

## **Notice Inviting e-Tender**

**West Bengal Medical Services Corporation Limited  
Swasthya Bhawan Complex  
GN-29, Salt Lake, Sector-V  
Kolkata-700091**

Phone No (033) 23576504 / 23576505

E mail: wbmsc.wbhealth@gmail.com

**SUPPLY OF INDELIBLE INK MARKER PENS FOR PULSE POLIO, IMMUNIZATION PROGRAMME AND OTHER CAMPAIGN**

(Submission of Bid through *online*)

**Bid Reference No.: WBMSCL/NIT-25/2014**

**Dated- 21.03.2014**

1. West Bengal Medical Services Corporation Limited (WBMSCL) has been requested by the Government of West Bengal to procure on their behalf **Indelible Ink Marker Pens For Pulse Polio, Immunization Programme And Other Campaign**
2. WBMSCL hereby invites bids from eligible and qualified Tenderers for the supply of **Indelible Ink Marker Pens**.
3. Intending Tenderer may download the tender documents from the website: **wbtenders.gov.in**. Tender fees and earnest money to be drawn in favour of 'West Bengal Medical Services Corporation Limited' through Demand Draft / Bank Guarantee issued from any scheduled bank payable at Kolkata.
4. Non statutory documents, Bid – A, Bid – B & Bid – C are to be submitted concurrently.

Sd/-  
Managing Director,  
WBMSCL

## Table for Important Dates

Sl.	Items	Publishing date(s)
1.	Date of uploading of N.I.T. Documents (online)/ Date of Issue	21.03. 2014
2.	Documents download/sell start date (Online)	21.03. 2014
3.	Date of <b>Pre Bid Meeting</b> with the intending Tenderers in the Conference Hall of <b>West Bengal Medical Services Corporation Limited</b>	26.03. 2014 at 3:00 p.m.
4.	Bid submission start date (On line)	27.03. 2014 at 11:00 am
5.	Documents download/sell end date (Online)	04.04.2014; up to 2:00 pm
6.	<p><b>Bid submission closing (On line)</b>            Bid submission includes:            i) Non statutory documents to be submitted under <u>My Space</u> (Each sub-category item should be in multiple page single PDF file)             ii) BID – A (Should be in multiple page single PDF file)            iii) BID – B (Should be in multiple page single PDF file)            iv) BID – C (BOQ and the Statement of Breakup of Duties and Taxes)            Detailed list of documents annexed at Section V Check-List Form            Non-statutory document (document uploaded in <u>My Space</u>), Bid – A &amp; Bid – B constitute the technical bid and Bid – C is the financial bid.  <i>Any wrong or misleading information provided by the Tenderer during submission of bids shall lead to summary cancellation of bid and may lead to blacklisting in WBMSCL for at least 3 years.</i></p> <p><b>Each scanned documents should have an index page indicating the name of the documents enclosed with Page no.</b></p>	04.04.2014; up to 4:00 pm
7.	<p><b>Last date of submission of</b>            a) Cost of Earnest Money Deposit ( Demand Draft / Pay Order / Bank Guarantee)             b) Hard copies of the documents uploaded in e-tender during bid submission. <b>No BOQ to be submitted in hard copy.</b>             c) Copy of acknowledgement generated by e-tender portal against the documents uploaded during bid submission.             d) 2 (two) nos. of the offered Marker Pens as samples.</p> <p><b>N.B.:</b>            1) All the above documents are to be submitted at the registered office of WBMSCL.            It is essential that all documents in hard copy are to be placed before the Committee and arranged in the same sequence as given in the Check List. All the documents should be appropriately flagged.</p>	08.04.2014; up to 2:00 pm

8	Bid opening date for Technical Proposals (Online)(Bid A & B)	08.04.2014; after 2:00 pm
9.	Bidders to remain present at WBMSCL office, Kolkata for identification of the documents for the technical bid evaluation	To be informed later
10.	Technical evaluation to be completed by	To be informed later
11.	Opening of Financial Bid	To be informed later

# Section I: Instructions to Tenderers

## A. Important information at a glance

Whenever there is a conflict, the provisions herein (i.e. in Important Information at a glance) shall prevail over those in the General Conditions of Contract (GCC) & Special Conditions of Contract (SCC)

### 1. Tender Details

<b>Quantity in number of Indelible Ink Marker Pens</b>
3,85,500 (Three lakh eighty five thousand five hundred)
Note: Supply will be at different district of West Bengal in a staggered manner varying from programme to programme (ranging from 52,500 to 1,14,000 Marker pens per round approximately) over a period of 1 (one) year from the date of signing of agreement.

### 2. Tender Fees

<b>Indelible Ink Marker Pens</b>
Tender fees not required

### 3. Earnest Money Deposit (EMD)

<b>Indelible Ink Marker Pens</b>
INR 5 Lac
In case of submission of EMD through Bank Guarantee, it should be valid for 120 days from the date of Bid submission closing. Tenderers to follow the format given in Form No. 4 of Section V, if EMD is submitted in the form of Bank Guarantee

### 4. Annual Turnover requirements:

<b>Indelible Ink Marker Pens</b>
The Tenderers should have annual sales turnover of minimum Rs. 1.5 Crore (Rupees One Crore fifty lakh) on an average of last three financial years as per the Audited Accounts of the Organization.

#### 5 (a) Date of Supplies

<b>Work description</b>	<b>Timeline</b>
<b>Supply of Indelible Ink Marker Pens</b> Before the schedule date of any NID / SNID / Immunization Programme, the delivery order will be issued to the supplier with consignee addresses (mostly Districts) for supplying the same.	<b>Within 15 Days</b> of the placement of order
<b>Note:</b> In emergency situation the timeline of supply may be less than 15 days.	

#### 5 (b) Payment Terms

<b>Payment</b>	<b>Days</b> (with Condition)
50 % of the total payment	Within 30 days of submission of invoices along with delivery challans duly signed by the Consignees.
Rest 50% of the total payment	After WBMSCL / DoHFW has satisfied itself that the goods have been delivered in compliance with the requirements of the tender including packaging and labeling norms and receipt of no adverse certificate by the state nodal officer for the programme but not beyond 60 days of raising of bills.

#### 6. Performance Security (PS)

(In the form of unconditional and irrevocable Bank Guarantee)

<b>Indelible Ink Marker Pens</b>
10% of the Bid Value [Validity for 1 (one) year and 60 days from the date of Agreement].

#### 7. Who can Bid

<b>Indelible Ink Marker Pens</b>
(a) Manufacturing Company (b) Manufacturer's sole Authorized Distributor for this tender

#### 8. Service Up time in Warranty

<b>Indelible Ink Marker Pens</b>
Must be on Working condition at any point of time during one year from the date of supply. Any defective pens should be replaced by a new one within 7 days after the intimation.

#### 9. Liquidated damages for Delayed Delivery/ Non replacement

<b>Indelible Ink Marker Pens</b>
0.5% of the price of goods per week beyond the schedule date of supply subject to a maximum of 5% of total contract value. The value of non-replaced pen will be deducted from the performance security, if not replaced in due time.

## 10. Experience and Technical Capacity

<b>Indelible Ink Marker Pens</b>
The manufacturer whose product is offered by the Tenderer must have experience of supplying at least 50 (fifty) thousand “Indelible Ink Marker Pens” in two National Programmes in any state of India in the last three years.
Confirmation from manufacturer of the offered item that all the facilities exist in his factory for inspection and testing and these will be made available to <b>WBMSCL</b> or his representative, if inspection is considered necessary.

## 11. Consignee

<b>Indelible Ink Marker Pens</b>
<b>Deputy CMOH - III (FW store) of all districts of West Bengal</b>

**Note1:** The Tenderers, who have downloaded the bid documents, shall be solely responsible for checking these websites for any amendment, addendum issued subsequently to the bid document and takes into consideration the same while preparing and submitting the bids.

**Note2:** In the case of a Tenderer offering to supply Goods under the Contract that the Tenderer does not manufacture or otherwise produce, the Tenderer should be duly authorized by the manufacturer of the Goods who meets the criteria under Above(all supporting documents / information as asked above for manufacturer shall be submitted with the bid) and the manufacturer furnishes a legally enforceable authorization in the prescribed Form assuring full guarantee and warranty obligations as per GCC and SCC for the goods offered.

