

**SPECIAL CONDITIONS OF CONTRACT (SCC)**

1. **The Indian Railway Standard General Conditions of Contract**, i.e., IRSGCC- 2022 has been published in the month of April 2022. However, intending bidders are requested to acquaint themselves with all the conditions of IRSGCC- 2022 before participation in tender. Copy of IRSGCC-2022 can be downloaded from the DOCUMENTS attached along with this tender.
2. The following Special Conditions of Contract (SCC) are supplement to the Indian Railway Standard General Conditions of Contract, PART-II of IRSGCC-2022 read along with up to date correction slips, Indian Railways Unified Standard Schedule of Rates 2021 (South Western Railway) and notes appearing under the relevant chapters and sub-chapters including up to date corrections should be considered as part of the tender document. Where the provisions of Special Conditions of Contract (SCC) are at variance with the IRS General Conditions of Contract (IRSGCC-2022) including Correction Slips and other documents mentioned above, these Special Conditions shall prevail.

3. **Variations in quantities during execution of works contracts**

The procedure detailed below shall be adopted for dealing with variations in quantities during execution of works contracts:

**3.1 In cases where Increase is involved during execution of contract:**

- (i) The accepted variation in quantity of each individual item of the contract would be upto 25% of the quantity originally contracted, except in case of foundation work.
- (ii) The Contractor shall be bound to carry out the work at the agreed rates and shall not be entitled to any claim or any compensation whatsoever upto the limit of 25% variation in quantity of individual item of works.
- (iii) In case an increase in quantity of an individual item by more than 25% of the agreement quantity is considered unavoidable, then same shall be executed at following rates.
  - (a) Quantities operated in excess of 125% but upto 140% of the agreement quantity of the concerned item, shall be paid at 98% of the rate awarded for that item in that particular tender;
  - (b) Quantities operated in excess of 140% but upto 150% of the agreement quantity of the concerned item shall be paid at 96% of the rate awarded for that item in that particular tender;
  - (c) Variation in quantities of individual items beyond 150% will be avoided and would be permitted only in exceptional unavoidable circumstances and shall be paid at 96% of the rate awarded for that item in that particular tender.
- (d) The limit of varying quantities for minor value items shall be 100%(as against

25% prescribed for other items). A minor value item for this purpose is defined as an item whose original agreement value is less than 1 % of the total original agreement value.

(iv) In case of earthwork, the variation limit of 25% shall apply to the gross quantity of earthwork and variation in the quantities of individual classifications of soil shall not be subject to this limit.

(v) In case of foundation work, no variation limit shall apply and the work shall be carried out by the Contractor on agreed rates irrespective of any variation.

(vi) As far as SOR items are concerned, the limit of 25% would apply to the value of SOR schedule as a whole and not on individual SOR items. However, in case of NS items, the limit of 25% would apply on the individual items irrespective of the manner of quoting the rate (single percentage rate or individual item rate).

### **3.2 In cases where decrease is involved during execution of contract:**

a) The contract signing authority can decrease the items upto 25% of individual item without finance concurrence.

b) For decrease beyond 25% for individual items or 25% of contract agreement value, the approval of Competent Authority may be taken as per extant instructions issued by Railway from time to time, after obtaining “No Claim Certificate” from the contractor and with finance concurrence, giving detailed reasons for each such decrease in the quantities.

c) It should be certified that the work proposed to be reduced will not be required in the same work.

## **4. VITIATION CLAUSE: Vitiating during Variation in Contract Quantities**

i) A contract shall be considered “vitiating” only when, the following percentage variation in contract value between tenderers are noticed to have been exceeded.

Sl. No	Value of Contract	Percentage difference between present Contractor and new L-1 as a result of variation. (percentage shall be calculated with base as the revised contract quantities multiplied by the rates of the present contractor)
1	Small value contracts (Tender Value less than Rs50 lakh)	10
2	Other than small value contracts (Tender Value equal to or more than Rs. 50 lakh)	5

- (ii) When the percentage difference between present Contractor and new L-1 is noticed as becoming beyond the values specified above, the following action shall be taken.
- (iii) The Railway administration should immediately examine whether it is practicable to bring in a new agency to carry out the extra quantity of work keeping in view the progress of the work in accordance with the original contract and the nature and lay-out of the work. If it is found that there will be no serious practical difficulty in meeting the additional quantity of work done by another agency, then fresh tenders for the extra quantity may be invited otherwise negotiating the rate with the existing contractor for arriving at a reasonable rate for the additional quantities of work, may be adopted.
- (iv) The above shall be regulated as under:
  - (a) The case shall be decided by the tender accepting authority (competent for the revised quantity) and shall not be treated as a case of single tender.
  - (b) Vitiating should always be computed with respect to the items, rates, quantities and conditions as available at the time of Tender Opening and subsequent changes/additions by way of new items will not be counted for computing Vitiating.
  - (c) Railway shall exercise control over the aspect of vitiating of tender with respect to variation in quantities and shall make all efforts that no vitiating takes place in normal circumstances.

## 5. ~~EARNEST MONEY~~ **EARNEST MONEY BID SECURITY, SECURITY DEPOSIT AND PERFORMANCE GUARANTEE:**

- 5.1 The provisions regarding ~~Earnest Money~~ Bid security shall be governed vide clause 5 of Part-I and clause 6 of **Annexure-I** of IRSGCC – 2022 and Security Deposit & Performance Guarantee shall be governed vide clause 16 of Part-II of IRSGCC – 2022 as amended from time to time.
- 5.2 Refund of Security Deposit: Refund of Security Deposit shall be governed by clause 16(2) (i) of IRSGCC 2022, subject to fulfillment of the following:
  - (i) Submit a certificate stating that all defects, imperfections, shrinkages, rain cuts or faults on Railway formation and other structures (except concrete structures) have been rectified by the contractor to the satisfaction of Engineer-in-charge. In case of concrete structures, the structures have been found to be safe based on NDT testing also and strength tests done on cores collected, if any. Suitable penalties have been levied based on approval by concerned CE(C) in charge for surface defects of concreting or casting defects of concrete.
  - (ii) Submit a certificate stating that completion drawings for bridges, buildings and all structures executed by the Contractors have been submitted and approved by Competent Authority.

## 6. **INCOME TAX:**

Income tax will be deducted at 2% (two percent) and also surcharge if any at source from each bill unless otherwise authorised by the Income-Tax department.

## **7. TAXES AND ROYALTY CHARGES:**

7.1 This tender falls under the category of Civil Works Contract and is like all other Works contracts which attract provisions of GST under Central Goods and Services Taxes, 2017. All the bidders/ tenderers should ensure that they are GST compliant and their quoted tax structure/ rates are as per GST law. The TDS on GST @ 2% or as amended from time to time shall be recovered from the running on-account bills.

7.2 Provisions of “The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996” and “The Building and Other Construction Workers’ Welfare Cess Act, 1996”:

The tenderers, for carrying out any construction work, shall get themselves registered with the Registering Officer under Section-7 of the Building and Other Construction Workers Act, 1996 and rules made thereto by the concerned State Govt., and submit certificate of Registration issued from the Registering Officer of the concerned State Govt. (Labour Dept.). The Cess shall be deducted from contractor’s bills as per provisions of the Act subject to amendments, if any, in the Act from time to time.

7.3 Rates, GST exemption & Format for bill of Supply:

7.3.1 Applicability of GST on contract agreements/exemptions etc. shall be as per the latest guidelines issued by Railway Board on recommendations of GST Council with amendments issued from time to time.

7.3.2 The rate quoted by the tenderer should take into account applicable GST and cess on GST (if any) thereof. Railway will not pay any such charges levied upon tenderer and tenderer will only be paid at the rate accepted by the Railway administration under the Contract.

### **7.3.3 Format for bill of supply:**

- 7.3.3 (i) (a) Name, address and Goods and Services Tax Identification Number of the supplier;  
(b) A consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters – hyphen or dash and slash symbolized as “-” and “/” respectively, and any combination thereof, unique for a financial year;  
(c) Date of its issue;  
(d) Name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;  
(e) Harmonised System of Nomenclature Code for goods or services;  
(f) Description of goods or services or both;  
(g) Value of supply of goods or services or both taking into account discount or abatement, if any; and  
(h) Signature or digital signature of the supplier or his authorized representative:

7.3.3(ii) Provided further that any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as a bill of supply for the purposes of the Act.

