registration Certificate (GSTIN)
- c. ESI Code
- d. Valid PF Code
- e. IT return of last 3 Assessment years (AY 21-22 ,AY 22-23, AY 23-24)
- f. Company Registration Certificate/ any other statutory document

iii) The Bidders shall also physically submit the following original documents related to their BID under COVER-I.

- a. Bank Guarantee for Bid Security (only in case of Bank Guarantee). No physical submission of Bid Security is required in case of online deposit of Bid Security at the NIC Portal, i.e., when done via the Non- Bank Guarantee mode
- b. Power of Attorney (as per applicable format)
- c. Joint Operating Agreement (if applicable)
- d. Consortium Operating Agreement (if applicable)
- e. **Declaration as per annexure –II has to be submitted by the bidder**

Note:

- a. All declaration and undertakings must be executed on non-judiciary stamp paper of Rs. 10 and Legal declaration affirmed before a First Class Magistrate / Notary – to be filled & duly signed and sealed by authorized signatory of the bidder and upload it.
- b. Authenticated scanned copies of all documents are to be uploaded in the designated locations of the e-tender portal .
- c. Non-submission of any one of the above documents, non-compliance with the given format, submission of incomplete documents and false claims may disqualify the bidder and the bid document submitted, if any, may be rejected outright without any further reference to the bidder.

**13. COVER 2 : FINANCIAL
BID**

The financial proposal has to be submitted in Finance Cover as per decrypted BOQ sheet.

Once completion of quoting Percentage of Revenue Share of the WBPDCI, the bidder must encrypt and upload the same with digitally signed. (Only downloaded copies of the above documents are to be uploaded, virus scanned and digitally signed by the bidder).

{The floor percentage of Revenue Share of WBPDCI is 15% (Fifteen Percent)}

**14. CONDITIONAL AND
INCOMPLETE TENDER**

- i. The offer must accompany Declaration as per annexure-II as indicated above failing which it will be summarily rejected. If it is found that the Agency has submitted false declaration in annexure-II, the bid submitted by the bidder shall be rejected and their EMD shall be forfeited and necessary actions may be taken under the provisions of Corporation's Blacklisting Policy.
- ii. Conditional and incomplete tenders are liable to summary rejection.
- iii. The entire offer to be submitted by the bidder should be unconditional. Any information, assumption, statement having a direct or indirect relation/ correspondence with the quoted rates shall be treated as a condition and as such a deviation from the tender norms stipulated in the tender documents. Bidders are, therefore, requested to thoroughly scrutinize the entire tender document and seek clarifications if required before submission of tender.
- iv. If any bidder fails to produce any original hard copies of the documents like Completion Certificate or any other documents on demand of the Tender Evaluation Committee within a specified time frame or if any deviation is detected in the hard copies from the uploaded soft copies, it may be treated as

submission of false documents by the bidder and action may be referred to the appropriate authority for prosecution as per relevant IT Act.

v. All the uploaded annexures will have to be attested by the bidder with official seal of the agency / company .

vi. All declaration and undertakings must be executed on non-judiciary stamp paper of Rs. 10 and Legal declaration affirmed before a First Class Magistrate / Notary – to be filled & duly signed and sealed by authorized signatory of the bidder.

vii. The Corporation reserves the right to accept cancel any or all tenders without assigning any reason whatsoever. The corporation does not bind itself to accept the rate quoted by the lowest bidder and reserves the right to accept or to reject any or all the tenders .

viii. The bidder is expected to carefully examine the Bid documents and fully satisfy himself as to all the conditions and matters, which may in any way affect the work or the cost thereof. If any Bidder finds discrepancies or omissions in the Bid documents or is in doubt as to the true intent or meaning of any part thereof, he can submit his query within the date stipulated in the NIT for further clarification. Any query for clarification in the above respect after the submission of bid shall not be entertained. After receipt of such interpretation or clarification the Bidder shall submit his Bid but within the time and date as specified in the invitation to Bid. All such interpretation and clarification shall form an integral Step of the tender documents and must accompany the bid.

ix. The agency has to submit written clarification and information if any, verbal clarification and information shall not be accepted.

x. Cost of bidding : All the expenses, incidental to the submission of the tender, discussion, conferences, if any, shall be borne by the bidder irrespective of whether the tender is accepted or not and the WBPDCI shall bear no liability whatsoever.

xi. Any hardcopy of the document asked for clarification or any shortfall documents against uploaded tender submitted by the bidder shall become the property of the WBPDCI and The WBPDCI shall have no obligation to return the same to the Bidder for any reason whatsoever.

