

CORRIGENDUM:

**Request for Proposal (RFP) - Tender for Supply and Fixing of Premium Quality,
Three Layers Insulated White Colour Outer Layer PVC Water Storage Tank at
Jangpura Extension Flats, New Delhi**

PART 'A'

Last date and time for receipt of Bidding Documents has been extended up to 16/04/2018 till 6:00PM

PART 'B'

Bank has decided to include a Pre Contract Integrity pact, which has to be signed by successful bidder.

Details of the same are placed below:

A. Pre-Contract Integrity Pact Clause

A "Pre-Contract Integrity Pact" would be signed between NHB and the Bidder. This is a binding agreement between NHB and Bidders. Under this Pact, the Bidders agree with NHB to carry out the assignment in a specified manner. The format of Pre-Contract Integrity Pact will be as per **Annexure 1**.

In this regard, NHB has appointed Shri Kishore kumar Sansi, Ex-MD of Vijaya Bank and Shri Rakesh Rewari, Ex-DMD, Sidbi as independent external monitors for the Integrity Pact in consultation with the Central Vigilance Commission.

The following set of sanctions shall be enforced for any violation by a Bidder of its commitments or undertakings under the Integrity Pact:

- (i) Denial or loss of contracts;
- (ii) Forfeiture of the EMD/Bid security and the performance bond/PBG;
- (iii) Liability for damages to the principal and the competing Bidders; and
- (iv) Debarment of the violator by NHB for an appropriate period of time.

The Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behavior compliance program for the implementation of the code of conduct throughout the company.

B. Pre Contract Integrity Pact

Annexure 1

(To be executed on a non- judicial stamp paper)

This pre-bid/pre-contract Agreement (hereinafter called “**this Integrity Pact**”) is made on _____ day of _____ 201____, between, the National Housing Bank, a bank established under the provisions of the National Housing Bank Act, 1987 having its Head Office at Core 5A, India Habitat Centre, Lodhi Road, New Delhi-110003 represented through Shri/Ms _____, (Designation) (hereinafter called “NHB”, which expression shall mean and include, unless the context otherwise requires, its successors in office and assigns) of the First Part

AND

M/s _____ represented by Shri _____, Chief Executive Officer (hereinafter called the “Bidder” which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

(The party of the First Part and the party of the Second Part are hereinafter collectively referred to as the “Parties” and individually as the “Party”)

WHEREAS NHB proposes to procure _____ (name of the items/services) as mentioned in the RFP No. _____ (“RFP”) and the Bidder is willing to offer/has offered _____ (name of the items/services) as desired by NHB in terms of the RFP;

WHEREAS the Bidder is a private company/public company/Government undertaking/ partnership/registered export agency, constituted in accordance with the relevant law in the matter and NHB is a statutory body established under the Act of Parliament;

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

- (i) enabling NHB to obtain the desired said stores/equipment/services at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement and
- (ii) enabling Bidders to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and NHB will commit to prevent corruption, in any form, by its

officials by following transparent procedures.

AND WHEREAS the Parties hereto hereby agree to enter into this Integrity Pact on the terms and conditions mentioned hereinafter.

NOW IT IS THEREFORE AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. Commitments of NHB

- 1.1** NHB undertakes that no official of NHB, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, Bid evaluation, contracting or implementation process related to the contract.
- 1.2** NHB will, during the pre-contract stage, treat all Bidders alike and will provide to all Bidders the same information and will not provide any such information to any particular Bidder which could afford an advantage to that particular Bidder in comparison to other Bidders.
- 1.3** All the officials of NHB will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
- 2.** In case any such preceding misconduct on the part of such official(s) is reported by the Bidder to NHB with full and verifiable facts and the same is prima facie found to be correct by NHB, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by NHB and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by NHB the proceeding under the contract would not be stalled.