7.4 Tenderer should quote his/their rates taking into consideration the above and no claims whatsoever made by the contractor shall be entertained. This clause is an Excepted Matter as per Para 63 of General Conditions of Contract and in case the Contractor resorts to claims and demands arbitration, the same shall be excluded from arbitration at all stages.

7.5 Tenderers may specifically take note of instructions regarding payments of contractual bills, the extract of which is available at Clause 23 of Special Condition of Contract.

## **7.6 RECOVERY OF ROYALTY CHARGES: -**

**7.6.1.** Royalty charges / seigniorage on supply of Contractor's own earth, ballast, moorum and blanketing as fixed by the respective State Government (Karnataka, Andhra Pradesh, Tamil Nadu, Kerala, Maharashtra as the case may be) as prevailing on the date of opening of tender as per extant notification of respective State Government will be recovered by the Railway from the Contractors through on account and final bills and will be remitted to the State Government. The rates quoted by the tenderer shall be inclusive of these charges. However, no royalty charges/fee shall be recovered from the bills of the contractor, if the contractor produces documentary evidence e.g., transit pass/Mineral Despatch Permit issued by State Government Officials in token of having paid royalty fee. In such cases, the genuineness of such documentary evidence produced along with proof of payment of royalty charges, shall be got verified by the Railway from the website/online portal of the concerned Mining and Geology Department.

In States where the system of online verification of Mineral Despatch Permit has been introduced by DoMG, the procedure to be adopted is as follows:

On production of the original Mineral Despatch Permit by the contractor towards payment of Royalty charges, SSE/P.Way/Works shall verify the authenticity of the documents submitted by following the procedure mentioned on the reverse side of the Mineral Despatch Permit and then submit, a certified extract of the quantity as per the "Mineral Despatch Permit" issued by the Department of Mines & Geology along with the CC/final bill.

XEN/concerned shall check the correctness of the extract prepared by SSEs randomly to the extent of 10% of the total MDPs submitted.

Dy.CE/concerned shall submit a certificate to the effect that quantity of minerals supplied for which payment is proposed in CC bill/final bill is supported by the original Mineral Despatch Permits and genuineness of which is verified from the DoMG portal by in-charge field SSE/AXEN/XEN, and certificate is forwarded to finance to pass the CC/FCC bills without effecting the recovery of Royalty charges.

In States where the system of online verification of Mineral Despatch Permit has not been introduced by the concerned DoMG, the system of obtaining written confirmation from the Department may be followed.

Any instructions issued by Department of Mines & Geology from time to time shall become applicable automatically in addition to the conditions contained herein.

#### **7.6.2 Increase in Royalty charges during currency of contract:**

(a) When Royalty charges are recovered from contractors CC/Final bills and remitted to Mining department (of the concerned State Government) by Railway: The increased amount will be recovered by the Railway from the contractors "on account" and "final bills" and remitted to the State Government on receipt of the State Government orders to that effect. However, the Railway shall reimburse the additional liability to the contractor, provided that the work executed falls in the original completion period of the work or in the extended period granted on administrative grounds i.e., 17-A(i),(ii) or (iii) of GCC.

As such, claims regarding reimbursement due to increase in seigniorage charges shall not be payable for work executed in the extended period granted on contractor's account under clause 17(B) of GCC.

(b) When royalty is paid directly by the contractor to Mining department: In such cases, the increase in royalty charges over and above that prevailing on the date of tender opening, shall be reimbursed to the contractor on production of documentary proof of payment of royalty at such increased rate. However, no reimbursement shall be made for such cases where time extension has been granted under clause 17(B) of GCC on contractor's account.

#### **7.6.3 Decrease in Royalty charges during currency of the contract:**

- (a) When Royalty is recovered from contractors CC/Final bills and remitted to Mining department ( of the concerned State Government) by Railways: The recovery of Royalty charges from the contracts "on account" and "final bills" will be made as per the rate prevailing as on the date of Tender Opening but not at the reduced rate. However, remittance of royalty to the Mining Department shall be made as per the reduced rate and the benefit of reduction in rates shall be passed on to Railways.
- (b) When Royalty is being paid directly by the contractor to Mining department: The difference in the rate of royalty will be recovered from the contractors CC/Final bills and shall be retained by the Railways.

A register shall be maintained by DY.CE/C/Executive Engineer/Construction concerned in which the entries should be made regarding the documentary evidence i.e., Serial No. of "transit passes" issued by concerned authority showing proof of payment of royalty charges, for each bill. Relevant entries shall also be made on receipt of verified document from Mines & Geology department of State Government against the particular bill and "Transit pass". The verified "Transit passes" shall be scored out with cross mark with an endorsement "Accounted against CC/Final Bill No. \_\_\_\_\_ dated \_\_\_\_\_ for Agreement No. \_\_\_\_\_".

These passes shall be kept on record for subsequent verification till closure of the contract. The register should be page numbered and one page allotted to one contract. The reference where the verified, "Transit pass" is filed shall also be made on the register.

- 7.6.4 **Payment to District Mineral Foundation:** 1) Every holder of the quarry lease or license or composite license of minor minerals except Ordinary Sand shall, in addition to the royalty, make payment towards the District Mineral Foundation of the district in which the mining operations are carried on, an amount which is equivalent to ten percent of the royalty in case of leases granted through auction and thirty percent of royalty in case of leases granted without auction.

Provided that for ordinary sand the payment to District Mineral Foundation by the Public Works, Ports and Inland Water Transport Department or by holders of lease or license or working permission for extraction of sand or removal of sand bars shall be ten percent of Royalty.

2) Payment to the District Mineral Foundation shall be deposited into an account as per the provisions of the rules made by the State Government under sub-section (4) of section 15 of the Act.

#### **8. SERVICE ROADS:**

The Railway does not undertake to provide any service roads for the movement of the contractor's vehicles. The contractor can however make use of the service roads, where they exist free of charge. However, the railway shall not undertake to maintain them and the contractor shall maintain them at his own cost. In other places, the contractor should make his own arrangements for the movement of the vehicles and no extra rate shall be paid for this. The Railway reserves the right to make use of the roads formed and maintained by the contractor, as and when necessary, without any payment to the contractor. In the event of the contractor forming the service roads where Railway land is not available or cannot be given by the Railway for this purpose, it shall be clearly noted that the contractor shall make his own arrangements for obtaining the required land and the Railway shall not take any responsibility in this respect and shall not compensate the contractor in any way.

#### **9. PROGRAMME OF WORK:**

9.1 The contractor who has been awarded the work should submit programme of work as per clause 19(3) Part-II of IRSGCC 2022. The contractor is liable to pay towards penalty upto Rs.50,000/- for delay in submission of the programme within the prescribed time.

9.2 The contractor will be supplied with necessary plans, specification, details of Special Conditions etc. for execution of work as required by the Railway. However, Contractor shall make his own detailed plans, working arrangements, etc., to make smoother and faster construction and get the same approved by the Engineer-in-charge at his own cost. For this purpose, he can contact the Office of Chief Administrative Officer/Chief Engineer, Construction, South Western Railway, Bangalore Cantonment, PIN:560046.

#### **9(A) Appointment of Design Consultant:**

Contractor shall appoint Design consultant for designing of various structures which are essential for execution of the work with the consent of Railways.

Contractor shall submit the proposal to the Railways a panel of 3 names of qualified, reputed and experienced firms and Railways will select one Design consultant from the above panel, provided, however, that if none of the name proposed in the panel is acceptable to the Railways and the reasons for the same are furnished to the contractor, the contractor shall propose to the Railways revised panel of the 3 more names for obtaining the consent of the Railways.

The Design Consultant shall have adequate resources which shall inter alia include competent manpower, qualified & experienced structural design engineers, draftsmen, and other associated manpower, infrastructure, registered office, equipment, requisite computer hardware & software and environment for operation of all the processes and other facilities required to perform and complete the work effectively, accurately & within the timeframe mutually agreed to with the Railways

The proposal for the panel of 3 names shall constitute the following:

- Name of the Design consultant firm
- Organization setup with education qualifications of the various Design Engineers, Draftsman and Associated manpower.
- Working experience of the various Structural Design Engineers
- Relevant Experience of the Design consultant firm in similar works for structural analysis, designing and drawings for the project.
- Infrastructure available with the Design consultant like registered office & associated utilities, requisite computer hardware and software.
- Aadhaar Number of the Design Consultant / Engineers.