**15. OPENING &
EVALUATION OF BID**

Price-Bid (Cover-II) will be opened after the evaluation of Cover-I.

The Cover-II of only the qualified Bidders (the Bidders who have qualified against Cover-I) shall be decrypted and opened on the scheduled date and time for which intimation will be given to such qualified Bidders through the e-procurement portal.

- **H1 Percentage of ‘Revenue Share of WBPDC/CL’ quoted in the price bid above floor percentage shall be considered as floor %age for forward eAuction .**
- **The Bidder with Discovered (H1) Percentage of ‘Revenue Share of WBPDC/CL’ through forward eAuction shall be considered as successful bidder .**

Bidders in their own interest are advised to get themselves acquainted with the Forward Auction process of NIC Portal by getting their Authorized Signatory trained beforehand

Evaluation shall be done only on the %age quoted in the BOQ sheet .

After evaluation of price-bid, by Tender Evaluation authority, the final summary result, name of the successful bidder and the rates quoted will be uploaded. The Tender Accepting Authority may ask any of the Bidders to submit analysis to justify the rate quoted by that bidder.

Issue of tender documents to any bidder will not be construed that such bidder is automatically considered qualified for the entire tender process.

The WBPDC/CL reserves the right to accept any tender or reject any or all the tenders or cancel/withdraw the invitation for tender without assigning any reason whatsoever. Such decision taken by The WBPDC/CL shall not be subject to raising of question by any bidder and The WBPDC/CL shall bear no liability consequent upon such decision and the bidder shall have no claim in this regard against The WBPDC/CL.

16. VALIDITY OF BID :

- (a) Bid shall remain open for acceptance by the Owner for a period of One hundred Eighty (180) days from the last date of opening of **the technical** Bid. During this period the Bidder shall not withdraw or amend his Bid.
- (b) The quoted prices shall remain firm till completion of the contract.
- (c) Notwithstanding sub-clause (a) above, the Owner may obtain the Bidder’s consent to extend the validity period of his Bid, as required. The request and response thereto shall be made in writing. A Bidder accepting the request will not be permitted to modify his Bid.

17. DEVIATIONS

No deviation is allowed to the NIT .

18. CANVASSING PROHIBITED

Canvassing whether directly or indirectly, in connection with tenders is strictly prohibited and the tenders submitted by the Facilitators who resort to canvassing will be liable to rejection.

19. AWARD OF CONTRACT

The bidder, whose bid is accepted by WBPDCI, shall be issued Letter of Award (LOA) prior to expiry of bid validity. The successful bidder firm shall confirm unconditional acceptance by returning a signed copy of the LOA within 7 days from the date of placement of LoA.

WBPDCI shall issue the successful Bidder with the **LOA** along with a filled in copy of the draft Basalt Mining Agreement, confirming that the Bidder is the **Selected Bidder** and asking the bidder to furnish the following:

- (i) Performance Security bank guarantee in accordance with the Draft Basalt Mining Agreement, within **21 (twenty one) days** from the issuance of LOA
- (ii) Documentary evidence showing formation of a SPV company within **21 (twenty one) days** from the issuance of LOA

and sign the Basalt Mining Agreement with WBPDCI within a period of **30 (thirty) days** from the date of issuance of LOA.

- WBPDCI shall not be obliged to furnish any information/ clarification/ explanation to the unsuccessful bidders as regards non-acceptance of their bids. Except for refund of EMD, if asked for, to unsuccessful bidders, WBPDCI shall correspond only with the successful bidder.

20. REJECTION OF BID

On submission of any Bid, the corresponding bidder shall have no cause of action or claim against the Owner for rejection of his Bid. The Owner will always be at liberty to reject or accept any Bid at his sole discretion without assigning any reason and any such actions will not be called into question and the bidder shall have no claim in this regard against the Owner.

21. CANCELLATION OF TENDERS

WBPDCI may cancel the tender at his discretion without assigning any reasons whatsoever. In that case bid security will be released without interest. WBPDCI will not be liable for any other expenses incurred by the bidder to participate in the tender.

SPECIAL TERMS & CONDITIONS

22. PERCENTAGE OF REVENUE SHARING

The PERCENTAGE OF REVENUE SHARING should remain "FIRM" till the pendency of the contract.