3. Commitments of Bidders

- 3.1** Compliance of the Instructions of GOI/Guidelines of CVC/Others: The Bidder undertakes that in case of its selection as the successful Bidder, it shall perform its duties under the Contract in strict compliance of the relevant and extant instructions of Government of India, GFR issued by Ministry of Finance, Guidelines of CVC and provisions of the Procurement Manual/relevant instructions of NHB, as applicable to the subject matter.
- 3.2** The Bidder represents that it has the expertise to undertake the assignment/contract and also has the capability to deliver efficient and effective advice/services to NHB under the contract in terms of the RFP.
- 3.3** The Bidder commits itself to take all measures necessary to prevent

corrupt practices, unfair means and illegal activities during any stage of its Bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following:-

- (a) The Bidder will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of NHB, connected directly or indirectly with the Bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the Bidding, evaluation, contracting and implementation of the contract.
- (b) The Bidder has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of NHB or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with the Government for showing or forbearing to show favour or disfavor to any person in relation to the contract or any other contract with the Government.
- (c)* The Bidder shall disclose the name and address of its agents and representatives including its foreign principals or associates.
- (d)* The Bidder shall disclose the payments to be made by it to agents/brokers or any other intermediary, in connection with this Bid/contract.
- (e)* The Bidder has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to NHB or any of its functionaries, whether officially or unofficially to the award of the contract to the Bidder, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect or any such intercession, facilitation or recommendation.
- (f) The Bidder, either while presenting the Bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of NHB or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- (g) The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, Bid evaluation, contracting and implementation of the contract.
- (h) The Bidder will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- (i) The Bidder shall not use improperly, for purposes of competition or personal gain or pass on to others, any information provided by

NHB as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The Bidder also undertakes to exercise due and adequate care lest any such information is divulged.

- (j) The Bidder commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- (k) The Bidder shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- (l) If the Bidder or any employee of the Bidder or any person acting on behalf of the Bidder, either directly or indirectly is a relative of any of the officers of NHB or alternatively, if any relative of an officer of NHB has financial interest/stake in the Bidders firm, the same shall be disclosed by the Bidder at the time of filing of tender.
The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956.
- (m) The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of NHB.
- (n) The Bidders shall disclose any transgressions with any other company that may impinge on the anti-corruption principle.
- (o) The Bidder has not entered into any undisclosed agreement or understanding with other Bidders with respect of prices, specifications, certifications, subsidiary contracts, etc.

3.4 The Bidder undertakes and affirms that it shall take all measures necessary to prevent any possible conflict of interest and in particular commit itself to the following:

- (a) The Bidder shall avoid any conflict of interest while discharging contractual obligations and bring, beforehand, any possible instance of conflict of interest to the knowledge of NHB, while rendering any advice or service.
- (b) The Bidder shall act/perform, at all times, in the interest of NHB and render any advice/service with highest standard of professional integrity.
- (c) The Bidder undertakes that in case of its selection as the successful Bidder, it shall provide professional, objective, and impartial advice and at all times and shall hold NHB's interests paramount, without any consideration for future work, and that in providing advice it shall avoid conflicts with other assignments and its own interests.
- (d) The Bidder declares/affirms that it has not been hired by NHB for any assignment that would be in conflict with its prior or current obligations to other employers/buyers, or that may place it in a position of being unable to carry out the assignment/contract in the best interest of NHB. Without limitation on the generality of the foregoing, the Bidder further declares/affirms as set forth below:

- (i) **Conflict between consulting activities and procurement of goods, works or non-consulting services (i.e. services other than consulting services)** - The Bidder has not been engaged by NHB to provide goods, works, or non-consulting services for a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with the Bidder. The Bidder is fully aware that it shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Further, the Bidder is also aware of the fact that in case it has been hired to provide consulting services for the preparation or implementation of a project, or any affiliate that directly or indirectly controls, is controlled by, or is under common control with the firm, shall be disqualified from subsequently providing goods, works, or services (other than consulting services) resulting from or directly related to the consulting services for such preparation or implementation.

This provision does not apply to the various firms (consultants, contractors, or suppliers) which together are performing the Bidder's obligations under a turnkey or design and build contract.

- (ii) **Conflict among consulting assignments** - The Bidder understands that neither Bidder (including their personnel and sub-consultants), nor any affiliate that directly or indirectly controls, is controlled by, or is under common control with the firm, shall be hired for the assignment that, by its nature, may be in conflict with another assignment of the Bidder. *As an example, Bidders assisting NHB in the privatization of public assets shall neither purchase, nor advise purchasers of, such assets. Similarly, Bidders hired to prepare Terms of Reference (TOR) for an assignment shall not be hired for the assignment in question.*
- (iii) **Relationship with NHB's staff** - The Bidder is aware that the contract may not be awarded to the Bidder in case it is observed that it, including its experts and other personnel, and sub-consultants, has/have a close business or family relationship with a professional staff of NHB (or of the project implementing agency) who are directly or indirectly involved in any part of: (i) the preparation of the TOR for the assignment, (ii) the selection process for the contract; or (iii) the supervision of such contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to NHB throughout the selection process and the execution of the contract.
- (iv) **A Bidder shall submit only one proposal either individually or as a joint venture partner in another proposal:** If the Bidder, including a joint venture partner, submits or participates in

more than one proposal, all such proposals shall be disqualified. This does not, however, preclude a consulting firm to participate as a sub-consultant, or an individual to participate as a team member, in more than one proposal when circumstances justify and if permitted by the RFP.