#### **10. FIXING MILESTONES:**

The concerned Engineer-in-charge of the work will fix appropriate milestone and monitor the progress from time to time.

#### **11 IMPOSITION OF FINE, PENALTY AND COST OF DAMAGES FOR DELAY OF WORKS:**

In the event of the contractor not adhering to the agreed programme of work and / or not achieving the milestones or quality of work etc., specified, even if no physical or actual damages have occurred to the Railways and even if the currency of the work is not affected, the Railway reserves the rights of, with a view to improve, expedite and the make the contractor realise the effects of delays, levying fine or any value as deemed fit on the contractor by the Engineer – in – charge based on the merit of the case. The amount of fine will be solely decided by the Engineer – in– Charge at his discretion and will be based on his assessment of disturbances, difficulties or losses caused by the delay or poor quality of work, etc., including that of the reputation of the Railway. The contractor shall have no claims what-so-ever in this regard. Subsequent to the imposition of the fine, if contractor makes good, the progress / quality and achieves the milestones to the satisfaction of the Railways, part or full amount of the fine imposed may be waived and the amount so worked out will be released to the contractor at the sole discretion of the Engineer-in-charge duly recording necessary certification to the effect that no damages have occurred. However, in case of actual or anticipated damages occurred or occurring to the Railways, the recovery of agreed / liquidated damages will also be imposed and recovered from contractor's dues as per provisions in IRSGCC in addition to the above fine.

#### **12. ENGAGEMENT OF TECHNICAL STAFF BY THE CONTRACTOR**

12.1 The contractor shall employ proper managerial and technical personnel during the execution of this work and the personnel deployed shall have adequate experience and thorough knowledge of the works to be executed including the specifications and processes involved. The list of managerial and technical personnel proposed to be engaged by the contractor shall be submitted to the Dy.Chief Engineer in charge of the project along with the programme chart and approval of Engineer to be obtained for engaging them for work. The scale of managerial and technical personnel to be engaged and deployed over and above the prescribed minimum scale shall be as per work requirement as decided and directed by Engineer- in-charge. Decision of Engineer in-charge shall be final and binding on contractor.

12.2 Scale of personnel: Minimum scale of personnel to be engaged by the Contractor shall be as under:-

- 1) One Graduate Engineer and at least one diploma holder Engineer when the cost of work is more than Rs.5.00 crore (except works of linking, transportation& consultancy).



- 2) One Graduate Engineer when the cost of work to be executed is between Rs.1.00 cr and upto 5.00 crore (except works of linking, transportation & consultancy).
- 3) One qualified Diploma holder Engineer, when cost of the work to be executed is less than Rs.100 lakhs (except works of linking, transportation & consultancy).
- 4) One Diploma Engineer shall be engaged for each ten kilometres of track linking work or work of any yard or re-grading under traffic conditions.
- 5) For carrying out the transportation of materials/welding work, one experienced / trained supervisor should be engaged for value of work upto Rs.5 Cr and one supervisor for every additional Rs.10 Cr or part thereof.
- 6) Even if the value of agreement changes due to variations or even if the currency of contract is changed, the scale of personnel will remain same as per the original agreement value.

12.3 The contractor shall provide the technical personnel continuously on the project and the initially approved personnel should not be changed in the mid-course of the contract, except in exceptional situations and only with the approval of the Dy.Chief Engineer in-charge of the project. Continuous engagement of technical personnel is defined as under:

- 1) Record of engagement of technical personnel shall be maintained by the contractor at each site where his Engineers are deployed. This record will be verified by the Dy.Chief Engineer-in-charge of the project or any other Railway representative. In case of non-availability on any single occasion at site, it will be treated as absence for a week.
- 2) Technical staff should be available at site whenever required by the Engineer-in-charge or his authorised representative to take instructions. In case, the contractor fails to employ the Technical staff as aforesaid, he shall be liable to pay Rs.40,000/- (Rupees forty thousand only) for each month of default or part thereof in case of each Graduate Engineer and Rs.25,000/- (Rupees Twenty five thousand only) for each month of default or part thereof in case of each qualified diploma holder and Rs.20,000/- (Rupees Twenty thousand only) for each month of default or part thereof in case of experienced supervisor.
- 3) The contractor shall submit the copy of bio-data and Degree / Diploma certificate of the above technical staff employed by him for the scrutiny by Railway and for the record. Railway reserve the right to scrutinise the records of the contractor to ascertain as to whether the qualified staff has been actually employed by him and is paid for.
- 4) While passing each "on" account bill, the AEN/XEN in-charge will certify the availability of technical staff as above, otherwise the recovery as above shall be made from every bill.
- 5) The decision of the Engineer-in-charge, whether the required Technical staff was not employed by the contractor shall be final and binding upon the contractor.

### **13. SAFETY PRECAUTIONS AT WORK SITE AND MEASURES TO BE OBSERVED DURING EXECUTION OF ENGINEERING WORKS:**

- 13.1 All precautions to ensure safety of workmen must be taken while unloading and leading the materials during execution of work. Traffic rules should be strictly followed and the contractor should indemnify the Railway against any claim due to accidents and unforeseen incidents.

- 2) The contractor must ensure the safety of labourers engaged by him while crossing the track during the course of execution of work and the Railway will not be responsible for any injury sustained by the labourer or for any fatal accident. The contractor should bear all the loss and expenditure involved. Wherever necessary he should also provide necessary look out men.
  - 3) The work should be carried out without any interference to the normal working of the Railway track and structures. The contractor will be held responsible for any loss or damage or injury caused during the course of work to the labourer or to the public/private person or to the Railway/ Public/private property and the contractor should bear all the loss and expenditure involved.
  - 4) Wherever work is to be executed close to any running railway lines or roads or buildings or public passage, the Contractor shall ensure proper protection of public, railway/public property. He shall also ensure all special precautions as provided in this tender.
  - 5) The contractor shall be responsible for anti-larval work at his cost during progress of works as may be prescribed by the Engineer on the advice of the Railway or any Government Medical authority and where use of insecticides are involved, it shall be done in accordance with the provisions of the act and rules in this behalf at the cost of contractor, who shall also be solely responsible for any acts or omissions under the provision of the aforesaid rules.
  - 6) The Contractor shall ensure that necessary sanitary facilities are provided by the Contractor for their labour in terms of Clause 59(4) of the General Conditions of Contract, and where they fail to do so notice shall be given to the Contractor that the same will be provided by the Railway at their cost and recovery shall be made from their bills.
  - 7) Where contractor avails existing sanitary arrangements of the Railways charges as decided by Railway from time to time is recoverable from the contractor.
- 13.2 The contractor shall arrange to obtain permission direct from the State Government or local authorities concerned for using Forest, PWD or Panchayat roads. The rates tendered shall be inclusive of any cess, tax or any other charges payable to the authorities concerned.
- 13.3 The contractor shall make his own arrangements for obtaining the license for any explosives, as may be necessary, for procurement, transportation, storage and use of the same. All possible assistance will be given by the Railway, should there be any difficulties in obtaining the license etc. However, any failure shall not form the basis for any claim by the contractor against the Railway or for additional payment for the work.
- 13.4 In case of use of explosives for blasting the contractor shall strictly abide by the Indian Explosive Act, the Rules and Regulations framed there under in carrying out the work, shall observe all the provisions of the Indian Mine Act and the metalliferous mines regulations and rules there under as well as any other Act and Rules, as may be enacted and laid down by the State and Central Government from time to time, for such work.
- 13.5 The contractor will be held responsible for any loss/damage/injury caused during explosion to the labourers or to the public/private persons or to Railway/Public/Private property and the contractor should bear all the loss/expenditure thereby involved.