- i. **Unit selling price : The unit selling price will be determined through an auction process conducted by MDO on behalf of the WBPDCI.**
- ii. **Net Revenue : The Net Revenue shall be the amount received from the Buyer(s) on Selling of Basalt after deducting the applicable statutory charges related to production and Selling of Basalt including royalty, cess, GST and any other tax.**
- iii. **Revenue share of WBPDCI : The Revenue Share of WBPDCI shall be equal to Net Revenue multiplied by the contracted percentage of Revenue Share of WBPDCI.**

Ref. clause 2.1.

23. GOODS AND SERVICE TAXES

Any change in GST rate will be applied accordingly.

24. TERMS OF PAYMENT

The Mine Operator shall, by the 15th (fifteenth) day of each month (or, if such day is not a business day, the immediately following business day), submit in triplicate to the WBPDCI, a **statement of invoice** in the agreed form (the "Monthly Invoice") signed by the authorised signatory of the Mine Operator setting out the computation of the revenue share of Mine Operator in respect of the immediately preceding month in accordance with the provisions of Basalt Mining Agreement .

Conditions for payment :

- i) Revenue shall be made to WBPDCI in accordance with the clause 2 and 2.1.
- ii) Any penalty, interest, fine etc. applicable by the Government upon the WBPDCI for non-compliance of GST or other taxes for default arising on part of Mine Operator shall be payable or reimbursed to the WBPDCI, as the case may be, by the Mine Operator. It is clarified that the Mine Operator will also be responsible to pay any professional fee or liability accruing out of legal disputes relating to GST or any other applicable Act for the Project.
- iii) In case of any loss of input tax credit or any other benefit or incidence of interest or penalty suffered by the WBPDCI in relation to GST due to any non-compliance by the Mine Operator of the Applicable Laws (including

but not limited to the Mine Operator's failure to upload details of sale on the GSTN portal, failure to issue GST compliant document(s) within the prescribed time frame or furnishing incorrect or incomplete documents with the relevant Government Instrumentality), the WBPDCI shall have the right to: (a) be compensated by the Mine Operator for such amount of loss or penalty suffered by the WBPDCI, or (b) set-off such loss or penalty against any next amounts payable by the WBPDCI to the Mine Operator under the Agreement. For the avoidance of doubt, it is hereby clarified that any loss of input tax credit or any other benefit or incidence of interest or penalty shall be recovered/adjusted from next Monthly Invoice or against the Performance Security, as the case may be, at the discretion of the WBPDCI and in case award/loss amount is greater than value of Monthly Invoice or the Performance Security, as the case may be, the Mine Operator shall pay such differential amount to the WBPDCI within 30 (thirty) days from the date of demand raised by the WBPDCI. In addition, any delay in uploading the details of sale on the GSTN portal by the Mine Operator resulting in deferment of input tax credit in accordance with the GST Laws, shall entitle the WBPDCI to charge interest at the rate equivalent to the prevailing interest rate charged by the relevant Government Instrumentality for input tax credit reversal under GST Laws.

- iv) In case the WBPDCI makes any payment to the Government towards statutory obligations of the Owner as per the Act, then the Mine Operator undertake to indemnify and reimburse the WBPDCI of any such statutory payments, fines, penalty, losses, compensation, damages etc.
- v) If the Mine Operator fails to comply with any directions issued by a Government Instrumentality, and is liable to pay a penalty under the provisions of Applicable Laws, such penalty shall be borne solely by the Mine Operator, and shall not be claimed from the WBPDCI. For the avoidance of doubt, payment of any penalty under the provisions of Applicable Laws shall be in addition to, and independent of, the Damages payable under this Agreement.

25. CONTRACT PERIOD

Initially 9 Years with provision of extension of further 6 years for phase-I and further may be extended for next phases as per Mine Plan .

Zero date is appointment date of MDO as per Basalt Mining Agreement.

Date of commencement : The MDO shall start the job within a time period of 60 (sixty) days from the Appointed Date as per Basalt Mining Agreement to be executed.

26. CONTROLLING OFFICER

The General Manager (MMC), Corporate Office, WBPDCI or his authorized representative shall be the Controlling Officer.

27. FINANCIAL WBPDCCL OF THE WBPDCCL

The General Manager (F&A)/Corporate, WBPDCCL

28. CONTRACT PERFORMANCE SECURITY DEPOSIT

The successful bidder will have to deposit contract performance security, in the form of bank Guarantee for satisfactory execution and completion of the work in accordance with the provision of the contract/ the Basalt Mining Agreement.

Contract performance security amount Rs. 1 Crore.

