

**NEW DELHI MUNICIPAL COUNCIL
PALIKA KENDRA: NEW DELHI
(VIGILANCE DEPARTMENT)**

No. 804/Vig/Imp/18

CIRCULAR

dated. 28/03/18

Sub: Regarding amended format of Integrity Pact.

Circular vide Ref. No.1225/Vig/Imp/TO(C-III)/2014 dated 23.05.2014 was issued to all HODs circulating 'final pre-contract Integrity Pact Agreement'.

Now, in view of the instructions of the CVC's Circular No.02/01/2017 issued vide No.015/VGL/091 dated 13.01.2017, the amended format of Integrity Pact is enclosed herewith for necessary action please.



Jt. Director (Vigilance)**Encl.:** As above.**All HODs****Copy for information to:-**

1. Director (CVC), Satarkta Bhawan, GPO Complex, Block A, INA, New Delhi-110023.
2. Sh. V.K. Gupta, IEM
3. Sh. D.K. Sharma, IEM
4. Director (IT) NDMC -with request to upload this Integrity Pact on NDMC website.
5. P.S. to Chairman, NDMC
6. P.S. to CVO, NDMC
7. P.S. to Secretary, NDMC

SI/IT

- ① Instructions to all.
- ② In Policy file.
- ③ To ensure it is applicable in all contracts as per permissible value.

Jt. Dir.

03.04.18



Format of Integrity Pact

General

This pre-bid pre-contact Agreement (hereinafter called the Integrity Pact) is made on _____ day of the month of _____ 20____, between on one hand the NDMC acting through _____ of the First Part (hereinafter called the Principal/Owner) and M/s _____ represented by Shri _____ (hereinafter called the "Bidder(s)/ Contractor(s)" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

Whereas the NDMC proposes to _____ of the Tender Document No: [insert tender document no] dated [insert tender document date], through the Bidder(s)/ Contractor(s) and the Bidder(s)/ Contractor(s) is willing to offer / has offered the same.

Whereas the Bidder(s)/Contractor(s) is a company incorporated under the Companies Act, 1956/2013 NDMC is a Body Corporate established under the provisions of the New Delhi Municipal Council Act, 1994 performing its functions on behalf of the Council.

Now, therefore,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:

Enabling the NDMC to obtain the desired said **work/Services/Stores/ Equipments** at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption during tendering, execution & public procurement, and

Enabling Bidder(s)/Contractor(s) to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the NDMC will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

1. Commitments of the NDMC

1.1 NDMC undertakes that no official of the NDMC, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder(s)/Contractor(s), either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.

1.2 NDMC will, during the pre-contract stage, treat all Bidder(s)/Contractor(s) alike, and will provide to all Bidder(s)/Contractor(s) the same information and will not provide any such information to any particular Bidder(s)/Contractor(s) which could afford an advantage to that particular Bidder(s)/Contractor(s) in comparison to other Bidder(s)/ Contractor(s).

1.3 All the officials of the Principal/Owner will report to the CVO, NDMC any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

2. In case any such preceding misconduct on the part of such official(s) is reported by the **Bidder(s)/Contractor(s)** to NDMC with full and verifiable facts and the same is prima facie found to be correct by NDMC, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by NDMC and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the NDMC the proceedings under the contract would not be stalled.

Commitments of Bidder(s)/ Contractor(s)

3. The **Bidder(s)/Contractor(s)** commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract, contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following:

3.1 The **Bidder(s)/Contractor(s)** will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of NDMC, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.

3.2 The **Bidder(s)/Contractor(s)** further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees brokerage or inducement to any official of NDMC or otherwise in procuring the contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with the Government including NDMC for showing or forbearing to show favour or disfavor to any person in relation to the contract or any other contract with the Government including NDMC.

3.3 **Bidder(s)/Contractor(s)** shall disclose the name and address of agents & representatives and Indian **Bidder(s)/Contractor(s)** shall disclose their foreign Principals or associates.

3.4 **Bidder(s)/Contractor(s)** shall disclose the payments to be made by them to such agents/brokers or any other intermediaries, in connection with this bid/contract.