- 13.6 The contractor shall be fully responsible for ensuring safety at all times and shall bear the cost of all damages in cases of accidents/unusual occurrences resulting in damages to Railway property and passengers. Any breach of the safety conditions for precautions and measures as specified hereunder and/or elsewhere in the tender document by the contractor and/or his agents/representatives affecting the safety of movement of trains, engines, or other rolling stock of the Railway, shall constitute a breach of contract by the contractor leading to termination of contract for default on the part of the contractor including recovery of damages.
- 13.7 The works required to be done under traffic block shall be carried out only in the presence of Railway officials. The Railway supervisor shall certify safe conditions for passage of trains before resumption of traffic. The works to be done under traffic Block shall be carried out under the provision of banner flag and protection of engineering flagman.
- 13.8 Safe practices at all times and non-infringement to moving trains shall be ensured. Road vehicles, material trolleys, dollies etc., which may have tendency to roll off towards the running lines shall be checked by providing chains, locking arrangements, blocks etc. Site in-charge of the contractor shall be primarily responsible.
- 13.9 All equipment like cranes, lifting jack etc., shall be tested, duly calibrated and certified prior to use at construction site. They shall also have specific indications conforming that the operators handling them are trained in the safety precautions near track.
- 13.10 Construction workers at site shall be provided with personal safety gear like reflective vest, helmet, leather shoes, gloves, eye-wear etc., as approved as per construction industry standards. For persons working at pier top/girder level, temporary supports, hand railing etc., protection with help of ropes, slings and temporary railings shall be provided.
- 13.11 All locations, where construction activity is in progress adjacent to existing railway lines, should be cordoned off with proper barricades. Barricades consisting of bamboo/signalling poles and supported horizontally by similar bamboo/signalling poles should be provided. These barricades should be provided at a distance of approximately 3.5m from the centre line of track or as directed by the Engineer-in-charge. All the barricades are to be painted or struck on with red luminous paint/strips at suitable intervals on the barricades. Barricade should be available at every stage of work as directed by the Engineer-in-charge and shall be maintained in perfect condition all the time.
- 13.12 Road vehicles employed by the contractor should have the certificate for its road worthiness and each vehicle numbered and the license particulars maintained. Contractors should ensure that the drivers permitted by them to work on such road vehicles are identified, counselled, certified and are provided with photo Identity cards. Wherever the work requires the movement of road vehicle within a distance of 3.5 to 6m from the centre line of the nearest track, such work shall be done only in the presence of Railway's representative. The driver of the vehicle shall always face the track when reversing the vehicle and whenever he cannot face the track, for whatever reason, he shall be invariably assisted by a helper with a whistle who should guide him and ensure safety.
- 13.13 The contractor shall execute a Bond undertaking to ply the road vehicles in a safe and satisfactory manner and strictly in accordance with the stipulations and other conditions specified by the Engineer and to engage and retain only the permit holder to be the

contractor's agent in charge of the vehicle while driving or at rest. The person in charge of the vehicles and the attendants shall, at all times, be vigilant and on the lookout for signals from the lookout men, flagmen or other personnel available at site with a view to stop or regulate the road movement so as to ensure adequate margin of safety for the timely passage of an approaching train or a Railway engine, without any delay or detention. The contractor shall also be bound by the provisions of this agreement to ply the road vehicles only with adequate margin of safety, well clear of the fixed structure profile of infringements, as stipulated in the rules made under the Indian Railways Act and to seek and be guided by the signals and other directions of any lookout men or other personnel retained for the purpose of ensuring safety and to ensure extra care and vigilance while turning, reversing or moving the road vehicles in any other manner at an inclination to the running railway track or the siding as the case may be. The contractor shall employ necessary look out men also at his own cost, irrespective of any other arrangement that railway may make in this regard.

- 13.14 All work sites shall be supervised by the contractor's representative and also a representative of the Railway Organisation. Whenever work of plying road vehicle within 6m zone is actually in progress, Look-out men should invariably be available. Lookout men will have to be provided by the contractor, from out of the list of persons who are authorised to carry out these duties. Authorisation will be issued to the individuals, by the representative of the Engineer-in-charge. Railway's supervisor will monitor the availability and alertness of the lookout men. In case of non-availability of lookout men, this Railway's supervisor shall stop further activities of plying of road vehicles. Even if no work is executed in the night, look-out men shall patrol the beat as identified by the representative of the construction organisation to ensure the safety of the running trains, especially from any infringement.
- 13.15 Working alongside the track during night hours is normally prohibited. Such work can be done in the night only with the written permission of the Engineer-in-charge. Where night working is permitted, lighting of the work site as required should be done.
- 13.16 The following activity of work shall be carried out under supervision of railway engineer or his nominated supervisor:
  - a) Excavation of foundation/Ground level near to Railway track.
  - b) Concrete casting and/or masonry very close to Railway track.
  - c) Erection of temporary structures near to running lines.
  - d) Casting of structures like girder/slab over railway track.
  - e) Stage-Pre-stressing of girder when placed across Railway tracks properly supported.
  - f) Launching of precast/pre-assembled girders across Railway track
  - g) Any work of lifting, side shifting and slewing of girders over the Railway track.
  - h) Dismantling of temporary structures, shutters, scaffolding, etc. Adjacent and above the Railway track.
  - i) Any track work/P&C work on the running line or adjoining to the running line.
  - j) Platform/structures/FOB/building works adjacent or over the running lines.
- 13.17 For carrying out above activities, the contractor's engineer shall furnish the construction programme in advance to railway Supervisor/Engineer. No such work should be taken up in absence of the supervising railway engineer.

## **14 PROCEDURE FOR UNDETAKEING DIGGING WORK IN THE VICINITY OF UNDERGROUND SIGNALLING, ELECTRICAL AND TELECOMMUNICATION CABLES:**

### **14-A. Responsibility of Railways:**

1.
  - a) Railway will upload the cable route plan for all types of cables of S & T and Electrical departments and made available block section wise on Railnet ([http://10.205.49.30/swrintra\\_new/site/snt\\_home.php](http://10.205.49.30/swrintra_new/site/snt_home.php)) which is accessible to all user departments. At Present all the telecom cable route plans are available on SWR Railnet site. Before start of the work by the contractor, concerned **Dy.CSTE/CN / Dy.CEE/CN** will ensure that the contractor is provided with the latest updated cable route plans.
  - b) A provision for tracing and marking the cable route and shifting shall be included in the contract agreement.
  - c) State government authorities and other relevant agencies should also be informed by the executing department if required before starting the digging work.
  - d) The executive shall ensure proper coordination between various departments and agencies undertaking any work near or along the track. It must be ensured that all cables are either located and shifted or adequately protected before commencing any excavation work.
2. Before taking up any digging activity on a particular work by any agency/ organization/ department, the executive department shall approach **Dy.CSTE/Dy.CEE** in writing for permission to undertake the work. **Dy.CSTE/Dy.CEE** after ensuring with site engineers that the concerned executing agencies /organization /departments including the contractor have shifted/taken adequate measures for protecting the cable, respond to the request for permitting the work in writing within 7 working days from the registration of the request, will grant the permission to work or taking additional measures for located and shifting/ protecting the cable. If such permission is delayed beyond the 7 working days it will be taken as deemed permitted.
3. In case any cable is found while carrying out the work, the same shall be informed to Engineering control / S&T test room/TPC/Electrical control immediately and further work in the area shall be stopped till the cable is identified by the S&T/Electrical staff.
4. In case of damage by contractors of State government / National Highways etc., without taking prior permission / careless working, the penalties will be advised to the coordinating department.

### **14-B. Responsibility of the Agency:**

1. The agency shall trace, mark and shift the cable route with the help of the S & T/ Electrical department before undertaking the digging works after obtaining necessary permission from Railways.
2. If Cable Route plans are not available, the executing agency for works shall carry out a joint survey with open line staff using a Cable Route Tracer to identify the existing cables in the section. Cross-trenches may also be done for the identification of cable routes. After identification of existing cables, marking is to be done by using Lime Powder or Pegging & Developing a pegging plan or any other means.
3. For major works of doubling, GC, ABS, IBS, Railway Electrification, Power supply and illuminations, etc cables are to be located and shifted/re-laid on different routes before the commencement of earth/digging work.
4. For ROB/RUB's work, Diversion and securing of the cables temporarily before the start of the work and permanent diversion after completion of the work (as per site requirement) shall be ensured.

5. In case of minor nature of works where shifting of cable is not required, in order to prevent damage to the cable, the Agency shall locate and take out the S & T or Electrical cable carefully from the trench and place it properly alongside at a safe location before starting the earthwork under the supervision of SSE/Sig. or SSE/Tele or SSE/Electrical (TRD or G). The cable shall be reburied soon after completion of excavation with proper care including placement of the brick over the cable under the supervision of S & T or Electrical supervisors.
6. The penalty to be imposed for damages to the cable will be as under if the agency fails to adhere the above procedure:

Cable damaged	Penalty per location
Only Quad cable or signalling cable	Rs.1.0 Lakh
Only OFC	Rs.1.25 Lakh
Both OFC & Quad	Rs.1.5 Lakh
Electrical Cable	Rs.1.0 Lakh

7. The agency to issue identity cards to its supervisors and workers duly mentioning the permission reference who will work near the track and places working where the cables are involved. All workers shall be given protective clothing and gear with the company Logo.