Bank Guarantee (BG), then it should be issued from any Scheduled Bank. Upon submission of this security, the BG submitted as EMD submitted by the bidder will be released. BG shall be valid upto contract period with a claim period of 90 days .

- Refund of Security Deposit:

On completion of the work and certified as such by the Controlling Officer, the security deposit remaining with the WBPDCCL shall be refunded, shall be refunded within 60 days of the completion of contract period.

The security deposit shall be refunded within the period as above from the date of satisfactory completion of the work as per the Basalt Mining Agreement or from the date of termination of work by the management, subject to recovery of the WBPDCCL's dues from the MDO on the date of termination. The amount of security deposit shall bear no interest.

29. PENALTY

Penalty on performance :

- eAuction as mentioned in clause 2.1 will be conducted on quarterly basis considering 70 % of the quarterly production plan (of Mine Plan) as saleable quantity**
- Mine Operator has to ensure availability of saleable product as per booked quantity in the eAuction.**
- In case Mine Operator is unable to make available the booked quantity , the penalty will be equivalent to revenue loss of the WBPDCCL calculated on the discovered eAuction price , which will be recovered from Escrow account through 3rd charge as defined in clause 2.1.(ii).**

30. LIQUIDATED DAMAGE

Damages for delay by the Mine Operator :

In the event of any delay in execution of works beyond schedule as mentioned Basalt Mining Agreement including any extension permitted in writing, the WBPDCCL reserves the right to recover from the MDO ,damages in an amount calculated at the rate of 0.5% (zero point five per cent) of the Performance Security for each week, or part of a week, of delay until the fulfillment of such Conditions Precedent defined in Basalt Mining agreement . Provided, however, that the Damages payable hereunder shall be subject to a maximum amount of 30% (thirty per cent) of the Performance Security and upon reaching such maximum amount of Damages payable by the Mine Operator hereunder, the WBPDCCL may terminate the Agreement.

31. MANPOWER DEPLOYED BY MDO

- The MDO shall engage manpower at its own terms and conditions, provided that this manpower will have no legal right to the employment in WBPDCCL at the expiry or termination of or during the subsistence of the Basalt Mining Agreement.
- The MDO shall abide by the applicable statutory provisions on minimum wages, payment of wages, CMPF, gratuity, health care, uniform, ESI and compensation

to its employees and workmen. Local people shall be given preference in employment.

c. The MDO shall engage manpower according to the applicable laws and rules framed thereunder the statutory provisions and comply with the provisions thereof during the Contract Period including but not restricted to the following:

- i. Mines Act, 1952
- ii. Mines Vocational Training Rules, 1966
- iii. Employee's Compensation Act, 1923
- iv. Payment of Bonus Act, 1965 and rules framed thereunder
- v. Apprentices Act 1961 and rules framed thereunder
- vi. MMR, 1961**
- vii. Contract Labor (Regulation and Abolition) Act, 1970
- viii. Payment of Wages Act, 1936 and Rules, 1950
- ix. Maternity Benefit Act, 1961
- x. Employer's Liability Act, 1923
- xi. Employment of Children's Act, 1938
- xii. Minimum Wages Act, 1948
- xiii. Mines Rules, 1955
- xiv. Mines (Rescue) Rules, 1985
- xv. The Maternity Benefits (Mines) Rules, 1963
- xvi. Child Labor (Prohibition and Regulation) Act 1986
- xvii. Metalliferrous Mines Regulations, 2019**
- xviii. Any other applicable statutory acts

d. The MDO may engage sub-contractors subject to prior approval from WBPDC.

e. The financial, social & legal obligations of the manpower deployed by the MDO and/ or its subcontractors shall at all times be the responsibility of the MDO. WBPDC shall have no liability, whatsoever, with regard to the manpower deployed or employed by the MDO within or after the Contract Period, including the existing employees at the mine and at the railway siding at Delivery Point.

f. The MDO and its subcontractors shall deploy adequately qualified, skilled and trained manpower, who must be imparted periodic training as per existing statutes.

g. If the statutory body desires to deploy statutory manpower by WBPDC, then the expenditure incurred on account of salary will be reimbursed to WBPDC by MDO.

32. ENVIRONMENTAL

The MDO shall comply with all Applicable Laws.

The MDO has to comply with all the requirements of the Environment Clearance at all points of time during the Contract Period.

The MDO shall comply with all applicable laws, authorization and guidelines of the MoEF&CC and other state & central government, statutory agencies and any rules, regulations or order from the Government of West Bengal and its various agencies.

