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Annexure-B

Provisions related to procurement process prior to contract formulation as contained in IRS Conditions of Contract, 2022 and removed from IRS Conditions of Contract, 2025. Railway units to include suitable provisions in their tender documents.

(1) Security Deposit:

(a) Unless otherwise agreed between the Purchaser and the Contractor or otherwise mentioned in the tender document, the contractor shall, within 21 days of posting of written notice of acceptance of the offer to the contractor, deposit with the Railway concerned (in cash or the equivalent in Government Securities or approved Banker's Guarantee Bond or any other approved form as stipulated in the tender document) a sum as stipulated in the tender document, towards Security Deposit. Unless otherwise specified in the tender document, Security Deposit should remain valid for a minimum period of 60 days beyond the date of completion of all the contractual obligations of the supplier, including warranty obligations. *(Para 0501 of IRS Conditions of Contract, 2022).*

(b) If the Contractor, having been called upon by the Purchaser to furnish security deposit, fails to make a security deposit within the specified period, it shall be lawful for the Purchaser to cancel the Letter of Award and to recover from the Contractor the amount of such security deposit by deducting the amount from the pending bills of the Contractor under any other contract with the Purchaser or the Government or any person contracting through the Purchaser or otherwise howsoever, duly adjusting the Earnest Money deposit, if any, made by the contractor. *(Para 0502 of IRS Conditions of Contract, 2022).*

(c) No interest shall be payable upon the Bid Security. *(Portion of para 0503 of IRS Conditions of Contract, 2022).*

(2) Code of Integrity: *(Portion of para 2502 of IRS Conditions of Contract, 2022).*

Purchaser as well as bidders shall not indulge in following prohibited practices, either directly or indirectly, at any stage during the tender process:

(a) "Corrupt practice"- making offer, solicitation or acceptance of a bribe, reward or gift or any material benefit, in exchange for an unfair advantage in the tender process or to otherwise influence the tender process. *(Para 2502(a) of IRS Conditions of Contract, 2022).*

(b) "Fraudulent practice": any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained, or an obligation avoided. Such practices include a false declaration or false information for participation in a tender process or to secure a contract. *(Portion of para 2502(b) of IRS Conditions of Contract, 2022).*

(c) "Anti-competitive practice": any collusion, bid-rigging or anti-competitive arrangement, or any other practice coming under the purview of The Competition Act, 2002, between two or more bidders, with or without the knowledge of the Purchaser, that may impair the transparency, fairness, and the progress of the tender process or to establish bid prices at artificial, non-competitive levels; *(Para 2502(c) of IRS Conditions of Contract, 2022).*

(d) "Coercive practice": any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the tender process;

(e) "Conflict of interest" (COI): any personal, financial or business relationship between the bidder and any personnel of the purchaser who are directly or

indirectly related to the tender process, which can affect the decision of the purchaser directly or indirectly.

(f) "Undue Advantage": improper use of information obtained by the bidder from the purchaser with an intent to gain an unfair advantage in the tender process or for personal gain. This also includes if the bidder (or his allied firm) provided services for the need assessment/ procurement planning of the tender process in which he is participating;

(3) Obligations for proactive disclosures:

(a) Purchaser as well as bidders are obliged under this Code of Integrity to suo-motu proactively declare any conflict of interest (coming under the definition mentioned above - pre-existing or as and as soon as these arise at any stage) in any Tender Process. Failure to do so shall amount to a violation of this code of integrity. *(Portion of para 2503(a) of IRS Conditions of Contract, 2022).*

(b) Any bidder must declare, whether asked or not in a bid-document, any previous transgressions of such code of integrity during the last three years or of being under any category of debarment by the Central Government or by the Ministry/ Department of the Procuring Organisation from participation in Tender Processes. Failure to do so shall amount to a violation of this code of integrity. *(Para 2503(b) of IRS Conditions of Contract, 2022).*

(4) Misdemeanours: *(Portion of para 2504 of IRS Conditions of Contract, 2022).*

The following shall be regarded as misdemeanours—if a bidder, either directly or indirectly, at any stage during the tender process, commits any of the following misdemeanours:

(a) Violates the Code of Integrity;

(b) Convicted of an offence under the Prevention of Corruption Act, 1988 (as amended) or under the erstwhile Indian Penal Code, 1860 (as amended) or under the Bharatiya Nyaya Sanhita, 2023 (as amended) or any other law for the time being in force for causing any loss of life or property or causing a threat to public health as part of the execution of a public procurement Contract;

(c) Employs a government servant who has been dismissed or removed on account of corruption;

(d) Employs a non-official convicted of an offence involving corruption or abetment of such an offence, in a position where they could corrupt government servants;

(e) Employs a government officer within one year of his retirement who has had business dealings with him in an official capacity before retirement;

(f) Is determined by the Government of India to have doubtful loyalty to the country or national security consideration;

(g) Any other misdemeanour such as failure to abide by 'Bid securing declaration'.

(5) Penalties for misdemeanours: *(Portion of para 2505 and para 2506 of IRS Conditions of Contract, 2022).*

Without prejudice to and in addition to the rights of the Purchaser to other remedies as per the Tender-documents, if the Purchaser concludes that a (prospective) bidder directly or through an agent has committed a misdemeanour in competing for the tender, the Purchaser shall be entitled, and it shall be lawful on his part to take appropriate measures, including the following, if his bids are under consideration in any procurement:

(a) Enforcement of Bid Securing Declaration in lieu of forfeiture or encashment of Bid Security;

(b) calling off of any pre-contract negotiations and;

(c) rejection and exclusion of Bidder from the Tender Process.

(d) In addition to the above penalties, the Purchaser shall be entitled and it shall be lawful on his part to:

(i) File information against Bidder or any of its successors, with the Competition Commission of India for further processing, in case of anti-competitive practices;

(ii) Initiate proceedings in a court of law against Bidder or any of its successors, under the Prevention of Corruption Act, 1988 (as amended) or under the Bharatiya Nyaya Sanhita, 2023 (as amended) or any other law for transgression not addressable by other remedies listed in this sub-clause.

(iii) Remove Bidder or any of its successors from the list of registered/ approved suppliers for a period not exceeding two years. Suppliers removed from the list of registered/ approved vendors or their related entities may be allowed to apply afresh for registration after the expiry of the period of removal.

(iv) Debar a bidder from participation in future to purchaser's procurements without prejudice to legal rights and remedies. Debarment shall automatically extend to all the allied firms of the debarred firm.

(v) The Ministry/ Department may debar a bidder or any of its successors from participating in any Tender Process undertaken by Purchaser for a period not exceeding two years commencing from the date of debarment for misdemeanours listed above. The Ministry/ Department shall maintain such a list which shall also be displayed on their website.

(vi) Central Government (Department of Expenditure (DoE), Ministry of Finance) may debar a bidder or any of its successors from participating in any Tender Process undertaken for a period not exceeding two years commencing from the date of debarment for misdemeanours listed above. DoE shall maintain such a list which shall be displayed on Central Public Procurement Portal (CPPP).

(vii) Any dispute or difference in respect of either the interpretation effect or application or the above condition or of the amount recoverable thereunder, shall be decided by the Purchaser, whose decision there on shall be final and binding. *(Para 2507 of IRS Conditions of Contract, 2022).*