#### 14-C. Works executed by Contractors/Vendors of the Commercial Department.

Some works are being carried out by contractors/vendors of commercial departments like the Erection/ Installation of Advertising screens, Banners, other equipment etc., In such cases also procedure as defined above should be followed and the contractor should be liable to pay a penalty as per clause 14B(7) mentioned above, in case of damage to the cable of Electrical and S & T.

#### **CONTRACTOR'S VEHICLES, PLANT & MACHINERY ETC.:**

- 14.1** Necessary permit/interstate permits for the movements of vehicles/Plant & machinery shall be arranged by the contractor.
- 14.2** Breakdown to transport vehicles, machinery etc., if any, will be on the contractor's account.
- 14.3** Accidents, if any, to his vehicles, Plant and Machinery or to persons would be the responsibility of the contractor and the Railway will not be responsible for the damage or compensation thereof.

#### **15 USE OF CONTRACTORS VEHICLES, PLANT & MACHINERY ETC., FOR ACCIDENT RESTORATION WORKS:**

- 15.1** The vehicle and equipment of contractors are liable to be drafted by Railway Administration in case of accidents / natural calamities involving human lives for speedy restoration work.
- 15.2** For payment purpose, this item will be operated as a Non-Schedule (NS) item, duly negotiating rates as per the conditions of contract.
- 15.3** Contractor/Tenderer shall furnish the details of vehicles /equipment available with them to keep a record of the same.

#### **16 MOBILISATION ADVANCE: (Applicable for Advertised tender of value more than Rs. 50.00 Crores)**

- 16.1** The tenderer /contractor may be granted a recoverable interest-bearing mobilisation advance up to 10% of the contract value provided mobilisation advance is admissible as per the tender conditions and he specifically applies for it while tendering. Tenderers

may submit their request for grant of Mobilisation Advance in **Proforma-8** attached with Tender Document. If the tenderer fails to apply specifically for Mobilisation Advance while giving his offer at the tendering stage in case where grant of Mobilisation Advance is permissible, no subsequent requests from him for grant of this advance will be entertained. The advance shall carry an interest at the rate to be decided by the Railway Board and communicated at the beginning of every financial year, to be applicable for the tenders to be opened in that financial year. **The rate of interest as communicated by Railway Board is RBI Bank Rate + 5% (Five percent) simple interest for the tenders to be opened in the Financial year 2022- 23, subsequent years, after 2022-23 , the rate will be communicated separately.**

- 16.2 The grant of Mobilisation Advance is subject to condition that a contractor does not receive advances for same work from different officers. The advance will be granted in two stages as indicated below :

Stage I -5% of Contract value on signing of the contract agreement.

- a) Stage II – 5% on mobilization of site-establishment, setting up offices, bringing in equipment and actual commencement of work.

The 1<sup>st</sup> stage of advance shall be payable immediately after signing of contract documents. The 2<sup>nd</sup> stage of advance shall be payable at the time of mobilisation, after submission of a utilization certificate by the contractor that the stage 1 advance has been properly utilized in the contract.

Each instalment will be released on submission of a security in a form acceptable to the Railway. The advance shall be payable against irrevocable guarantee (Bank Guarantee, FDRs, KVPs/NSC) of at least 110% of the value of the sanctioned advance amount (covering principal plus interest). The Bank Guarantee shall be from a Nationalised Bank in India or State Bank of India in a form acceptable to the Railways.

- 16.3 The tenderer who seeks Mobilisation Advance should be specific about the course of action proposed to be followed in producing the security to the satisfaction of the Railway. Each security should be at least not less than one lakh rupees. These securities shall be returned as and when the value of the advance plus interest is recovered from the running bill.
- 16.4 The recovery shall commence when the value of contract executed reaches 15% of original contract value and shall be completed when the value of work executed reaches 85% of the original contract value or assessed value whichever is less. The instalments on each “on account bill” will be on pro-rata basis.
- 16.5 Method of recovery of interest - Interest shall be recovered on the advance outstanding for the period commencing from the date of payment of advance till date of particular on-account bill (through which recovery of principal is effected) and adjusted fully against on- account bill along with pro-rata principal recovery. In the event of any short-fall, the same shall be carried forward to the next on-account bill and shall attract interest.
- 16.6 The Mobilisation Advance granted shall be returned back to the Railway in case the work is not completed in the original contract completion period.

**17 System of measurement of works by Contractors and release of provisional payment in works contract:**

The system of measurement of work by Contractors shall be applicable for contracts of value of Rs.5.0 Cr. and above and subject to the following stipulations.

- (i) The Tender documents, wherein, measurement of work by contractor is

allowed shall contain special condition to this effect, duly incorporating the provisions of para E.1316A;

- (ii) Measurement recorded by the contractor shall be test checked by Railway within 45 days of submission of measurements;
- (iii) While processing 75% provisional payment bill, concerned executives shall ensure that supply items given by contractor are commensurate with requirement for execution of works.

**17.1** Contractor shall be responsible for carrying out measurements of work executed and recording of measurements for the release of on account/final payment. In such cases, the detailed procedure for recording of measurements, provisional payment, test check and final payment shall be as follows:

**17.2 Contractor's Measurement Book:**

Railway shall arrange contractor's measurement book (CMB), each having sheet No.1A to 4A (Form E 1313), followed by 100 machine number pages (Form E 1313, sheet No.5A). On the top of each sheet of CMB, there shall be provision for recording the name of the work, agreement number, name of contractor and CMB number.

**17.2.1** CMBs shall be printed in such a way so as to keep a clear margin of 50 mm on the left side of page. Further, the left side shall have pinhole tear line at a distance of 15mm from edge for ease of taking out sheets from these books. The binding shall be within 15 mm of the margin available between edge and pinhole tear line. This shall ensure availability of minimum 35 mm clear margin to re-bind measurement books later on.

**17.3 Movement and upkeep of Contractor's Measurement Book:**

Dy.Chief Engineer in charge of contract (Dy CE/C) shall hand over required No. of CMBs to Assistant / Executive Engineer in-charge of contract (AXEN/XEN) after taking receipt of the same on sheet No.2A (Form E.1313) for further issuance to contractor time to time as per progress of work.

**17.4** CMB shall be registered with unique No. in the Register of Measurement Books (Form E.1314) maintained in the office of Dy CE/C. Separate accountable of CMBs for each agreement shall be maintained in the office of Dy CE/C and AXEN/XEN.

**17.5** In case of change of 'contractor's authorized engineer', fresh approval shall be taken from Dy CE/C before recording of measurement.

**17.6** While issuing the CMB to contractor, AXEN/XEN shall take out sheet No. 2A to 4A from the CMB, take receipt of CMB from contractor on sheet No.3A (Form E 1313), and keep the same in safe custody.

**17.7** Similar system as for CMB, shall be followed for issuing Field Book/ Level Book (E.1317/A) to contractor for recording of levels in the field book / level book.

**17.8** The contractor's authorized engineer shall record the measurements in CMB neatly in his own handwriting, without any use of eraser/overwriting, without use of any typing fluid or any such thing. All cuttings shall be initialled. No page shall be damaged/destroyed. No page shall be kept blank in between the measurements.

**17.9** The contractor shall communicate the date of measurement to AXEN/XEN in sufficient advance to witness any measurement. Witnessing of measurement by railways is not compulsory except for initial levels in case of earthwork and hidden measurements. Initial levels of earthwork and hidden measurements are to be recorded in the presence of railway officials and test checked as prescribed.