3.5 The **Bidder(s)/Contractor(s)** further confirms and declares to NDMC that the **Bidder(s)/Contractor(s)** has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to NDMC or any of its functionaries, whether officially, or unofficially to the award of the contract to the **Bidder(s)/Contractor(s)**, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.

3.6 The **Bidder(s)/Contractor(s)**, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of NDMC or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.

3.7 The **Bidder(s)/Contractor(s)** will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract. Bidder shall remain responsible to maintain safety & confidentiality of his bid documents during bid process.

3.8 The **Bidder(s)/Contractor(s)** will not accept any advantage in exchange for any corrupt practice, unfair means, and illegal activities.

3.9 The **Bidder(s)/Contractor(s)** shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by NDMC as part business relationship regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The **Bidder(s)/Contractor(s)** also undertakes to exercise due and adequate care lest any such information is divulged.

3.10 The **Bidder(s)/Contractor(s)** commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.

3.11 The **Bidder(s)/Contractor(s)** shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

3.12 If the **Bidder(s)/Contractor(s)** or any employee of the **Bidder(s)/ Contractor(s)** or any person acting on behalf of the **Bidder(s)/Contractor(s)**, either directly or indirectly, is a relative of any of the officers of NDMC, or alternatively, if any relative of an officer of NDMC has financial interest/ stake in the **Bidder(s)/Contractor(s)** firm, the same shall be disclosed by the **Bidder(s)/Contractor(s)** at the time of filing of tender. The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956/Section 2(77) of the Companies Act, 2013.

3.13 The **Bidder(s)/Contractor(s)** shall not lend to or borrow any money form or enter into any monetary dealings or transaction, directly or indirectly, with any employee of NDMC.

4. Previous Transgression

4.1 The **Bidder(s)/Contractor(s)** declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged here under or with any Public Sector Enterprise in India or any Government in India including NDMC that could justify **Bidder(s)/ Contractor(s)** exclusion from the tender process.

4.2 The **Bidder(s)/Contractor(s)** agrees that if it makes incorrect statement on this subject, **Bidder(s)/ Contractor(s)** can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

5. Sanctions for Violations

5.1 Any breach of the aforesaid provisions by the **Bidder(s)/ Contractor(s)** or any one employed by it or acting on its behalf [whether with or without the knowledge of the **Bidder(s)/Contractor(s)**] shall entitle the NDMC to take all or any one of the following actions, wherever required:-

- (i) To immediately call off the pre contract negotiations without assigning any reason or giving any compensation to the **Bidder(s)/ Contractor(s)**. However, the proceedings with the other **Bidder(s)/Contractor(s)** would continue.
- (ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/Performance Bond/ Guarantee (after the contract is signed) shall stand forfeited and the NDMC shall not be required to assign any reason therefore.
- (iii) To immediately cancel the contract, if already signed, without giving any compensation to the **Bidder(s)/ Contractor(s)**.
- (iv) To recover all sums already paid by NDMC, if any, and in case of an Indian **Bidder(s)/Contractor(s)** with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India, while in case of a **Bidder(s)/Contractor(s)** from a country other than India with interest there on at 2% higher than the LIBOR. If any outstanding payment is due to the **Bidder(s)/Contractor(s)** from the NDMC in connection with any other contract for any other stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.
- (v) To encash the advance bank guarantee and performance bond/warranty bond, if furnished by the Bidder(s)/Contractor(s), in order to recover the payments, already made by the Principal/Owner, along with interest.
- (vi) To cancel all or any other contracts with the **Bidder(s)/Contractor(s)**. The **Bidder(s)/Contractor(s)** shall be liable to pay compensation for any loss or damage to NDMC resulting from such cancellation/ rescission and NDMC shall be entitled to deduct the amount so payable from the money(s) due to the **Bidder(s)/Contractor(s)**.
- (vii) To debar the **Bidder(s)/ Contractor(s)** from participation in future bidding processes of the NDMC for a period of five years which may be further extended at the discretion of NDMC. Further NDMC shall have the right to intimate other Government departments/authorities/bodies for initiating any further action.
- (viii) To recover all sums paid in violation of this Pact by **Bidder(s)/Contractor(s)** to any middleman or agent or broker with a view to securing the contract.
- (ix) In case where irrevocable Letter of Credit have been received in respect of any contract signed by the Principal/Owner with the **Bidder(s)/Contractor(s)**, the same shall not be opened.
- (x) Forfeiture of Performance Bond/Guarantee in case of a decision by the Principal/Owner to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.