In case the MDO fails to comply in accordance with the statutory clauses, WBPDCI may be required to bear the costs and expenses to ensure such compliance. In such a situation, WBPDCI reserves the right to recover all such costs and expenses from the MDO.

GENERAL CONDITIONS OF CONTRACT

33. EFFECTIVE DATE

The Contract shall come into force from the date issue of Letter of Award.

34. CONFLICT OF INTEREST

A Bidder shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. A Bidder(s) found to have a Conflict of Interest shall be disqualified. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

- (a) the Bidder, its Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company and any other Bidder, Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Bidder, Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company, as the case may be) in the other Bidder, its Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act, 1956.

For the purposes of this Clause 34 (a), indirect shareholding held through one or more intermediate persons shall be computed as follows:

(aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this subclause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

- i. a constituent of such Bidder is also a constituent of another Bidder; or
- ii. such Bidder, or its Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company; or
- iii. such Bidder has the same legal representative for purposes of this Bidding Process as any other Bidder; or
- iv. such Bidder, or any Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company has a relationship with another Bidder, or any Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or
- v. such Bidder, or any Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company has participated as a consultant to WBPDC in the preparation of any documents, design or technical specifications of the Project

(b) A Bidder shall be liable for disqualification if any legal, financial or technical adviser of WBPDC in relation to this Project is engaged by the Bidder, any Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company, as the case may be, in any manner for matters related to or incidental to the Project. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, any Subsidiary/ Subsidiaries and/or Holding Company and/or the Subsidiary/ Subsidiaries of its Holding Company in the past but its assignment expired or was terminated 6 (six) months prior

to the date of issue of this NIT. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

Explanation: In case a Bidder is a consortium, then the term Bidder as used in Clause 34 (a), shall include each member of the consortium.

35. CONFIDENTIALITY

The successful bidder and their personnel shall not disclose any propriety or confidential information relating to the Services, to anyone without the prior written consent of the Employer.

36. NON-COMPLIANCE

In case the MDO fails to carry out his assigned job or could not mobilize his resources even after placement of order or if the MDO fails to achieve the desired progress as stipulated in the scope of work, the Controlling Officer or his authorized representative reserves the right to get the job done by any other agency for the interest of the corporation. In case of poor progress of the assigned job (which shall be assessed after completion of 21 days from the date of commencement of the work), the WBPDCI shall have the liberty to short terminate the contract and carry on the work by any other agency.

37. CHANGE IN SCOPE / NATURE OF WORK DURING PROGRESS OF WORK

In case of any change in the scope/ nature of work during its progress, the MDO is to inform the management immediately and act as per the direction of the management.

38. SAFETY CLAUSES

The agency shall take all safety measures during the work as per the standard safety rules in consultation with the Controlling officer. The MDO will be solely and wholly responsible for accident that may occur during the execution of the work and for injury or damage to person or property of any description whatsoever which may be caused by or result during the execution of the work.

39. LIMITATION OF LIABILITY

Except in cases of criminal negligence or willful misconduct, (a) Neither party shall be liable to the other party, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, which may be suffered by the other party in connection with the contract, other than specifically provided as any obligation of the party in the contract, and (b) The aggregate liability of the MDO to the purchaser, whether under the Contract, in tort or otherwise, shall not exceed the amount of the total contract price, provided that this limitation shall not apply to the cost of repairing defective equipment, or to any obligation of the MDO to indemnify the Purchaser with respect to patent infringement.

40. FORCE MAJEURE

Conditions beyond control of either parties like war, hostility, acts of public enemy, civil commotion, sabotage, serious loss or damage by fire, explosions, epidemics, strikes, lockouts or acts of God come under the legal concept of Force majeure. Delays in performance of contractual obligations under influence of Force majeure conditions are condonable by the other party without any right to termination or claim for damages, provided, notice of happening of any such event is given by the affected party to the other within 30(thirty) days from the date of occurrence. Execution of work/ supply of goods shall be resumed as soon as practicable after such event has come to an end or ceased to exist. However if such event continues for a period exceeding 120 days(for works), either party may at its option terminate the contract without any financial repercussion on either side by giving notice to the other party.

41. TERMINATION

A. CANCELLATION OF CONTRACT FOR DEFAULT ON THE PART OF AGENCY / FIRM

If the agency fails to execute whole or part of the works within the time period(s) specified in the contract, or any extension thereof granted; and/or
If the agency/firm fails to perform any other obligation under the contract within the period specified in the contract or any extension thereof granted .