- 17.10** In on account contract certificate, measurement shall be recorded for the items and quantities to be paid in the concerned on account contract certificate.
- 17.11** However, in every 4<sup>th</sup> on account contract certificate and final contract certificate, the recording of measurement for works executed shall include all the items and their quantity included in previous on account contract certificates, irrespective of whether to be paid or not in the current On Account Contract Certificate / Final Contract Certificate.
- 17.12** No payment shall be processed on Lump sum measurement taken by contractor's authorized engineer except for earthwork. For earthwork, every 4<sup>th</sup> bill shall be based on actual levels taken and detailed calculations carried out for the work done.
- 17.13** The contractor shall take out carefully from CMB the used pages of CMB with one extra blank page for processing the bill; staple them for submission to AXEN/XEN along with bill, duly signing the measurements. The contractor shall keep a photocopy of the measurements with him for future reference.
- 17.14** At the time of submission of final bill, the contractor shall submit all the remaining CMBs (unused as well as partially used) with him along with bill to AXEN/XEN.
- 17.15** The contractor shall submit required copies of invoice and on account contract certificate / final contract certificate (similar to form E.1337 and Form E.1338) to the AXEN/XEN duly marking them – original or duplicate copy. Original shall be used for release of payment whereas duplicate copies shall be used for record purpose in different offices.
- 17.16** In case contractor requires provisional payment of on-account bill, the contractor shall submit his invoice and provisional on account contract certificate for 75% of amount of work done (before deduction of taxes). The contractor shall write 'For Provisional Payment' on top of such on-account contract certificate.
- 17.17** AXEN/XEN while issuing receipt of stapled sheets of CMB to contractor shall clearly record the same in sheet 4 (E.1314) of concerned CMB, kept in the office of AXEN/XEN.
- 17.18 Release of Provisional Payment:** Senior Section Engineer / 'Junior Engineer with 5 years' experience' (SSE/JE) and AXEN/XEN shall sign & record a certificate on the original provisional 'on account contract certificate' as under:

"Certified that the payment being made is less than the amount due for the quantities of works executed by the contractor".

In case of payment of earthwork items in any contract, calculation of quantity of such items along with field book / level book must be enclosed. This shall be cross checked, as considered appropriate by SSE/JE & AXEN/XEN, to ensure that no excess payment is being made. At this stage no test check of measurements by railways is required.

- 17.18.1** AXEN/XEN shall keep a copy of contractor's invoice & provisional on account contract certificate in his office, and submit original invoice & original provisional on account contract certificate along with required number of duplicate copies, and used sheets of CMB to the Dy CE/C unit for passing the bill and release of payment.
- 17.18.2** The provisional on account contract certificate shall be passed by Dy CE/C and payment shall be released by Associate finance based on above certification of SSE/JE and AXEN/XEN. After release of payment, blank sheet of CMB (if any) shall be crossed by Dy CE/C before sending the measurement sheets back to AXEN/XEN for carrying out required test checks. At this stage measurement shall not be crossed.

**17.19** No provisional payment shall be allowed in final contract certificate. Further, once provisional payment has been released in any on-account contract certificate, the next on account contract certificate can be raised by contractor only when accounts of previous on account certificate (Provisional as well as remaining payment) has been finalised.

**17.20 Test Check:** Necessary test checks shall be carried out by the SSE/JE and AXEN/XEN for the works done before full payment of on-account contract certificate / final contract certificate. SSE/JE and AXEN/XEN shall communicate the date of test checks to contractor in advance. The contractor can accompany during test check. The contractor shall provide support staff and all required tools & plants to facilitate test check by railway officials.

17.20.1 The stipulated test checks for AXEN/XEN and SSE/JE Level is tabulated as under:

Sl. No	Description of Works	Test Check in terms of % of value by	
		SSE/JE	AEN/XEN
(a)	Measurement of Ballast, pitching stone, Earthwork and hidden items.	100%	100%
(b)	Measurement of all other items	100%	20%
(c)	Initial and Final levels along centre line for earthwork in embankment and cutting	100%	100%
(d)	Intermittent levels along centre line for earthwork in embankment and cutting	100%	20%
(e)	Initial, intermittent and final levels except centre line for earth work in embankment and cutting	100%	20%

Note: The check regarding levels of earthwork invariably shall be carried out in cross sections heaving heavy cross slopes.

17.20.2 Contractor's recorded measurement sheets shall be checked for any corrections/ over writing during test check. All the corrections/ over writing shall be initialled by SSE/JE.

17.20.3 The discrepancy noted (if any) during test check of recorded measurement shall be communicated by AXEN/XEN to the contractor.

17.20.4 In case of discrepancy noticed during test check, the contractor shall submit original and required copies of fresh invoice of amount corrected for discrepancy, and in case provisional payment has been released earlier, the required copies of fresh invoice of remaining amount corrected for discrepancy (if any), along with on account/ final contract certificate to AXEN/XEN.

**17.21 Full payment of On Account Contract Certificate / Final Contract Certificate:** AXEN/XEN shall submit original copy of invoice and on account contract certificate of remaining amount / Final Contract Certificate, along with required number of duplicate copies and used sheets of CMB (all used/bank CMBs in case of final contract certificate), duly signed by SSE/JE and AXEN/XEN to the Dy CE/C for passing the bill and release of payment.

17.21.1 Once the payment is released, Dy CE/C shall return back the used sheets of CMB to AXEN/XEN for safe custody, duly crossing of measurements by finance officer.

- 17.21.2 Once all used sheets of a particular CMB is received back by AXEN/XEN from Dy CE/C, the AXEN/XEN shall re-bind all 100 pages of CMB along with sheet No.1A to 4A for submission of CMB to Dy CE/C office. Dy CE/C office shall record the receipt of same in sheet No.2A of CMB and Register of Measurement Books (Form E1314).
- 17.21.3 The final contract certificate shall be passed by Dy CE/C only after receipt of all CMBs (used/blank) from AXEN/XEN.

**Note: Once E-Measurement book will be implemented in future, the system of physical contract measurement Book will get dispensed with.**

- 18 Price Variation:** The Price variation clause shall be governed in terms of clause 46.A of IRSGCC 2022 as amended from time to time.

- 18.1** Variation in quantities shall not be taken into account for applicability of PVC in the contract. However, the Price Variation Clause (PVC) of General Conditions of Contract (GCC) shall not apply to such a works contract which is either an Annual Maintenance Contract (AMC) or a Zonal Contract. Materials supplied free of cost by Railway to the contractors shall fall outside the purview of Price Variation Clause. If, in any case, accepted offer includes some specific payment to be made to consultants or some materials supplied by Railway free or at fixed rate, such payments shall be excluded from the gross value of the work for the purpose of payment/recovery of price variation.

- 19 SETTLEMENT OF DISPUTES - INDIAN RAILWAY ARBITRATION AND CONCILIATION RULES:**

Settlement of Disputes in connection with the contract shall be governed in terms of Para 63 and 64 of IRSGCC 2022 (Part – II) as amended from time to time through correction slips / modifications issued to IRSGCC by Railway Board.

- 20 Assignment or subletting of Contract: This is governed in terms of clause 7 of part-II of IRSGCC 2022 as amended from time to time.**

- 21 Procedure for payment of contractual bills:**

With GST Act in force, it will be the responsibility of service providers (i.e., contractors) to submit the invoice (bill) duly segregating the GST component from the gross amount of work executed. The procedure as mentioned below will be followed while dealing with contractual bills.

- (A) (i) All works contracts are to be provided with goods/service code based on the type of contract. In case contract consists of both goods & service, then interpretation regarding nature of contract shall be done as per clause 8, Chapter III of CGST Act, 2017. The goods/service code is notified by Ministry of Finance and can be downloaded from the website [www.cbec.gov.in](http://www.cbec.gov.in).
- (ii) The 'on account/ final contract certificate' shall be prepared by the Railway on the basis of quantity of work executed and agreeemental rates, duly segregating the GST component as detailed in para (iii) below.
- (iii) Since the agreeemental rates of contracts are inclusive of all taxes as per clause 37 of GCC-2020, the calculation of 'Gross amount of work executed, 'Amount of work executed excluding GST amount' and 'GST amount' in the 'on account / final contract certificate' shall be done as under:

Let Z = Gross amount of work executed on the basis of quantum of work

executed and agreemental rates.

X = Amount of work executed excluding GST amount.

Y = GST amount as per applicable GST rate for that goods/service code. R =  
Percentage rate of GST for that goods/ service code

**Then,  $Z = X + Y$ ,  $Y = X * R / 100$**

(iv) Percentage rate of GST for various types of good/services as finalised by GST Council can be downloaded from the website [www.cbec.gov.in](http://www.cbec.gov.in).