5.2 NDMC will be entitled to take all or any of the actions mentioned at para 5.1 (i) to (vii) of this Pact also on the Commission by the **Bidder(s)/Contractor(s)** or any one employed by it or acting on its behalf [whether with or without the knowledge of the **Bidder(s)/ Contractor(s)**], of an offence as defined in Chapter IX of the Indian Penal code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.

5.3 The decision of NDMC to the effect that a breach of the provisions of this Pact has been committed by the Bidder(s)/Contractor(s) shall be final and conclusive on the Bidder(s)/Contractor(s). However, the Bidder(s)/ Contractor(s) can approach the Independent Monitor(s) appointed for the purposes of this Pact.

6. Independent External Monitors

6.1 NDMC has appointed Independent External Monitors (hereinafter referred to as IEMs) for this Pact in consultation with the Central Vigilance Commission whose names and email IDs are as follows:-

1. Sh. V.K. Gupta IEM vinod101951@gmail.com
2. Shri D.K. Sharma IEM shharmadk@gmail.com

The NDMC has adopted integrity pact for all its contract for Rs. 50 Lakh and above. It is mandatory for the Bidder(s)/Contractor(s) to sign the Integrity Pact. The bid of Bidder(s)/Contractor(s) who does not sign the Integrity Pact is deemed as part of the contract so that the parties concerned are bound by its provision.

6.2 The task of the IEMs shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this pact.

6.3 The IEMs shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.

6.4 Both the parties accept that the IEMs have the right to access all the documents relating to the project/procurement, including minutes of meetings.

6.5 As soon as the IEMs notices, or have reasons to believe a violation of this Pact, they shall so inform to Chairman, NDMC.

6.6 The Bidder(s)/Contractor(s) accepts that the IEMs have the right to access without restriction to all Project documentation of the NDMC including that provided by the Bidder(s)/Contractor(s). The Bidder(s)/ Contractor(s) will also grant the IEMs, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to subcontractors. The IEMs shall be under contractual obligation to treat the information and documents of the Bidder(s)/Contractor(s)/ Subcontractor(s) confidentiality. In case of sub-contracting, the Bidder(s)/ Contractor(s) shall take the responsibility of the adoption of Integrity Pact by the sub-contractor.

6.7 NDMC will provide to the IEMs sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the parties. The parties will offer to the IEMs the option to participate in such meetings.

6.8 The IEMs will submit a written report to the Chairman, NDMC within 8 to 10 weeks from the date of reference or intimation to him by NDMC/Bidder(s)/Contractor(s) and, should the occasion arise, submit proposals for correcting problematic situation.

6.9 The Bidder(s)/Contractor(s) shall not approach the courts while representing the matters to Monitors and will await their decision.

7. Facilitation of Investigation

In case of any allegation of violation of any provisions of this pact or payment of commission, NDMC or its agencies shall be entitled to examine all the documents including the Books of Accounts of the Bidder(s)/Contractor(s) and the Bidder(s)/Contractor(s) shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

8. Law and Place of Jurisdiction

This pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the NDMC.

9. Other Legal Actions

The action stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

10. Validity

10.1 The validity of this Integrity Pact shall be from the date Integrity Pact is signed by both the parties till the final completion of the contract including defect liability period if any. In case of unsuccessful bidder this Integrity Pact shall expire on the date of signing of the contract by successful bidder.

10.2 Should one or several provision of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intention.

11. The parties hereby sign this Integrity Pact at _____ on _____.