4. Previous Transgression

- 4.1 The Bidder declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India that could justify Bidder's exclusion from the tender process.
- 4.2 The Bidder agrees that if it makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract, if already awarded can be terminated for such reason.

5. Accountability

- 5.1 The Bidder undertakes that in case of its selection as the successful Bidder and assignment of the contract to the Bidder, it shall be accountable for the advice/supply made/to be made and/or for any service rendered/to be rendered by it to NHB, keeping in view norms of ethical business, professionalism and the fact that such advice / services to be rendered by it for a consideration.
- 5.2 The Bidder shall be accountable in case of improper discharge of contractual obligations and/or any deviant conduct by the Bidder.

6. Personal Liability

The Bidder understands that in case of its selection as the successful Bidder, the Bidder is expected to carry out its assignment with due diligence and in accordance with prevailing standards of the profession. The Bidder shall be liable to NHB for any violation of this Integrity Pact as per the applicable law, besides being liable to NHB as may be provided under the service level agreement/contract to be executed.

7. Transparency and Competitiveness

The Bidder undertakes that in case of its selection as the successful Bidder, it shall keep in view transparency, competitiveness, economy, efficiency and equal opportunity to all prospective tenderers/Bidders, while rendering any advice/service to NHB, in regard with matters related to selection of technology and determination of design and specifications of the subject matter, Bid eligibility criteria and Bid evaluation criteria, mode of tendering, tender notification, etc.

8. Co-operation in the Processes:

The Bidder shall cooperate fully with any legitimately provided/constituted investigative body, conducting inquiry into processing or execution of the consultancy contract/any other matter related with discharge of contractual obligations by the Bidder.

9. Sanctions for Violations

9.1 Any breach of the aforesaid provisions by the Bidder or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder) shall entitle NHB to take all or any one of the following actions, whenever required:

- (i) To immediately call off the pre contract negotiations without assigning any reason or giving any compensation to the Bidder. However the proceedings with the other Bidder(S) would continue.
- (ii) The Earnest Money Deposit (in per-contract stage) and / or Security Deposit /Performance Bond/PBG (after the contract is signed) shall stand forfeited either fully or partially, as decided by NHB and NHB shall not be required to assign any reason therefor.
- (iii) To immediately cancel the contract, if already signed, without giving any compensation to the Bidder.
- (iv) To recover all sums already paid by NHB, and in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India, while in case of a Bidder from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the Bidder from NHB in connection with any other contract, such outstanding payment could also be utilized and appropriated by NHB to recover the aforesaid sum and interest.
- (v) To encash the advance bank guarantee and performance bond/warranty bond, if furnished by the Bidder, in order to recover the payments already made by NHB, along with interest.
- (vi) To cancel all or any other contracts with the Bidder. The Bidder shall be liable to pay compensation for any loss or damage to NHB resulting from such cancellation /rescission and NHB shall be entitled to deduct the amount so payable from the money(s) due to the Bidder.
- (vii) To debar the Bidder from participating in future Bidding process of NHB for a minimum period of five year which may be further extended at the discretion of NHB.
- (viii) To recover all sums paid in violation of this Integrity Pact by Bidder(S) to any middleman or agent or broker with a view to securing the contract.

- (ix) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by NHB with the Bidder, the same shall not be opened.
 - (x) Forfeiture of Performance Bond/PBG in case of a decision by NHB to forfeit the same without assigning any reason for imposing sanction for violation of this Integrity Pact.
- 9.2** NHB will be entitled to take all or any the actions mentioned at para 10.1(i) to (x) of this Integrity Pact also on the Commission by the Bidder or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder), of an offence as defined in Chapter IX of the Indian Penal Code, 1860 or Prevention or Corruption Act, 1988 or any other statute enacted for prevention of corruption.
- 9.3** The decision of NHB to the effect that a breach of the provisions of this Integrity Pact has been committed by the Bidder shall be final and conclusive on the Bidder. However the Bidder can approach the Independent Monitor(s) appointed for the purposes of this Integrity Pact.