- (B) (i) Once the 'on account / final contract certificate' is prepared by railway and communicated to contractor, the contractor shall submit invoice (bill) on his Letter head duly segregating the 'Amount of work executed excluding GST amount' and 'GST amount' (i.e. "X" & "Y" as mentioned in para (A)(iii) above) along with Invoice No. (bill No.) and all other details required under GST Act.
- (ii) In case contractor is liable to be registered under GST Act, Railway shall pay to the Contractor 'Gross amount of work executed' (i.e. "Z" as mentioned in para A (iii) above) duly deducting all other liveable taxes like I/Tax, labour cess, royalty etc. as applicable. Contractor shall be liable to pay 'GST amount' to respective authority himself. Whereas, railway shall deposit all other taxes deducted to concerned authority as is being done presently.
- (iii) In case contractor is not liable to be registered under GST Act, contractor shall be paid "Amount of work executed excluding GST amount" (i.e. "X" as mentioned in para A(iii) above) duly deducting all other liveable taxes like I/Tax, labour cess, royalty etc. as applicable. Railway shall deposit 'GST amount' as well as all other taxes deducted to concerned authority.
- (iv) In case any need arises to modify the Invoice (Bill) due to any reason, contractor shall submit amended fresh invoice for processing the payment.

**22 Public Procurement - Preference to Make in India policy:** Provisions of Public Procurement (Preference to Make in India) Order 2017, **herein after called 'order'** as notified by Department of Industrial Policy and Promotion of Government of India under Ministry of Commerce and Industry, shall be applicable in this tender. Bidders seeking benefits, under **this** purchase preference policy linked with Local content shall have to comply with all the provisions specified herein under and shall have to submit all undertakings/documents applicable for this policy".

**23.1.1 Scope and applicability:** Public procurement **under Preference to Make in India policy has been implemented in Zonal** Railways/Production Units of Indian Railway in pursuance to the policy of the Government of India to promote manufacturing and production of goods and services in India with a view to enhancing income and employment as procurement by the Government is substantial in amount and can contribute towards this policy objective.

- (i) The Central Government may, by notification, provide for mandatory procurement of any goods or services from any category of bidders, or provide for preference to bidders on the grounds of promotion of locally manufactured goods or locally provided services.
- (ii) This policy is applicable to all Ministries/departments/CPSUs etc. and the scope covers all contracts involving supply **of either goods or services and procurement of works.**
- (iii) The local content can be increased through partnerships, cooperation with local companies, establishing production units in India or joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them.

**23.2 Definitions:** 'Local content' means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry be the total value of the item procured (Excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.

- (i) 'Local Supplier' means a supplier or service provider whose product or service offered for procurement meets the minimum local content as prescribed under this order or by the competent Ministries/Departments in pursuance of this order.
- (ii) 'L1' means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or the procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.
- (iii) 'Margin of purchase preference' means the maximum extent to which the price quoted by a local supplier may be above the L1 for the purpose of purchase preference.
- (iv) 'Nodal Ministry' means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services **and for subject tender the Nodal Ministry is 'Ministry of Railways.'**

'Procuring entity' means **department/subordinate offices of South Western Railway, Construction Organisation.**

**23.3 Requirement of Purchase Preference:** Subject to the provisions of this Order and to any specific instructions issued by the Railway Ministry or in pursuance of this Order, purchase preference shall be given to local suppliers in all procurements undertaken by procuring entities in the matter specified hereunder:

- a. In procurement of goods in respect of which the Nodal Ministry has communicated that there is sufficient local capacity and local competition, and where the estimated value of procurement is Rs.50 Lakhs or less, only local suppliers shall be eligible. If the estimated value of procurement of such goods is more than Rs.50 lakhs, the provisions of sub-paragraph b or c as the case may be shall apply.
- b. In the procurements of goods which are not covered by paragraph 23.3 (a) above and which are divisible in nature, the following procedure shall be followed.
  - (i) At the bidding stage the bidder shall provide Break-up of "Local Content" and "Imported Content" as defined in Paragraph 23.2 and shall be uploaded by the bidders along with their price bid in the e-procurement portal.
  - (ii) Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract for full quantity will be awarded to L1.
  - (iii) If L1 bid is not from a local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the local suppliers, will be invited to match the L1 price for the remaining 50% quantity to the local suppliers quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such local supplier subject to matching the L1 price.
  - (iv) In case such lowest eligible local supplier fails to match the L1 price or accepts less than the offered quantity, the next higher local supplier within the margin of purchase preference shall be invited to match the L1 price for remaining

quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on local suppliers, then such balance quantity may also be ordered on the L1 bidder.

- c. In procurements of goods not covered by sub-paragraph 23.3 (a) above and which are not divisible, and in procurement of services where the bid is evaluated on price alone, the following procedure shall be followed:
- (i) At the bidding stage the bidder shall provide Break-up of "Local Content" and "Imported Content" as defined in Paragraph 23.2 and shall be uploaded by the bidders along with their price bid in the e-procurement portal.
  - (ii) Among all qualified bids, the lowest bid will be termed as L1. IF L1 is from a local supplier, the contract will be awarded to L1.
  - (iii) If L1 is not from a local supplier, the lowest bidder among the local suppliers, will be invited to match the L1 price subject to local supplier's quoted price falling within the margin of purchase preference and the contract shall be awarded to such local supplier subject to matching the L1 price.
  - (iv) In case such lowest eligible local supplier fails to match the L1 price, the local supplier with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the local suppliers within the margin of purchase preference matches the L1 price, then the contract may be awarded to the L1 bidder.

**23.4 Exemption of small purchases:** Notwithstanding anything contained in paragraph 23.3 above, procurements where the estimated value to be procured is less than Rs.5 lakhs shall be exempt from this Order.

**23.5 Minimum local content:** The minimum local content shall ordinarily be 50%. The Railway Ministry may prescribe a higher or lower percentage in respect of any particular item and may also prescribe the manner of calculation of local content.

**23.6 Margin of Purchase Preference:** The margin of purchase preference shall be 20%.

**23.7 Government E-marketplace:** In respect of procurement through the Government E-Marketplace (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.

**23.8 Verification of local content:**

- a. The 'Class-I local supplier'/Class-II local Supplier' at the time of tender, bidding or solicitation shall be required to **indicate percentage of local content and provide self-certification in Proforma-9 attached with Tender Document** that the item offered meets the local content requirement for 'Class-I local supplier'/ Class-II local supplier' as the case may be. They shall also give details of the location(s) at which the local value additions is made.
- b. In cases of procurement for a value in excess of Rs.10 Crores, the **Class-I local supplier'/ Class-II local supplier'** shall be required to provide a certificate in **Proforma-10** attached with Tender Document from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.

- c. The bidder shall give self-certification for local content in the quoted item (goods/ works/ services) at the time of tendering. However, at the time of execution of the project, for all contracts above INR 10 Crore, the contractor/supplier shall be required to give local content certification duly certified by cost/chartered accountant in practice. For cases where it is not possible to provide certification by Cost/Chartered Accountant at the time of execution of project, the supplier shall be permitted to provide the certificate for local content from Cost/Chartered Accountant after completion of the contract, within time limit acceptable to the procuring entity. In case the contractor /supplier does not meet the stipulated local content requirement, and the category of the supplier changes from Class-I to Class-II/Non-local or from Class-II to Non-local, a penalty upto 10% of the contract value may be imposed. However, contract once awarded shall not be terminated on this account.
- d. Railway may constitute committees with internal and external experts for independent verification of self-declarations and Auditor's/Accountant's certificates on random basis in the case of complaints.
- e. False declarations will be in breach of the Code of Integrity under Rule 175 (1)(i)(h) of the General Financial Rules for which is bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.

c. **Debarment of bidders:** A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed below:

- (i) All procuring entities will upload the name of the bidder/ supplier along with duration and reasons of debarment on their own website. Apart from this, it is promptly brought to the notice of the Member-Convenor of the Standing Committee in DIPP and Government e-Marketplace (GeM) & Central Public Procurement Portal (CPPP) for uploading such information on their portals. GeM/CPPP will create one separate page on their portal for displaying this information.
- (ii) In respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in such a manner that ongoing procurements are not disrupted.

### **23.9 Specifications in Tenders:**

- (i) Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.
- (ii) If Railway Ministry is satisfied that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, it may, if it deems appropriate, restrict or exclude bidders from that country from eligibility for procurement of that item and/or other items relating to the Ministry.