**Note 3:** In case extension required, Bank Guarantees are to be renewed prior to 30 days of their expiry.

*Bids will be opened in the presence of Tenderers' representative who chooses to attend on the specified date and time. However, opening of bids will not be stopped for absence of any bidder or his authorized representative at the notified time.*

## **B. General**

### **11. Scope of Bid**

11.1 The type of goods and related services to be purchased is: **SUPPLY OF INDELIBLE INK MARKER PENS FOR PULSE POLIO, IMMUNIZATION PROGRAMME AND OTHER CAMPAIGN**

### **12. Source of Funds**

12.1 **Department of H& FW (IPPI fund – C. 6)**

### **13. Fraud and Corruption**

13.1 It is WBMSCL policy to require that Tenderers, suppliers, and contractors and their subcontractors under WBMSCL contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, WBMSCL:

- (a) Defines, for the purposes of this provision, the terms set forth below as follows:
  - (i) Bribery is the act of unduly offering, giving, receiving or soliciting anything of value to influence the process of procuring goods or services, or executing contracts;
  - (ii) Extortion or coercion is the act of attempting to influence the process of procuring goods or services, or executing contracts by means of threat of injury to person, property or reputation;
  - (iii) Fraud is the misrepresentation of information or facts for the purpose of influencing the process of procuring goods or services, or executing the contracts, to the detriment of WBMSCL or other participants;
  - (iv) Collusion is the agreement between Tenderers designed to result in bids at artificial prices that are not competitive.
- (b) Will reject a proposal to award a contract if it determines that a vendor recommended for award has engaged in corrupt practices in competing for the contract in question;
- (c) Will declare a vendor ineligible, either indefinitely or for a stated period of time, to become a WBMSCL registered Vendor if it at any time determines that the vendor has engaged in corrupt practices in competing for or in executing a WBMSCL contract;
- (d) Will cancel or terminate a contract if it determines that a vendor has engaged in corrupt practices in competing for or in executing a WBMSCL contract;
- (e) Will normally requires a WBMSCL vendor to allow WBMSCL, or any person that WBMSCL may designate, to inspect or carry out audits of the vendor's accounting records and financial statements in connection with the contract.

13.2 Any vendor participating in WBMSCL's procurement activities, shall facilitate to WBMSCL personnel upon first request, all documents, records and other elements needed by WBMSCL to investigate the allegations of misconduct by either vendors or any other party to the procurement activities. The absence of such cooperation may be sufficient grounds for the debarment of the vendor from WBMSCL vendor roster and may lead to suspension following review by WBMSCL Vendor Review Committee.

13.3 It is required that Vendors, their subsidiaries, agents, intermediaries and principals cooperate with WBMSCL Internal Audit Group as well as with other investigations authorized by WBMSCL or by the Government of West Bengal or the Central Government as and when required. Such cooperation shall include, but not be limited to, the following: access to all employees, representatives, agents and assignees of the vendor; as well as production of all documents requested, including financial records. Failure to fully cooperate with investigations will be considered sufficient grounds to allow WBMSCL to repudiate and terminate the contract, and to debar and remove the supplier from WBMSCL's list of registered vendors.

#### **14. Eligible Tenderers**

- 14.1 A Tenderer, and all parties constituting the Tenderer, may have the nationality of any country.
- 14.2 A Tenderer shall not have a conflict of interest. All Tenderers found to have conflict of interest shall be disqualified. Tenderers may be considered to have a conflict of interest with one or more parties in this bidding process, if they:
- i) are or have been associated in the past, with a firm or any of its affiliates which have been engaged by WBMSCL to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the Goods to be purchased under these Bidding Documents ; or
- 14.3 A Tenderer that is under a declaration of ineligibility by WBMSCL in accordance with Instructions to Tenderers at the date of contract award, shall be disqualified. Tenderers shall not be eligible to submit a bid when at the time of bid submission:
- Suppliers are already suspended by WBMSCL; or,
  - Suppliers are suspended by the Government of West Bengal or Central Government or any other State Government or WBMSCL,
  - Suppliers have been declared ineligible by Government of West Bengal or Central Government or any other State Government or WBMSCL.

#### **15. Eligible goods and related services**

- 15.1 All the goods and related services to be supplied under the Contract may have their origin in any country.
- 15.2 For purposes of this Clause, the term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.



## **C. Contents of Bidding Documents**

### **16. Sections of Bidding Documents**

16.1 The Bidding Documents consist of:

- Section I. Instructions to Tenderers
- Section II. General Conditions for Goods (GCG)
- Section III. Special Conditions of Contract (SCC)
- Section IV. Schedule of Requirements
- Section V. Bidding Forms
- Section VI. Contract Forms

16.2 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents. Failure to furnish all information or documentation required by the Bidding Documents may result in the rejection of the bid.

16.3 Tenderers are cautioned to read the specifications carefully (see Section IV - Schedule of Requirements), as there may be special requirements. The technical specifications presented herein are not to be construed as defining a particular manufacturer's product. Tenderers are encouraged to advise WBMSCL, if they disagree.

16.4 The specifications are the minimum requirements for the products. Products offered must meet or exceed requirements mentioned in technical specifications. The products shall conform in strength, quality and workmanship to the accepted standards of the relevant industry. Modifications of or additions to basic standard products of less size or capability to meet these requirements will not be acceptable.

### **17. Clarification of Bid Document**

17.1 A prospective Tenderer requiring any clarification of the Bidding Documents shall contact WBMSCL in writing at [wbmssc.wbhealth@gmail.com](mailto:wbmssc.wbhealth@gmail.com)

### **18. Amendment of Bid Document**

18.1 At any time prior to the deadline for submission of bids, WBMSCL may amend the Bid Document by issuing amendment to be uploaded in the e-tender portal & website of WBMSCL.

18.2 To give prospective Tenderers reasonable time in which to take an amendment into account in preparing their bids, WBMSCL may, at its discretion, extend the deadline for the submission of bids.

## D. Preparation of Bids

19. Tenderers are to prepare and submit the following:

- i) Non statutory documents to be submitted under My Space
- ii) BID – A (Should be in multiple page single PDF file)
- iii) BID – B (Should be in multiple page single PDF file)
- iv) BID – C (BOQ and the Statement of Breakup of Taxes & Duties)

Details are given in “Submission and Opening of Bids”

**20. Cost of Bidding**

The Tenderer shall bear all costs associated with the preparation and submission of its bid.

**21. Language of Bid**

The Bid, as well as all correspondence and documents relating to the bid exchanged by the Tenderer and WBMSCL, shall be written in the English language. Supporting documents and printed literature that are part of the Bid, if submitted in any other language provided they are accompanied by an accurate translation of the relevant passages into English and duly authenticated.

**22. Alternative Bids**

Alternative Bids will not be accepted

**23. Bid Prices**

23.1 The prices in the BOQ shall conform to the requirements as specified in the tender.

23.2 The Incoterms shall be governed by the rules prescribed in the Incoterms 2010, published by The International Chamber of Commerce.

23.3 Prices quoted by the Tenderer shall be fixed during the Tenderer’s performance of the Contract and not subject to variation on any account.

**24. Currencies of Bid**

The Tenderer shall quote in INR only.

**25. Documents Establishing the Conformity of the Goods and Related Services**

To establish the conformity of the goods and related services to the Bidding Documents, the Tenderer shall furnish as part of its Bid the documentary evidence that the Goods conform to the technical specifications and standards specified in Section IV, Schedule of Requirements.

**26. Documents Establishing the Qualifications of the Tenderer**

As per Form 1: Check-List of Section V of the bid document.

**27. Period of validity of Bids**

27.1 Bids shall remain valid for a period of **120 days**. A bid valid for a shorter period than specified in previous lines shall be rejected by WBMSCL as non responsive.

27.2 In exceptional circumstances, prior to the expiration of the bid validity period, WBMSCL may request Tenderer to extend the period of validity of their bids and EMD. In the event of the request for such extension beyond bid validity period, the bidder may or may not accept such request. In case, the bidder refuses to accept the request, the EMD of the bidder shall not be forfeited.

**28. Period of validity of the bid price:**

The bid price shall remain valid for a period of one year from the date of signing of the contract.

**29. Earnest Money Deposit (EMD):**

29.1 The EMD shall be in the form of Bank Guarantee (BG) / Demand Draft(DD) in original from any scheduled commercial bank as per prescribed form in Section V, in favour of “**West Bengal Medical Services Corporation Limited**”, **GN-29, Swasthya Bhawan, Sec-V, Salt Lake, Kolkata- 700091** in the amount as provided in the **Schedule of Requirements**, and denominated in INR.