10. Fall Clause:

The Bidder undertakes that it has not supplied/is not supplying similar product/systems or subsystems at a price lower than that offered in the present Bid in respect of any other Ministry/Department of the Government of India or PSU/Public Sector Bank and if it is found at any stage that similar product/systems was supplied by the Bidder to any other Ministry/Department of the Government of India or a PSU at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the Bidder to NHB, if the contract has already been concluded.

11. Disqualification & Forfeiture of EMD/PBG etc

The Bidder(s) agree(s) that:

- (a)** Prior to award of contract or during execution of the contract, if the Bidder (s) has/have committed any transgression/breach of this Integrity Pact, NHB is entitled to disqualify the Bidder(s) from the tendering process/terminate the contract.
- (b)** If NHB disqualifies the Bidders(s) from the tendering process prior to award of contract under clause (a) above, NHB is entitled to demand and recover the damages equivalent to the EMD and in such event, the EMD shall be forfeited.
- (c)** After selection of the successful Bidder and/or during execution of

the contract, any breach/violation by the successful Bidder of this Integrity Pact under clause (a) above shall entail forfeiture of performance bond/Performance Bank Guarantee (PBG).

- (a) It is agreed that the decision of NHB regarding forfeiture of EMD/performance bonds/ PBG shall be final and binding.

12. Independent External Monitors:

- 12.1** NHB has appointed Shri Kishore Kumar Sansi, Ex-MD of Vijaya Bank and Shri Rakesh rewari, Ex- DMD, Sidbi as independent external monitors (hereinafter referred to as “the Monitors”) for this Integrity Pact in consultation with the Central Vigilance Commission.
- 12.2** The task of the Monitors shall be to review independently and objectively whether and to what extent the Parties comply with the obligations under this Integrity Pact.
- 12.3** The Monitors shall not be subject to instructions by the representatives of the Parties and perform their functions neutrally and independently.
- 12.4** Both the Parties accept that the Monitors have the right to access all the documents relating to the project procurement including minutes of meeting.
- 12.5** As soon as the Monitor notices, or has reason to believe a violation of this Integrity Pact, he will so inform the Authority designated by NHB.
- 12.6** The Bidder accepts that the Monitor has the right to access without restriction to all project documentation of NHB including that provided by the Bidder. The Bidder will also grant the Monitor upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to sub-contractors. The Monitor shall be under contractual obligation to treat the information and documents (s) of the Bidder/sub-contractor with confidentiality.
- 12.7** NHB will provide to the Monitor sufficient information about all meetings among the Parties related to the project provided such meeting could have an impact on the contractual relations between the Parties. The Parties will offer to the Monitor the option to participate in such meeting.
- 12.8** The Monitor will submit a written report to the designated Authority of NHB within 8 to 10 weeks from the date of reference or intimation to him by NHB/Bidder and, should the occasion arise, submit proposals for correcting problematic situations.

13. Facilitation of Investigation:

In case of any allegation of violation of any provision to this Integrity Pact or payment of commission, NHB or its agencies shall be entitled to examine all the documents including the Books of Accounting of the Bidder and the Bidder shall provide necessary information and

documents in English and shall extend all possible help for the purpose of such examination.

14. Law and Place of Jurisdiction:

This Integrity Pact is subject to Indian Law. Any dispute arising out of this shall be subject the jurisdictions of the Courts at New Delhi.

15. Other Legal Action:

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

16. Validity:

16.1 The validity of this Integrity Pact shall be from date of its signing and extend up to 5 years or the complete execution of the contract to the satisfaction of both NHB and the Bidder, including warranty period, whichever is later. In case Bidder is unsuccessful, this Integrity Pact shall expire after six month from the date of the signing of this Integrity Pact.

16.2 Should one or several provisions of this Integrity Pact turn out or be invalid, the remainder of this Integrity Pact shall remain valid. In this case the Parties will strive to come to an agreement to their original intentions.

The Parties hereto sign this Integrity Pact at _____ on the day, month and year mentioned herein above.

For National Housing Bank (Authorised Signatory) <u>Witness</u> 1. _____ _____ _____ (Name & Address) 2. _____ _____ _____ (Name & Address)	For Bidder (Authorised Signatory) <u>Witness</u> 1. _____ _____ _____ (Name & Address) 2. _____ _____ _____ (Name & Address)
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(provisions of these clauses would need to be amended/deleted in line with the policy of NHB in regard to involvement of Indian agents of foreign suppliers.)*