The WBPDCI reserves the right to terminate the contract without any notice under the following specific conditions/ circumstances:

- a) Unsatisfactory performance of the contracted work,
- b) Involvement in action causing breach of peace and discipline within the WBPDCI/ area premises,
- c) Failure to comply with terms and conditions of the contract,
- d) Moral turpitude,
- e) Violation of the provisions under various laws and awards in force from time to time as are applicable to the work,
- f) Any action on the part of the MDO which in the opinion of the management is detrimental to the interest of the WBPDCI.

B. TERMINATION OF CONTRACT FOR INSOLVENCY

If the agency/firm becomes bankrupt or becomes otherwise insolvent or undergoes liquidation or loses substantially the technical or financial capability (based on which he was selected for award of contract), the contract may be terminated without compensation to the agency/firm, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to WBPDCI.

C. TERMINATION OF CONTRACT FOR WBPDC/CL'S FAILURE/CONVENIENCE

After placement of the contract, there may be an unforeseen situation compelling WBPDC/CL to cancel the contract. In such a case, the WBPDC/CL reserves the right to terminate the work by giving 15 days' notice to the agency/firm for cancellation of the contract, in whole or in part without assigning any reason. The notice shall also indicate the date from which the termination will become effective. The measurement of the revenue shall in such eventuality, be taken upto the date of such termination by the WBPDC/CL.

D. RECOURSE AVAILABLE TO WBPDC/CL IN CASE OF TERMINATION UNDER CLAUSE (A) & (B)

If the contract is terminated in whole or in part, recourse may be taken to any one or more of the following actions:

- a) Forfeiture of the performance security/EMD as the case may be ;
- b) Risk Purchase: Upon such terms and in such manner as it deems appropriate, works unexecuted may be executed adopting alternative recourses at the sole risk and cost of the agency/firm. The additional cost over and above the contracted price incurred for execution of the unexecuted portion of works shall be charged to the agency/firm.

42. DISPUTE RESOLUTION

If any dispute(s) or difference(s) of any kind whatsoever arise between the parties hereto in connection with or arising out of any contract, the parties hereto shall negotiate with a view to its amicable resolution and settlement. In the event no amicable resolution or settlement is reached within a period of 30 (thirty) days from the date on which the dispute(s) or difference(s) arose, either party shall give a notice to the other party, of such intention to invoke Arbitration within 14 (fourteen) days from the expiry of the aforesaid period of 30 (thirty) days within which amicable resolution could not be reached.

Such dispute(s) or difference(s) shall be referred to and settled by a Sole Arbitrator to be mutually appointed by both the parties.

If a party fails to appoint the Sole Arbitrator within 30 (thirty) days from the receipt of a request to do so from the other party , the appointment of Sole Arbitrator shall be made upon request of either party by the Hon'ble High Court , Calcutta .

The arbitration proceedings shall be in accordance with the prevailing Arbitration laws of India as amended or enacted time to time.

The existence of any dispute(s) or difference(s) or the initiation or continuance of the Arbitration proceedings shall not permit the parties to postpone or delay the performance by the parties of their respective obligations pursuant to the Contract.

The seat of arbitration shall be Kolkata, West Bengal, India.

43. GOVERNING LAW & LEGAL JURISDICTION

This work order shall be governed by and construed in accordance with substantive and procedural laws of India. The competent courts at Kolkata, West Bengal, India shall have exclusive jurisdiction in relation to this work order.

Any or all action(s) and proceeding(s) arising out of or in relation to the contract (including any arbitration in terms thereof) shall lie only in the court of competent civil jurisdiction in Kolkata, West Bengal and only the said court(s) shall have jurisdiction to entertain and try any such action(s) and /or proceeding(s) to the exclusion of all other court(s).

44. BLACKLISTING

For suspension/ blacklisting/ debarment, procedures as laid down under the WBPDC's Policy & Procedure of Blacklisting and Debarment of Agencies from Business Dealings shall be followed.

Agency blacklisted by any government department/ PSU/ Government agency shall not be allowed to participate in our tender process if effect of such debarment subsists at the time of submission of the bid. The bidder shall furnish a declaration in this regard provided in Annexure-II"

Disclaimer | Forfeiture of EMD/ Security deposit:

During the blacklisting and debarment period if it is detected that the agency has participated in the tender under a different name or sub-agency of the participating bidder, WBPDC would be at liberty to debar the agency from participating in the tender and in such case EMD/ Security deposit shall be forfeited with option to take recourse to any legal remedy.