29.2 **Any bid not accompanied by a substantially responsive EMD in accordance with Instructions to Tenderers shall be rejected by WBMSCL as non-responsive.**

29.3 The EMD of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer’s furnishing of the Performance Security pursuant to Instructions to Tenderers

29.4 The EMD may be forfeited:

(a) if a Tenderer withdraws its bid during the period of bid validity specified by the Tenderer on the Bid Submission Form, except as provided in Instructions to Tenderers; or

(b) if the successful Tenderer fails to:

(i) sign the Contract in accordance with Instructions to Tenderers;

(ii) furnish a Performance Security in accordance with Instructions to Tenderers ;

**30. Signing of Bid** – The bid document should be digitally signed and uploaded on the E-tender portal.

**31. Withdrawal, Substitution, and Modification of Bids**

31.1 The bid once submitted cannot be withdrawn but prior to the deadline prescribed for submission of bids, a Tenderer may substitute, or modify its Bid after it has been submitted.

31.2 The objective of this bid is to ensure supply of best quality goods at the most competitive price. If at any stage of the bidding, including at the stage of financial evaluation, it appears that the tendered rate is artificially hiked or is much lower compared to the prevailing market price and available rates of similar or identical composition with the government, WBMSCL reserves the right to cancel the bids.

**32. Confidentiality**

Any effort by a Tenderer to influence WBMSCL in the examination, evaluation, comparison of the bids or contract award decisions may result in the rejection of its Bid.

Notwithstanding Instructions to Tenderers from the time of bid opening to the time of Contract Award, if any Tenderer wishes to contact WBMSCL on any matter related to the bidding process, it should do so in writing.

## E. Submission and Opening of Bids

### 33. The following are to be submitted:

#### i) Non statutory documents to be submitted under My Space

(Each sub-category item should be in multiple page single PDF file)

#### Guidelines for uploading documents in My Space:

Sl. No.	Category Name	Sub - Category Name	Document Name
1	CERTIFICATES	CERTIFICATES	<ul style="list-style-type: none"> <li>a) PAN Card</li> <li>b) Service Tax registration Certificate</li> <li>c) VAT Registration Certificate</li> <li>d) CST registration Certificate</li> </ul>
2	COMPANY DETAILS	COMPANY DETAILS 1	<ul style="list-style-type: none"> <li>a) Licence from Government/Statutory Authority as Applicable</li> <li>b) Shop and Commercial establishment certificate</li> <li>c) Factory Licence</li> <li>d) Registration with the Registrar of Companies</li> </ul>
		COMPANY DETAILS 2	<ul style="list-style-type: none"> <li>a) Valid Manufacturing Licence (National/International)</li> <li>b) (In case, manufacturing licence is not required / applicable for production of the quoted item, notarized declaration from the manufacturer is to be submitted)</li> <li>c) Current registration as SSI (if any)</li> </ul>
3	CREDENTIAL	CREDENTIAL 1	Performance Statement Form (For the period of last three financial years) - Form 6 of Section V
		CREDENTIAL 2	ISO certificate of the manufacturing factory
4	DECLARATION	DECLARATION1	<ul style="list-style-type: none"> <li>a) Income Tax returns for 2010-11, 2011-12, 2012-13</li> <li>b) Service Tax returns for 2012-2013</li> </ul>
		DECLARATION2	<ul style="list-style-type: none"> <li>a) VAT Returns for 2012-2013</li> <li>b) VAT Clearance Certificate</li> </ul>
		DECLARATION3	<ul style="list-style-type: none"> <li>a) CST Returns for 2012-2013</li> <li>b) CST Clearance Certificate</li> </ul>
		DECLARATION 4	<p>Legal declaration affirmed before a First Class Magistrate / Notary on non judicial stamp paper of Rs. 100/- for,</p> <ul style="list-style-type: none"> <li>a) Acceptance of Terms and Conditions of NIT and its Amendments and Addendums thereto. (As per Form 9 of Section V).</li> </ul> <p><i>Note: Technical evaluation of the bid will be taken up only after scrutiny of Form 9 (NIT Acceptance Form) duly notarized.</i></p>
		DECLARATION 5	Legal declaration affirmed before a First Class Magistrate / Notary on non judicial stamp paper of Rs. 100/- as per Form – 7.
5	EQUIPMENT	MACHINERIES 1	Manufacturer's Authorization (If applicable) as per Form 5 of Section V
		MACHINERIES 2	List of supply of offered model. (self declaration)
		MACHINERIES 3	Statement of production capacity of the manufacturing unit per year of the quoted pen. (Self Declaration)
		MACHINERIES 4	
6	FINANCIAL INFO	P/L & BALANCE SHEET 2010-2011	P/L & Balance sheet 2010-2011
		P/L & BALANCE SHEET 2011-2012	P/L & Balance sheet 2011-2012
		P/L & BALANCE SHEET 2012-2013	P/L & Balance sheet 2012-2013

**ii) BID – A** (Should be in multiple page single PDF file)  
EMD (Scanned copy of the instrument through which EMD have been submitted)

**iii) BID – B** (Should be in multiple page single PDF file)

1	Model of the Item offered for
2	Comparative Data Table of the Technical Specifications (Form No. 3 of Section V)
3	2 sets of Brochure of the offered product / model.
4	Copy of the work orders and proof of supply in support of the experience and technical capacity
5	Self declaration regarding no. of impression by 1 (one) indelible marker pen
6	Self declaration by the Tenderer for agreeing that WBMSCL will do Quality Check by Third Party Agency, If required
7	WHO approval Certificate of the offered model, as applicable
8	Document in support that the manufacturer whose product is offered by the Tenderer must have experience of supplying at least 50 (fifty) thousand “Indelible Ink Marker Pens” in two National Programmes in any state of India in the last three years.
9	Confirmation from manufacturer of the offered item that all the facilities exist in his factory for inspection and testing and these will be made available to <b>WBMSCL</b> or his representative, if inspection is considered necessary.

Non-statutory document (document uploaded in My Space), Bid – A & Bid – B constitute the technical bid

**iv) BID – C [Bill of Quantity (BOQ) and the Statement of Breakup of Duties and Taxes]**

GROSS PRICE of the goods is to be quoted. GROSS PRICE of goods includes value of the goods including all charges and taxes (including 1% entry tax) for supply at the door step of the consignees.

Comparison of financial bid will be based on ‘GROSS PRICE’

Rates shall be valid throughout the period to be covered by the contract to be executed with successful Tenderers along with any extensions as may be made by the competent authority from time to time.

Detailed list of documents annexed at Form 1 Check-List Form, Section V

**N.B.**

- a) Any wrong or misleading information provided by the Tenderer during submission of bids shall lead to summary cancellation of bid and may lead to blacklisting in WBMSCL for at least 3 years.
- b) Each scanned documents should have an index page indicating the name of the documents enclosed with Page no.
- c) The Earnest Money will be refunded after finalization of the tender and / or submission of Performance Bank Guarantee.

**12.1.1** If any bidders fail to upload all the necessary documents related to submission of bids during online submission due to space constraint or any such issue, the bidder should submit the un-submitted documents as hard copy with the EMD and Tender Fees within the stipulated time of submission of hard copies of documents to this office. The bidder must upload a PDF document with the list of the documents either in bid A or Bid B. Again the bidder must complete the process of e-

tendering with proper submission of BOQ i.e. Bid-C and should get the acknowledgement of completion of bid submission.

## F. Evaluation and Comparison of Bids

### 34. Tender Evaluation

- a) During the tender evaluation process Non-statutory document (document uploaded in My Space), Bid – A & Bid – B constituting the technical bid will be opened first and evaluated. The determination of qualified Tenderer in technical evaluation will be based on the following conditions:
  - i. Scrutiny of Form 9 (NIT Acceptance Form) duly notarized.
  - ii. Scrutiny of documentary evidence as per Form 1: Check-list, Section V of Bid document submitted by the Tenderers.
  - iii. The Bid - C (Financial Bids) of only those Tenderers qualifying the above evaluation will be opened.

THE DECISION OF THE WBMSCL AUTHORITY WILL BE FINAL AND BINDING IN THIS MATTER.

### 35. Responsiveness of Bids

- 35.1 WBMSCL's determination of a bid's responsiveness is to be based on the contents of the bid itself.
- 35.2 A substantially responsive Bid is one that conforms to all the terms, conditions, and specifications of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
  - (a) Affects in any substantial way the scope, quality, or performance of the goods and related services specified in the Contract; or
  - (b) Limits in any substantial way, inconsistent with the Bidding Documents, WBMSCL's rights or the Tenderer's obligations under the Contract; or
  - (c) If rectified would unfairly affect the competitive position of other Tenderers presenting substantially responsive bids.