- (iii) For the purpose of sub-paragraph (ii) above, a supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in that country, or ii) a majority of its shareholding or effective control of the entity is exercised from that country; or (iii) more than 50% of the value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect to India.
- (iv) **Assessment of supply base:** The Railway Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.
- (v) **Increase in minimum local content:** The Railway Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.
- (vi) Manufacture under license/ technology collaboration agreements with phased indigenization while notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement/ transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase in local content.
- (vii) **Powers to grant exemption and to reduce minimum local content: Ministry of Railways or South Western Railway Construction Organisation** may by written order,
  - a. Reduce the minimum local content below the prescribed level;
  - b. Reduce the margin of purchase preference below 20%;
  - c. Exempt any particular item or procuring or supplying entities or class or classes of items or procuring or supplying entities from the operation of this Order or any part of the Order.

## **24 Letter of Credit as Mode of Payment in Works Tender:**

- (i) For all the tenders having advertised value of Rs 10 lakh or above, the contractor shall have the option to take payment from Railways through a letter of credit (LC) arrangement.
- (ii) This option of taking payment through LC arrangement has to be exercised in IREPS (Indian Railway Electronic Procurement System - the e-application on which tenders are called by Railways) by the tenderer at the time of bidding itself, and the tenderer shall affirm having read over and agreed to the terms and conditions of the LC option.
- (iii) The option so exercised, shall be an integral part of the bidder's offer.
- (iv) The above option of taking payment through LC arrangement, once exercised by tenderer at the time of bidding, shall be final and no change shall be permitted, thereafter, during execution of contract.
- (v) In case tenderer opts for payment through LC, following shall be the procedure to deal release of payment through LC:



- (a) The LC shall be a sight LC.
- (b) The contractor shall select his Advising/Negotiating bank for LC. The incidental cost towards issue of LC and its operation thereof shall be borne by the contractor.
- (c) SBI, New Delhi, Main Branch will be the nodal branch for issue of LCs based on online requests received from Railway Accounts Units for tenders opened in financial year 2020-19. SBI branches where the respective Railway Accounts Office has its Account (local SB1 branch) will be the issuance/reimbursing branch for LC issued under this arrangement. The Bank shall remain same for this tender till completion of contract. The incidental cost @ 0.15% per annum of LC value, towards issue of LC and operation thereof shall be borne by the contractor and shall be recovered from his bills.
- (d) The LC shall be opened initially for duration of 180 to 365 days in consultation with contractor. The LC shall be extended time to time as per the progress of the contract, on the request of the contractor. The value of LC to be opened initially as well as extended thereafter shall be finalised by the engineer in consultation with the contractor on the basis of expected progress of work.
- (e) The LC terms and conditions shall inter-alia indemnify and save harmless the Railway from and against all losses, claims and demands of every nature and description brought or recovered against the Railways by reason of any act or omission of the contractor, his agents or employees, in relation to the Letter of Credit (LC). All sums payable/borne by Railways on this account shall be considered as reasonable compensation and paid by contractor.
- (f) The LC terms and conditions shall inter-alia provide that Railways will issue a Document of Authorisation (format enclosed as **Annexure 2**) after passing the bill for completed work, to enable contractor to claim the authorized amount from their bank.
- (g) The acceptable, agreed upon document for payments to be released under the LC shall be the Document of Authorisation.
- (h) The Document of Authorisation shall be issued by Railway Accounts Office against each bill passed by Railways.
- (i) On issuance of Document of Authorisation, a copy of Document of Authorisation shall be posted on IREPS for download by the contractor. A digitally signed copy of Document of Authorisation shall also be sent by Railway Accounts Office to Railway's bank (Local SBI Branch).
- (j) The contractor shall take print out of the Document of Authorisation available on IREPS and present his claim to his bank (advising Bank) for necessary payments as per LC terms and conditions. The claim shall comprise of copy of Document of Authorisation, Bill of Exchange and Bill.
- (k) The payment against LC shall be subject to verification from Railway's Bank (Local SBI Branch).
- (l) The contractor's bank (advising bank) shall submit the documents to the Railway's Bank (Local SBI Branch).
- (m) The railway's bank (issuing bank) shall, after verifying the claim so received w.r.t. the digitally signed Document of Authorisation received from Railway Accounts Office, release the payment to contractor's bank (advising bank) for crediting the same to contractor's account.
- (n) Any number of bills can be dealt within one LC, provided the sum total of payments to contractor is within the amount for which LC has been opened.
- (o) The LC shall be closed after the release of final payment including PVC amount, if any, to the contractor.
- (p) The release of performance guarantee or security deposit shall be dealt directly by railway with the contractor i.e., not through LC.

## **25 Transparency in payment of Contract Labour wages and other payments:**

This Clause shall be governed in terms of clause 55-C of IRSGCC Nov 2020.

In order to increase transparency in payment of Contract Labour wages and other payments, a web based e-application has been developed and hosted on website [www.shramikkalyan.indianrailways.gov.in](http://www.shramikkalyan.indianrailways.gov.in).

All contractors are required to upload details of their LOAs, engaged workmen, wage payment details, PF/ESI details, bonus details etc., on monthly basis. The details so uploaded shall be available in public domain.

## **26 Special condition for disposal of construction and demolition waste:**

In exercise of the powers conferred by sections 6, 25 of the Environment (Protection) Act, 1986 (29 of 1986), and in supersession of the Municipal Solid Wastes (Management and Handling) Rules, 2000, except as respect things done or omitted to be done before such supersession, the Central Government notified the rules for Management of Construction and Demolition Waste by publishing in the Gazette of India Part-II Section 3 Sub-section-ii dt.29.03.2016. Being waste generator, rules indicated under Para 4 and as a service provider rules under Para 5 are to be followed by Indian Railways through agencies and same are reproduced as follows and any subsequent amendment thereof through notification by Government of India will be applicable in terms of Law of Governing of Contract.

- (1) The tenderer shall remove all construction and demolition waste and clean the area every day, if possible, or depending upon the duration of the work, the quantity and type of waste generated, appropriate storage and collection, a reasonable timeframe shall be worked out in consultation with the concerned local authority.
- (2) The tender shall prima-facie be responsible for collection, segregation of concrete, soil and others and storage of construction and demolition waste generated, as directed or notified by the concerned local authority in consonance with rules.
- (3) The tenderer shall ensure that other waste (such as solid waste) does not get mixed with this waste and is stored and disposed separately.
- (4) The tenderer who generate more than 20 tons or more in one day or 300 tons per project in a month shall segregate the waste into four streams such as concrete, soil, steel, wood and plastics, bricks and mortar and shall submit waste management plan and get appropriate approvals from the local authority before starting construction or demolition or remodeling work and keep the concerned authorities informed regarding the relevant activities from the planning stage to the implementation stage and this should be on project to project basis.
- (5) The tenderer shall keep the construction and demolition waste within the premise or get the waste deposited at collection centre so made by the local body or handover it to the authorized processing facilities of construction and demolition waste; and ensure that there is no littering or deposition of construction and demolition waste so as to prevent obstruction to the traffic or the public or drains.
- (6) The tenderer shall pay relevant charges for collection, transportation, processing and disposal as notified by the concerned authorities; Waste generators who generate more than 20 tons or more in one day or 300 tons per project in a month shall have to pay for the processing and disposal of construction and demolition waste generated by them, apart from the payment for storage, collection and transportation. The rate shall be fixed by the concerned local authority or any other authority designated by the State Government.
- (7) In case of the tender have no logistics support to carry out the work, they shall tie up with the authorized agencies for removal of construction and demolition waste and pay the relevant charges as notified by the local authority.

**Note: Tenderer is responsible for penal action imposed by responsible authority towards non implementation of above provisions.**

**27. Clauses for Tenderer's of countries which shares a land border with India**

- i. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.
- ii. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- iii. "Bidder from a country which shares a land border with India" for the purpose of this Order means: -
  - a. An entity incorporated, established or registered in such a country; or
  - b. A subsidiary of an entity incorporated, established or registered in such a country; or
  - c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
  - d. An entity whose beneficial owner is situated in such a country; or
  - e. An Indian (or other) agent of such an entity; or
  - f. A natural person who is a citizen of such a country; or
  - g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- iv. The beneficial owner for the purpose of (iii) above will be as under:
  1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation—

- a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company;
  - b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
  3. In case of an unincorporated association or body of individuals, the beneficial owner is thgt1rf5
  4. e natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
  5. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
  6. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries

with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

7. The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority

- V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.

#### Model Certificate for Tenders

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"

#### Model Certificate for Tenders

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority and will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"

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