WBMSCL considers material deviation to include but not to be limited to the following situations:

- (d) During technical evaluation of bids (verification of formal criteria):
  - Lack of proper bid securities in terms of change in the wording (not consistent with the prescribed format), amount or validity period.
  - Absence of bid form, change in the wording (not consistent with the prescribed format) or lack of signature in the key portions of the bid form,
  - The Tenderer does not accept important Contract conditions, i.e. related to Performance Security, Warranty, Force Majeure, Applicable Law, Delivery Schedule, Payment Terms, Limitation of Liability, etc.
  - Specifications of the item quoted vary in one or more significant respect(s) from the minimum required Technical Specifications.
- 35.3 If a bid is not substantially responsive to the Bidding Documents, it shall be rejected by WBMSCL

**36. Examination of Terms and Conditions and Technical Evaluation**

36.1 WBMSCL shall examine the Bid to confirm that it does not contain material deviation or reservation related to the conditions and requirements specified in the GCC of Section II, SCC of Section III and in the Schedule of Requirements of Section IV.

36.2 If, after the examination of the terms and conditions and the technical evaluation, WBMSCL determines that the Bid is not substantially responsive in accordance with Instructions to Tenderers, it shall reject the Bid.

**37. Domestic Preference**

Companies based and manufacturing in India shall not be a factor in bid evaluation.

**38. Preference for S.S.I. units registered in West Bengal & PSUs in West Bengal:**

Preference will be given to the S.S.I. units registered in West Bengal & PSUs in West Bengal and State Based Other Manufacturers as per West Bengal Financial Rule incorporated under notification No. 10500-F dated 19.11.04 as amended hereafter.

**39. Financial evaluation**

The financial bids of only those bidders who qualify in the technical bids will be opened.

**40. WBMSCL's Right to Accept Any Bid, and to Reject Any or All Bids**

WBMSCL reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Tenderers.



## **G. Award of Contract**

### **41. Award Criteria**

- 41.1 In the event of a Contract award, WBMSCL shall award the Contract to the Tenderer whose offer has been determined to be the lowest evaluated bid substantially responsive to the Bidding Documents, provided further that the Tenderer is determined to be qualified to perform the Contract satisfactorily.
- 41.2 Prior to contract award, the successful Tenderer(s) may be requested to send prototype of the requested products to the end-user in. The cost for sending the prototype will be at the charge of the Tenderer.
- 41.3 Before the award of Contract, WBMSCL may inspect the manufacturing facilities of the lowest evaluated responsive Tenderer to assess his capability to successfully perform the Contract as per the terms and conditions specified in the NIT.

### **42. WBMSCL's right to vary quantities**

WBMSCL may at any time by written instruction vary the general scope of this Contract by twenty percent (20%) of the quantity above or below the original Contract.

### **43. Publication of Award of Work**

- 43.1 WBMSCL shall publish the Award of Work in e-tender portal and its website [wbtenders.gov.in](http://wbtenders.gov.in), [www.wbmco.in](http://www.wbmco.in), [www.wbmco.gov.in](http://www.wbmco.gov.in), [www.wbhealth.gov.in](http://www.wbhealth.gov.in).
- 43.2 Upon the successful Tenderer's furnishing of performance security and the signed contract, WBMSCL will promptly notify and will discharge the bid security of each unsuccessful Tenderer.

### **44. Signing of Contract**

- 44.1 Prior to the expiry of the period of bid validity, WBMSCL shall send the successful Tenderer the Contract and the Special Conditions for Goods.
- 44.2 Within 7 (seven) days of receipt of the Contract, the successful Tenderer shall sign, date, and return it to WBMSCL.

### **45. Performance Security**

- 45.1 Within 7 days of receipt of the Contract from WBMSCL, the successful Tenderer, if required, shall furnish the Performance Security in accordance with the GCC, using for that purpose the Performance Security Form included in Section VI, Contract forms, or another Form acceptable to WBMSCL. WBMSCL shall promptly discharge the Bid Securities of the unsuccessful Tenderers pursuant to Instructions to Tenderers.
- 45.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the EMD.

## **Section II. General Conditions of Contract**

In the event of an order, the WBMSCL General Conditions of Contract will apply as under

### **1. LEGAL STATUS OF THE PARTIES:**

WBMSCL and the Vendor shall respectively be referred to as "FIRST PARTY" & "SECOND PARTY" hereunder and each Party acknowledges and agrees that:

1.1 Nothing contained in or relating to the contract shall be construed as establishing or creating between the Parties the relationship of employer and employee or of principal and agent. The officials, representatives, employees, or subcontractors of each of the Parties shall not be considered in any respect as being the employees or agents of the other Party and each Party shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities.

### **2. DEFINITIONS:**

2.1 GOODS: Goods are hereinafter deemed to include, without limitation, such medicines, raw materials, components, intermediate products and products which the Tenderer is required to supply pursuant to the Purchase Order or Special Conditions of this Contract to which these General Conditions are attached. Services are hereinafter deemed to include services ancillary to the supply of the Goods including, without limitation transportation and supply at the point of consignee and such other obligations as required under this Contract.

2.2 TRADE TERMS: Whenever an Inco term is used in this Contract it shall be interpreted in accordance with the Incoterms 2010.

### **3. CONTRACT PRICE;**

Prices charged by the Tenderer for the Goods supplied and the related services performed under the Contract shall not vary from the prices quoted by the Tenderer in its bid, with the exception of any price adjustment authorized in writing by WBMSCL.

### **4. PACKAGING OF THE GOODS:**

The Vendor shall package the Goods for delivery with the best materials that are adequate to safeguard the Goods while in transit and with all due care and according to the highest standards of export packaging for the type and quantities of the Goods. The Goods shall be packed and marked in a proper manner in accordance with the instructions stipulated in the Contract or, otherwise, as customarily done in the trade, and in accordance with any requirements imposed by applicable law or by the transporters and manufacturers of the Goods. The packing, in particular, shall mark the Contract or Purchase Order number and any other identification information provided by WBMSCL as well as such other information as is customary for the Goods in question. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt, precipitation and open storage. The Vendor shall have no right to any return of the packing materials.

### **5. TRANSPORTATION AND FREIGHT:**

Unless otherwise specified in the Contract (including in any INCOTERM 2010) the Vendor shall be solely liable for making all transport arrangements and for payment of freight and insurance costs for the shipment and delivery of the Goods in accordance with the requirements of the Contract and as defined in table 5. (b) Payment Terms of Section I: Instructions to Tenderers, under sub-section A. Important information at a glance.

## **6. DELIVERY OF GOODS:**

The Vendor shall hand over or make available the goods, and the Consignees shall receive the goods (as per detail annexed in Section IV), at the place for the delivery of the Goods and within the time for delivery of the Goods specified as **per table 5 (a) Date of supplies at Section I: Instructions to Tenderers under sub-section A. Important information at a glance**, in the Contract. All manuals, instructions, displays and any other information relevant to the Goods shall be in the English language unless otherwise specified in the Contract. Unless specifically stated in the Contract the entire risk of loss, theft, damage to, or destruction of the Goods shall be borne as defined in table 5. (b) Payment Terms of Section I: Instructions to Tenderers, under sub-section A. Important information at a glance.

## **7. INSPECTION OF THE GOODS:**

7.1 All goods may be subjected to inspection and testing by WBMSCL or its designated representatives at all times and places including the period of manufacture and in any event prior to final acceptance by WBMSCL.

7.2 Neither the carrying out of any inspections of the Goods nor any failure to undertake any such inspections shall relieve the vendor of any of its warranties or the performance of any obligations under the Contract.

### **7.3 For goods supplied from within or outside India.**

a) For goods supplied from within or outside India, Purchaser retains the right to perform pre-shipment inspection at the manufacturer's premises and an independent quality control laboratory testing **at its own cost**.

b) The Purchaser will retain the right to perform further inspections and quality testing at any time till the satisfactory installation of Goods, as it deems fit, **at its own cost**.

7.4 Should any inspected or tested goods fail to conform to the specifications, the purchaser shall reject them and the supplier shall replace the rejected goods free of cost to the purchaser, within a period of 45 (forty-five) days of intimating such rejection.

## **8. ACCEPTANCE OF GOODS:**

Under no circumstances shall WBMSCL / DoHFW be required to accept any goods that do not conform to the specifications of or requirements of the Contract. WBMSCL may condition acceptance of the goods upon the successful completion of acceptance tests, as may be specified in the Contract or otherwise agreed in writing by the Parties. In no case shall WBMSCL be obligated to accept any goods unless and until WBMSCL / DoHFW has inspected the goods following in accordance with the requirements of the Contract. The goods shall be deemed to be accepted only after WBMSCL / DoHFW provides written acceptance.

## **9. REJECTION OF GOODS:**

Notwithstanding any other rights of, or remedies available to, WBMSCL under the Contract, in case any of the goods is defective or otherwise does not conform to the specifications or other requirements of the Contract, WBMSCL / DoHFW may, at its sole option, reject or refuse to accept the goods, and the vendor agrees promptly to replace the goods with goods of equal or better quality.

## 10. TITLE:

Unless otherwise expressly provided in the Contract, title in and to the goods shall pass from the Vendor to WBMSCL upon delivery of the goods and their acceptance by WBMSCL in accordance with the requirements of the Contract.

## 11. PERFORMANCE SECURITY:

- (a) Within 14 days after the Supplier's receipt of Notification of Award, the Supplier shall furnish Performance Security to the Purchaser as **per table 6, Performance Security (PS) at Section I: Instructions to Tenderers under sub-section A. Important information at a glance** for an amount of 10% of the Contract Price (bid value), valid up to 60 days after the date of completion of all contractual obligations, including warranty obligations.
- (b) Banks issuing Performance Securities must be acceptable to the WBMSCL, i.e. they have to be scheduled commercial banks.
- (c) Discharge of the Performance Security shall take place upon expiry of the Performance Security or the completion of all contractual liabilities of the Supplier as per as per table 6, Performance Security (PS) at Section I: Instructions to Tenderers under sub-section A. Important information at a glance.
- (d) In the event of any amendment issued to the Contract, the Supplier shall, within 14 (fourteen) days of issue of the amendment, furnish the corresponding amendment to the Performance Security (as necessary) rendering the same valid in all respects in terms of the Contract, as amended.

## 12. WARRANTIES:

### 12.1 Goods Warranties:

Without limitation of any other warranties stated in or arising under the Contract, the Vendor warrants and represents that:

12.1.1 The Goods, including all packaging and packing thereof, conform to the specifications of the Contract, are fit for the purposes for which such Goods are ordinarily used and for the purposes expressly made known in writing by WBMSCL to the Vendor, and shall be of even quality, free from faults and defects in design, material, manufacture and workmanship under normal use in the conditions prevailing in the country of final destination;

12.1.2 If the Vendor is not the original manufacturer of the Goods, the Vendor shall provide WBMSCL with the benefit of all manufacturers' warranties in addition to any other warranties required to be provided hereunder;

12.1.3 The Goods are of the quality, quantity and description required by the Contract;

12.1.4 The Goods are free from any right of claim by any third-party and unencumbered by any title or other rights, including any liens or security interests and claims of infringement of any intellectual property rights, including, but not limited to, patents, copyright and trade secrets.

12.1.5 Unless otherwise indicated in the Technical Specifications, this warranty shall remain valid for 1 (One) year after the Goods have been supplied at the final destination indicated in the Contract subject to issue of certificate regarding date of supply issued by the consignee.

12.1.6 During the warranty, free comprehensive annual maintenance and repairs services including testing and calibration, labour and spares shall be provided by the supplier during the period of warranty.

12.1.7 If the Supplier, having been notified, fails to remedy the defect(s) within the stipulated period, the Purchaser may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

The supplier shall visit each installation site as recommended in the manufacturer's technical/ service operational manual, but **at least once in three months** during the warranty period for preventive maintenance.

The Goods shall be new and unused. The Vendor shall remain responsive to the needs of WBMSCL for any services that may be required in connection with any of the Vendor's warranties under the Contract. All warranties will remain fully valid following any delivery of the Goods and for a period of not less than one (1) year following acceptance of the Goods by the Consignee in accordance with the Contract. During any period in which the Vendor's warranties are effective, upon notice by WBMSCL that the Goods do not conform to the requirements of the Contract, the vendor shall replace the defective Goods with Goods of the same or better quality or fully reimburse WBMSCL for the purchase price paid for the defective Goods; and if having been notified by any means, the Vendor fails to replace the defective Goods within 30 days, WBMSCL may proceed to take such remedial action as may be necessary, at the Vendor's risk and expense and without prejudice to any other rights which WBMSCL may have against the Vendor under the Contract. The reasonableness of the period of time granted for remedy is subject to the discretion of WBMSCL according to the circumstances of the Contract.

### **13. INDEMNIFICATION:**

The Tenderer shall indemnify, defend and hold the WBMSCL, the DoHFW and the Government agencies harmless against any or all proceedings, actions and third party claims arising out of a breach by the Tenderer of any of its obligations under this agreement.

This indemnity shall be limited in respect of making harmless to the WBMSCL, the DoHFW and the Government agencies.

### **14. LIQUIDATED DAMAGES:**

Except under the circumstances of *force majeure* as described, if the vendor fails to deliver any or all of the Goods by date(s) of delivery as per conditions of the contract, WBMSCL may, without prejudice to any or all its other remedies under the contract, deduct from the contract price, as per **table - 9 Liquidated damages for delayed delivery/delayed setting up of Services at Section I: Instructions to Tenderers under sub-section A. Important information at a glance**

**15. PENALTY FOR DEFAULT:**

In case of failure by the Tenderer to perform according to this Contact to keep Service Up time in Warranty & CMC of all of the Goods, the Company may exercise one or several of the penal provisions **as per table – 8, Service Up time in Warranty & CMC at Section I: Instructions to Tenderers under sub-section A. Important information at a glance.**

**15.1**In addition to what has been stated above, the following penalties shall be imposed against offences mentioned against each:

Nature of offence	Penalty to be imposed
Any wrong or misleading information provided by the Tenderer during submission of bids	May lead to blacklisting in WBMSCL for at least 3 years
Supplying refurbished goods instead of new	Termination of Contract. Blacklisting for life. Forfeiture of the Performance Bank Guarantee. Lodging FIR.
Non execution of agreement or non-compliance of Bid norms after Award of Contract.	Forfeiture of the Performance Bank Guarantee. Blacklisting for 5 years

**16. CHANGES IN QUANTITY:**

WBMSCL may at any time by written instruction vary the general scope of this Contract by 20% (twenty percent) above or 20% (twenty percent) below the original Contract quantity at the accepted terms & conditions. The price for the additional quantity will be as per the contracted price of this bid.

**17. TERMINATION FOR CONVENIENCE:**

17.1 WBMSCL may, upon notice to the Tenderer, terminate this Contract, in whole or in part, at any time for its convenience. The notice of termination shall state that termination is for WBMSCL's convenience, the extent to which performance of the Vendor under the Contract is terminated and the date upon which such termination becomes effective.

17.2 In the event of Termination for Convenience, no payment shall be due from WBMSCL to the Tenderer except for Goods satisfactorily delivered and for the cost of such necessary work as WBMSCL may request the Tenderer to complete.

**18. TERMINATION FOR DEFAULT:**

18.1 WBMSCL, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Vendor, may terminate the Contract, in whole or in part if:

18.1.1 The Vendor fails to deliver any or all of the Goods within the period specified in the Contract:

18.1.2 The Vendor fails to perform any other obligation under the Contract;

18.1.3 The Vendor, in the judgment of WBMSCL, has engaged in fraud and corruption, in competing for or in executing the present Contract;

18.1.4 The Vendor attempts to offer any direct or indirect benefit arising from or related to the performance of the Contract or the award there of to any representative, official, employee or other agent of WBMSCL or any organization of Health & Family Welfare Department, Government of West Bengal;

18.1.5 The Vendor is adjudged bankrupt, or is liquidated, or becomes insolvent, applies for moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent;

18.1.6 WBMSCL reasonably determines that the Vendor has become subject to a materially adverse change in its financial condition that threatens to endanger or otherwise substantially affect the ability of the Vendor to perform any of its obligations under the Contract.

18.1.7 Non-compliance of all statutory norms and applicable laws relating to the said contract will entitle WBMSCL to terminate the contract.

18.2 Upon occurrence of one or more of the events specified above, WBMSCL shall follow the procedure of issuing notice or show cause specifying the time frame and on being not satisfied with the explanation, be entitled to terminate the Contract immediately. The decision of WBMSCL shall be final and binding on the Tenderer.

## **19. CONSEQUENCES OF TERMINATION:**

19.1 In the event of any termination of the Contract, upon receipt of notice of termination by WBMSCL, the Vendor shall, except as may be directed by WBMSCL in the notice of termination or otherwise in writing:

19.1.1 Take immediate steps to bring to a close in a prompt and orderly manner the performance of any obligations under the Contract, including, but not limited to, fulfilling any outstanding orders for Goods under the Contract, and in doing so, reduce expenses to a minimum;

19.1.2 Place no further orders for Goods or other materials, except as WBMSCL and the Vendor agree in writing are necessary to fulfil any outstanding order or to complete any portion of the Contract that has not been terminated;

19.1.3 Transfer title and deliver to WBMSCL any Goods remaining to be delivered as stipulated in the notice of termination; and

19.1.4 Take any other action that may be necessary or that WBMSCL may direct in writing, for the protection and preservation of any property, whether tangible or intangible, related to the Contract that is in the possession of the Vendor and in which WBMSCL has or may be reasonably expected to acquire an interest.

19.2 In the event of any termination of the Contract, WBMSCL shall not be liable to pay the Vendor except for those Goods delivered to WBMSCL in accordance with the requirements of the Contract, but only if such Goods were ordered, requested or otherwise provided prior to the Vendor's receipt of notice of termination from WBMSCL.

## **20. CONFIDENTIALITY:**

20.1 WBMSCL and the vendor, its agents, employees, sub-contractors and servants shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party

hereto, in connection with the Contract, whether such information has been furnished prior to, during or following competition or termination of the contract. Notwithstanding the above, the vendor may furnish to its sub-contractor such documents, data, and other information it received from WBMSCL to the extent required for the sub-contractor to perform its work under the contract, in which event the vendor shall obtain from such sub-contractor an undertaking of confidentiality similar to that imposed on the vendor.

20.2 WBMSCL shall not use such documents, data and other information received from the vendor for any purpose unrelated to the contract. Similarly, the vendor shall not use such documents, data and other information received from WBMSCL for any purpose other than the performance of the contract.

20.3 The obligation of a party under the two foregoing paragraphs shall not apply to information that:

20.3.1 Now or hereafter enters the public domains through no fault of that party;

20.3.2 Can be proven to have been possessed by that party at time of disclosure and which was not previously obtained, directly, from the other party, or

20.3.3 Otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

## **21. FORCE MAJEURE:**

21.1. Force majeure as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution insurrection, flood earthquake or any other acts of a similar nature or force, provided that such acts arise from causes beyond the control and without the fault or negligence of the vendor. The vendor acknowledges and agrees that, with respect to any obligation under the contract that the vendor must perform any delays or failure to perform such obligation arising from or relating to harsh conditions within such areas shall not, in and of itself, constitute Force majeure under the contract. Further the vendor acknowledges and agrees that scarcity of raw materials, power cut, workers unrest (even if wide spread) will not constitute force majeure under the contract.

21.2. In the event of and as soon as possible after the occurrence of any cause constituting *Force majeure*, the vendor shall give notice and full particulars in writing to WBMSCL, of such occurrence or cause if the vendor is thereby rendered unable, wholly or in part to perform its obligations and meet its responsibilities under the contract. The vendor shall also notify WBMSCL of any other changes in condition or the occurrence of any event which interferes or threatens to interfere with its performance of the contract. Not more than fifteen (15) days following the provision of such notice *Force majeure* or other changes in conditions or occurrence, the vendor shall also submit a statement to WBMSCL of estimated expenditure that will likely be incurred for the duration of the change in condition or the event. On receipt of notice or notices required hereunder, WBMSCL shall take such action as it considers, in its sole discretion, to be appropriate or necessary in the circumstances, including the granting to the vendor of a reasonable extension of time in which to perform any obligations under the contract.

21.3. If an event of *force majeure* exists and the vendor fails, within seven (7) days of such event to give notice in writing to WBMSCL and if the vendor is rendered permanently unable, wholly, or in part, by reason of *force majeure* to perform its obligations and meet its responsibilities under the Contract, WBMSCL shall have the right to suspend or terminate the contract on the same terms and conditions except that the period of notice shall be seven (7) days. In any case, WBMSCL shall be entitled to consider the vendor permanently unable to perform its



obligations under the contract in the case of the vendor's suffering any period of suspension in excess of ninety (90) days.

## **22. SOURCE OF INSTRUCTIONS:**

The vendor shall neither seek nor accept instructions from any authority external to WBMSCL in connection with the performance of its obligations under the contract. Should any authority external to WBMSCL seek to impose any instructions on the vendors regarding the vendor's performance under the contract, the vendors shall promptly notify and shall provide all reasonable assistance required by WBMSCL. The vendor shall not take any action in respect of its performance of the contract or otherwise related to its obligations under the contract that may adversely affect the interests of WBMSCL, and the vendor shall perform its obligations under the contract with the fullest regard to the interests of WBMSCL.

## **23. BENEFITS, CORRUPTION AND FRAUD:**

23.1 The vendor warrants that it has not and shall not offer any direct or indirect benefit arising from or related to the performance of the contract or the award thereof to any representative, officials, employee, or other agent of WBMSCL or any official of the Health & Family Welfare Department, Government of West Bengal or any organization engaged in the procurement process whether during the period the contract is in process or before or after the contract is over. The vendor acknowledges and agrees that any breach of this provision is a breach of an essential term of the contract as specified.

23.2 Corruption means the offering, giving, receiving or soliciting of, directly or indirectly, anything of value to influence the action of any WBMSCL representative, official, employee or agent of WBMSCL or any official of the Health & Family Welfare department, Government of West Bengal or any organization engaged in the selection process or in the execution of the contract.

23.3 Fraud means a misrepresentation or omission of facts in order to influence the selection process or the execution of the contract.

## **24. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF WBMSCL:**

The Vendor shall not advertise or otherwise make public for purpose of commercial advantage or goodwill that it has a contractual relationship with WBMSCL, nor shall the vendor, in any manner whatsoever use the name, emblem or official seal of WBMSCL, or any abbreviation of the name of the WBMSCL or Health & Family Welfare department, Government of West Bengal in connection with its business or otherwise without the written permission of WBMSCL.

## **25. ASSIGNMENT:**

25.1 The vendor shall not, except after obtaining the prior written approval of WBMSCL, assign, transfer, pledge, or make any other disposition of this contract or any part hereof or of any of the vendor's right or obligations hereunder, except with the prior written authorization of WBMSCL. The vendor may assign or otherwise transfer the contract to the surviving entity resulting from a reorganization of the Party's operations.

25.2 Prior to the written approval of WBMSCL, the vendor shall promptly notify WBMSCL of such assignment at the earliest opportunity subject to the assignee or transferee agrees in writing to be bound by all of the terms and conditions of the contract and such writing is

promptly provided to WBMSCL following the assignment or transfer and WBMSCL finds that the vendors has the financial and technical capacity as laid down in the tender document to carry out the assignment provided that:

25.2.1 Such reorganization is not the result of any bankruptcy, receivership or other similar proceedings; and

25.2.2 Such reorganization arises from sale, merger, or acquisition of all or substantially all of the vendor's assets or ownership interest; and

25.2.3 Such reorganization is not taking place with any of the Tenderer who had participated in the Tender or who will be deemed to have conflict of interest as defined in the tender documents process for the same tender.

25.3 However, should the vendor become insolvent or should control of the vendor change by virtue of insolvency, WBMSCL may, without prejudice to any other right or remedy, terminate this contract.

## **26. AMICABLE SETTLEMENT:**

When a dispute arises under this agreement, the parties shall make all reasonable efforts to resolve through good faith negotiation, failing which they will attempt at dispute resolution with the intervention of the Principal Secretary, the DoHFW, GoWB

## **27. ARBITRATION:**

Except for a dispute in connection with termination in which respect the decision of WBMSCL shall be final, any dispute between the parties arising out of or relating to this agreement which cannot be resolved through good faith negotiation shall be settled in arbitration in accordance with the provisions of the Arbitration Act. The arbitration hearing shall be held in Kolkata only. The award of the arbitrator (s) shall be binding on both the parties. The cost of arbitration shall be borne by the respective parties.

## **28. COURT OF LAW:**

In case of any dispute in between the parties, the matter will be settled in appropriate Court of Law within Kolkata Jurisdiction.

## **29. Address for communication:**

The Purchaser's addresses for notice purposes is:  
Managing Director, West Bengal Medical Services Corporation Ltd.  
GN-29, Swasthya Bhawan, Sector – V, Salt Lake, Kolkata - 91  
Fax: 91-33-2357-6504  
Tel: 91-33-2357-6505  
Email: [wbmssc.wbhealth@gmail.com](mailto:wbmssc.wbhealth@gmail.com)

## Section III. Special Conditions of Contract

The following Special Conditions of Contract (hereinafter referred to as SCC) shall supplement the General Conditions of Goods (hereinafter referred to as GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. The corresponding clause number of the GCC is indicated in the first column.

SCC -1	GCC -6	<p><b>Delivery of Goods shall be made by the Vendor in accordance with the Schedule of Requirement</b></p> <p><b>The details of shipping and/or other documents, as applicable under I or II, to be furnished by the Vendor are:</b></p> <p><b>I. For Goods supplied from abroad :</b></p> <p>(A) Upon shipment, within 24 hours the Vendor shall notify the Purchaser in writing the full details of the shipment including Contract number, description of the Goods, quantity, date and port of shipment, mode of shipment, estimated dates of arrival at the port of entry and the place of destination. In the event of Goods sent by airfreight, the Vendor shall notify the Purchaser a minimum of forty-eight (48) hours ahead of dispatch, the name of the carrier, the flight number, the expected date and time of arrival, the Master airway-bill and the House airway- bill numbers. The Vendor shall first fax the above details and then send to the Purchaser, by courier, two sets of documents comprising one original and one copy of the following:</p> <p>(ii) Commercial invoice, indicating the <b>West Bengal Medical Services Corporation Limited</b> as the Purchaser on behalf of the <b>Department of Health and Family Welfare, Government of West Bengal</b>; the Contract number, Goods description, quantity, unit price, and total amount. Invoices must be signed in original and stamped, or sealed with the company stamp/seal;</p> <p>(iii) Negotiable, clean, on-board through bill of lading marked “freight prepaid” and indicating the <b>West Bengal Medical Services Corporation Limited</b> as the Purchaser on behalf of the <b>Department of Health and Family Welfare, Government of West Bengal</b>, and notify Consignees as stated in the Contract, with delivery through to final destination as per the Schedule of Requirements and non-negotiable bill of lading, or railway consignment note, road consignment note, truck or air waybill, or multimodal transport document, marked “freight prepaid” and showing delivery through to final destination as per the Schedule of Requirements;</p> <p>(iv) Packing list identifying contents of each package;</p> <p>(v) Manufacturer’s Warranty Certificate covering all items supplied;</p> <p>(vi) Manufacturer’s Certificate of Origin covering all items supplied;</p>
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- (vii) Original copy of the certificate of weight issued by the port authority/licensed authority and six copies;
- (viii) Manufacturer will submit a pre-shipment advisory note to purchaser & consignee at least 15 days prior to the scheduled delivery of the goods at the door step of the consignee;
- (ix) Acknowledgement of receipt of Goods by the Consignees, i.e. Consignment Receipt Certificate (CRC).

The above documents shall be received by the 'Purchaser' at least 15 days before arrival of Goods at the port or place of arrival and, if not received, the Vendor will be responsible for any consequent expenses.

## **II. For Goods from within India**

- (A) Upon the delivery of the Goods, the Vendor shall notify the Purchaser in writing and deliver to the Purchaser two sets of documents comprising one original and one copy of the following:
  - (i) Commercial invoice, indicating the **West Bengal Medical Services Corporation Limited** as the Purchaser on behalf of the **Department of Health and Family Welfare, Government of West Bengal**, the Contract number, loan number; Goods' description, quantity, unit price, and total amount. Invoices must be signed in original and stamped or sealed with the company stamp/seal;
  - (ii) Railway consignment note, road consignment note, truck or airway bill, or multimodal transport document showing the Purchaser as the **West Bengal Medical Services Corporation Limited** on behalf of the **West Bengal Medical Services Corporation Limited** and delivery through to final destination as stated in the Contract;
  - (iii) Acknowledgement of receipt of Goods by the Consignees, i.e. Consignment Receipt Certificate (CRC);
  - (iv) Packing list identifying contents of each package;
  - (v) Manufacturer's or Vendor's Warranty certificate covering all items supplied;
  - (vi) Manufacturer will submit a pre-shipment advisory note to purchaser & consignee at least 7 days prior to the scheduled delivery of the goods at the door step of the consignee.



# **Section IV. Schedule of Requirements**

## **Contents**

1. List of Goods and Delivery Schedule
2. Technical Specifications
3. Standard requirements
4. List of related services
5. Inspections and Tests

# 1. LIST OF GOODS and Delivery Schedule

## Delivery & Completion Schedule:

List of Goods and Quantity		
Description of Goods	Quantity	Unit
INDELIBLE INK MARKER PENS	3,85,500	Numbers

## Terms of Delivery:

Supply will be at different district of West Bengal in a staggered manner varying from programme to programme (ranging from 52,500 to 1,14,000 Marker pens per round approximately) over a period of 1 (one) year from the date of signing of agreement.

Work description	Timeline
<b>Supply of Indelible Ink Marker Pens</b> Before the schedule date of any NID / SNID / Immunization Programme, the delivery order will be issued to the supplier with consignee addresses (mostly Districts) for supplying the same.	<b>Within 15 Days</b> of the placement of order
<b>Note:</b> In emergency situation the timeline of supply may be less than 15days.	

### **Please note:**

- The Consignee Receipt Certificate (CRC) will be issued to the Vendor within 24 hours of the delivery at the Consignee address.

## 2. Technical Specifications

### Essential:

- (a) Mark of the pen should persist for at least 10 (ten) days from the time of application and should not be removed by alcoholic or any other solvent.
- (b) At least 350 (three hundred fifty) markings should be made by each marker pen.
- (c) It should be safe for the children containing silver nitrate within permissible limits and should not cause any harm to the children.

### Conditions

1. Firms quoting the tender should be approved by WHO. The “Indelible Ink Marker Pens” should be reliable, safe for use on finger marking of children and should pass the Quality Assessment Test conducted by WHO – NPSP, failing with respect to criteria the quotations would likely to be rejected.
2. Shelf Life of the marker Pens should not be less than 3 (three) months from the date of supply.
3. Should be reusable up to 15 days from the date of opening of the pen.
4. Pen should be free from any kind of reactions to beneficiaries (children below 5 years of age) making finger marking.
5. Breakage / Leakage if any should be avoided.
6. Should submit 2 nos. of the offered Marker Pens along with the Hard copies & EMD.
7. Should submit 5 nos. of the offered Marker Pens along with each invoice.



## **Section V. Bidding Forms**

# Form 1: Check-List

[Please fill in and include with your Bid]

**Note 1:** It is essential that all documents in hard copy are to be placed before the Committee and arranged in the same sequence as given in the Check List. All the documents should be appropriately flagged.

**Note 2:** If any document is written in any language other than English, an English translation of the document duly authenticated is to be submitted.

**Note 3:** All licenses should be valid as on the last date of submission of bid.

**Note 4:** All the documents mentioned below are essential for qualifying in the technical evaluation.

**Note 5:** After opening of the technical bids, if it is found that any of the documents required to be submitted with the bids is wanting, WBMSCL shall reserve the right to allow late submission of such document at its discretion within a specified time limit.

Non statutory documents to be submitted under <u>My Space</u>				
Sl. No.	Activity	Yes/No/NA	Page No in the Bid	Remark
1	PAN Card			
2	Service Tax Registration Certificate			
3	VAT Registration Certificate			
4	CST Registration Certificate			
5	Import Licence			
6	Licence from Government / Statutory Authority as Applicable / Shop and Commercial establishment certificate / Factory Licence			
7	Registration with the Registrar Of Companies			
8	Valid Manufacturing Licence (National/International) (In case, manufacturing licence is not required / applicable for production of the quoted item, notarized declaration from the manufacturer is to be submitted)			
9	Current registration as SSI (if any)			
11	Performance Statement Form (For the period of last five years) - Form No. 6 of Section V			
12	Income Tax returns for 2010-11, 2011-12 & 2012-13			
13	Service Tax returns for 2012-13			
14	VAT Returns / VAT Clearance Certificate for 2012-13			
15	CST Returns / CST Clearance Certificate for 2012-13			
16	Legal declaration affirmed before a First Class Magistrate / Notary on non judicial stamp paper of Rs. 100/- for, Acceptance of Terms and Conditions of NIT and its Amendments and Addendums thereto. (As per Form 9 of Section V). <i>Note: Technical evaluation of the bid will be taken up only after scrutiny of Form 9 (NIT Acceptance Form) duly notarized.</i>			
17	Legal declaration affirmed before a First Class Magistrate / Notary on non judicial stamp paper of Rs. 100/- as per Form - 7.			

18	Manufacturer's Authorization (If applicable) as per Form no. 5 of Section V			
19	Satisfactory Performance Certificate from at least 3 (three) users of the quoted model in support of the satisfactory operation. At least 1 (one) client / user should be in India.			
20	Statement of production capacity of the manufacturing unit per year of the quoted & similar model. (Self Declaration)			
21	P/L & Balance sheet 2010-2011			
22	P/L & Balance sheet 2011-2012			
23	P/L & Balance sheet 2012-2013			
<b>BID - A</b>				
Sl. No.	Activity	Yes/No/NA	Page No in the Bid	Remark
24	Earnest Money Deposit (EMD)/ Bid Security in the form of Demand Draft (DD) or Bank Guarantee (BG). (*Tenderers to follow the format given in Form No. 4 of Section V, if EMD is submitted in the form of Bank Guarantee)			
<b>BID - B</b>				
Sl. No.	Activity	Yes/No/NA	Page No in the Bid	Remark
25	Model of the item offered for (Self Declaration)			
26	Comparative Data Table of the Technical Specifications (Form No. 3 of Section V)			
27	2 sets of Brochure of the offered product / model.			
28	Submitted 2 nos. of offered marker pen samples			
29	No. of impression by 1 (one) indelible marker pen			
30	WHO approval Certificate of the offered pen, as applicable			
31	Document in support that the manufacturer whose product is offered by the Tenderer must have experience of supplying at least 50 (fifty) thousand "Indelible Ink Marker Pens" in two National Programmes in any state of India in the last three years.			
32	Self declaration by the Tenderer for agreeing that WBMSCL will do quality check by Third Party Agency, if required			
33	Confirmation from manufacturer of the offered item that all the facilities exist in his factory for inspection and testing and these will be made available to WBMSCL or his representative, if inspection is considered necessary.			

## **Form 2: PROFORMA OF CERTIFICATE**

**-Deleted-**

# Form 3: Technical Specification Form

## (Comparative Data Table)

Tenderers must complete the right column of the below table and the compliance confirmation statement as included in Section IV, Schedule of Requirements; Technical Specifications.

Schedule No. \_\_\_\_ :

<i>WBMSCL's minimum Technical Requirements</i>	<i>Please fill-in</i>

THE OFFERED PRODUCTS ARE IN ACCORDANCE WITH THE REQUIRED SPECIFICATIONS AND TECHNICAL REQUIREMENTS:

YES

NO

**ANY DEVIATIONS MUST BE LISTED BELOW:**

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## Form 4: Bid Security (Bank Guarantee) Form

*[Insert: No Bid Security is requested or The Bank shall fill in this Bank Guarantee Form in accordance with the instructions indicated.]*

\_\_\_\_\_  
*[Bank's Name, and Address of Issuing Branch or Office]*

**Beneficiary:** \_\_\_\_\_ *[Name and Address of WBMSCL]*

**Date:** \_\_\_\_\_

**BID GUARANTEE No.:** \_\_\_\_\_

We have been informed that *[name of the Tenderer]* (hereinafter called "the Tenderer") has submitted to you its bid dated (hereinafter called "the Bid") for the execution of *[name of contract]* under Invitation to Bid No. *[NIT number]* ("the NIT").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee. At the request of the Tenderer, we *[name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[amount in figures]* (*[amount in words]*) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Tenderer is in breach of its obligation(s) under the bid conditions, because the Tenderer:

- (a) has withdrawn its Bid during the period of bid validity specified by the Tenderer in the Form of Bid; or
- (b) having been notified of the acceptance of its Bid by WBMSCL during the period of bid validity, (i) fails or refuses to execute the Contract Form; or (ii) fails or refuses to furnish the performance security, if required, in accordance with the Instructions to Tenderers.

This guarantee will expire: (a) if the Tenderer is the successful Tenderer, upon our receipt of copies of the contract signed by the Tenderer and the performance security issued to you upon the instruction of the Tenderer; or (b) if the Tenderer is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of your notification to the Tenderer of the name of the successful Tenderer; or (ii) twenty-eight days after the expiration of the Tenderer's Bid.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

\_\_\_\_\_  
*[signature(s)]*

# Form 5: Manufacturer's Authorization Form

*[The Tenderer shall require the Manufacturer to fill in this Form in accordance with the instructions in the bid document. This letter of authorization should be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. Such certificate is not required where Manufacturer is the Tenderer.]*

Date:  
NIT No.:

To:  
MD, WBMSCL

## WHEREAS

We *[insert complete name of Manufacturer]*, who are official manufacturers of *[insert type of goods manufactured]*, having factories at *[insert full address of Manufacturer's factories]*, do hereby authorize *[insert complete name of Tenderer]* to submit a bid the purpose of which is to provide the following Goods, manufactured by us *[insert name and or brief description of the Goods]*, and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 13 of the General Conditions for Goods, with respect to the Goods offered by the above firm.

Authorised Signatory of the Manufacturer \_\_\_\_\_  
Name \_\_\_\_\_  
Designation with stamp \_\_\_\_\_  
Date \_\_\_\_\_

## Form 6: Performance Statement Form

(For the period of last five years, if applicable)

Bid no: \_\_\_\_\_

Date of Opening: \_\_\_\_\_

Name of the Firm \_\_\_\_\_

Order placed by (Full address of purchaser)	Order no & date	Description & quantity of ordered items	Value of Order	Date of completion of Delivery		Remarks indicating reasons of late delivery, if any	Was the supplies of goods satisfactory
				As per Contract	Actual		

Signature and seal of the Tenderer

\_\_\_\_\_

Countersigned by and seal of Chartered Accountant -----



## **Form 7: No Adverse Report Confirmation Form**

This is to certify that there is no adverse report against the goods offered by..... (Insert Tenderer's name)

Authorised Signatory of Tenderer\_\_\_\_\_

Name\_\_\_\_\_

Designation with stamp\_\_\_\_\_

Date\_\_\_\_\_

# **Form 8: Statement of Breakup of Duties and Taxes**

**-Deleted-**

## **Form 9: NIT Acceptance Form**

Certified that all the terms and conditions of the NIT (mention NIT no.) and its Amendments and Addendum thereto are read and accepted without any modification or condition(s).

Authorized Signatory  
Company Seal

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*Note: Technical evaluation of the bid will be taken up only after scrutiny of form no. 9 (NIT Acceptance Form) duly notarized.*

## **Section VI. Contract Forms**

# Form 1: Performance Security

*[Insert: No Performance Security shall be requested or the bank, as requested by the successful Tenderer, shall fill in this form in accordance with the instructions indicated]*

Date: *[insert date (as day, month, and year) of Bid Submission]*  
ITB No. and title: *[insert no. and title of bidding process]*

Bank's Branch or Office: *[insert complete name of Guarantor]*

**Beneficiary:***[insert legal name and address of WBMSCL]*

**PERFORMANCE GUARANTEE No.:** *[insert Performance Guarantee number]*

We have been informed that *[insert complete name of Supplier]* (hereinafter called "the Supplier") has entered into Contract No. *[insert number]* dated *[insert day and month]*, *[insert year]* with you, for the supply of *[description of Goods and related Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum(s) not exceeding *[insert amount(s)<sup>1</sup> in figures and words]* upon receipt by us of your first demand in writing declaring the Supplier to be in default under the Contract, without cavil or argument, or your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This Guarantee shall expire no later than the *[insert number]* day of *[insert month]**[insert year]*,<sup>2</sup> and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

*[Signatures of authorized representatives of the bank and the Supplier]*

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<sup>1</sup> *The Bank shall insert the amount(s) specified in the SCG and denominated, as specified in the SCG, either in the currency(ies) of the Contract or a freely convertible currency acceptable to WBMSCL.*

<sup>2</sup> *Dates established in accordance with Clause 12 of the General Conditions of Contract ("GCG"). WBMSCL should note that in the event of an extension of the time to perform the Contract, WBMSCL would need to request an extension of this Guarantee from the Bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, WBMSCL might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed [six months] [one year], in response to WBMSCL's written request for such extension, such request to be presented to us before the expiry of the Guarantee."*