



Corporate Office:
DVC Towers, VIP Rd.
Kolkata-700 054

दामोदर घाटी निगम
Damodar Valley Corporation
मेजिया ताप विद्युत केन्द्र
Mejia Thermal Power Station

डाकघर :- मे ता वि के , जिला :- बांकुड़ा - 722183, पश्चिम बंगाल
P.O.:- MTPS, Dist:- Bankura-722183, West Bengal



[ISO 9001:2015]

No: MT/ Sr. Mgr/EMPC / 2190

Dated: 04.01.2024

Intimation for lifting of Dry Fly Ash from MTPS Silos(4-8)

Ref e auction no.- MJ/DVC-MTPS/DVC/DFA/2023-24/03 dated 28.12.2023:

This is to intimate to End Users, Traders, Transporters that a balance amount of Dry Fly Ash of quantity **20.29 LMT** is available from Silos of Unit#4-8 at MTPS, DVC, Durlavpur-722183.

The Dry Fly Ash will be made available at the rate of discovered price from e auction i.e., **Rs 115 per MT** plus taxes (GST) as applicable and the period of validity of DFA lifting will be up to **14.01.2025**.

Interested agencies (traders/transporters/end users) can apply for allotment of monthly quantity at first cum first serve basis as per terms & conditions of Annexure-I.

Sr. Manager
EM & PC, MTPS, DVC.

Annexure-I

1. Introduction:

MEJIA THERMAL POWER STATION, DVC (henceforth referred to as MTPS) intends to promote utilization of fly ash as resource material. To facilitate this, MTPS wishes to supply fly ash for a period of 01 year.

Terms and conditions contained in MoEF/GoI notifications existing and published from time to time followed by its various amendments shall have to be complied with during lifting and transportation of ash, all pollution control norms to be strictly followed.

2. Scope of Supply:

The fly ash shall be supplied to the interested buyers from the designated delivery point i.e., ash Silo chute of the Mejia thermal power station. The buyer(s) shall make arrangements for taking delivery in their own bulkers or closed trucks only. The annual quantity shall be considered uniform per month for the entire supply period 12 months w.e.f. 15.01.24 to 14.01.25. Supplier's reserves right to vary quantities at the time of supply. The Supplier reserves the right at the time of allocation or during the period of supply to increase/decrease or delete the quantity of fly ash from that originally specified in Expression of Interest(EoI) without assigning any reason. The annual quantity shall be considered uniform per month for the entire supply period.

3. Sale Price:

The Dry Fly Ash will be made available at the rate of discovered price from e auction i.e., ₹115 per MT plus taxes (GST) as applicable.

4. Security Deposit cum contract performance Guarantee (CPG):

Within (Seven) 7 Bank working days of the issue of Letter of Award (LoA) for allocated quantity by the supplier, the buyers/agencies shall submit the Contract Performance Guarantee(CPG) for an amount equivalent to five percent (5%) of value of annual allocated quantity in the form NEFT/RTGS/DD.

*** Details of Bank Account for payment:**

Beneficiary: DAMODAR VALLEY CORPORATION, MTPS
Bank Name: State Bank of India
Branch: MTPS, O&M
Bank A/C No.: 10480362106
Account Type: Current
IFSC: SBIN0006608

- a) Failure of the Buyer to comply with the requirement of Submission of Contract Performance Guarantee within the prescribed time shall constitute sufficient grounds

for the annulment of the allocation order and forfeiture of the Bid Security. In that event no damages or compensations shall be payable to the buyer.

- b) For commencement of supplies, submission of CPG is a precondition.
- c) Contract Performance Guarantee (CPG) shall be released within 90 (Ninety) days after successful completion of contract in all respects.

5. General Condition of Contract(GCC):

Buyers are requested to visit the DVC website. GCC is hoisted in DVC website (www.dvc.gov.in)

Special terms and Conditions

6. Acquaintances of local Conditions:

It will be imperative for the Buyer to fully inform himself of all local conditions and factors, which shall have any effect on the execution of the work covered under these documents and specifications.

7. Language of the Contract:

English will be the Language.

8. Insurance and Buyers liability:

- a. The Buyer shall be fully responsible for maintaining all the insurances as per law of land at its cost.
- b. The Buyer shall at all times indemnify the seller against all losses, claims, damages or compensation arising out of any accident or injury to any person (whether in employment of buyer or not) or property in or about the plant including the Silo area (inside/outside the plant) which may arise out due to buyers act/negligence while carrying out the contract.

9. Facilities to Workers:

Before commencement of collection of Fly Ash, buyers shall produce the Workmen's compensation Insurance policy taken by them as to cover their liability towards all the workers covering all statutory requirements as imposed upon employers in relation to the Workmen Compensation Act 1923 and Fatal Accidents Act 1855. The Policy shall be extendable to also cover liability in respect of diseases mentioned in as part of WC Act, which arise out of and in the course of employment and shall have the Coverage for death, permanent total and partial disability and temporary disability of employees whilst at work.

10. Payment terms and Bank Charges:

- a. Delivery shall be made against advance payment in the form of NEFT /RTGS/ DD. The amount of advance shall be equivalent to value of one month of off-take quantity. Advance shall be adjusted against delivery on monthly basis.
- b. All bank charges shall be borne by the buyer.
- c. All Taxes and duties as applicable will be borne by the party.

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11. Commencement of first off take:

Commencement of first off take for Buyers of fly ash should not exceed beyond one month from the date of issue Letter of Award (LoA) unless specifically agreed by the Supplier.

12. Weighment for invoicing:

Fly ash shall be issued based on actual weighment of the bulker based on RFID based computerized weighment slip of DVC, MTPS weighbridge. In the event of outage/non-availability of weighbridge, **net average loading of bulker shall be considered for billing.**

Weight so recorded at DVC, MTPS weighbridge shall be final. Weigh of delivered fly ash so obtained and duly certified by the controlling officer/representative of EMPC section shall be considered final.

13. Compensation against shortfall during regular off take:

- a. After commencement of first off take, buyer will be required to lift at least 75% of total contracted quantity or adjusted quantity (in case short supply by supplier). In case buyer fails to lift 75% of the total contracted quantity or adjusted quantity, compensation @ Rs. 15/MT will be charged on shortfall quantity (75% of the total contracted quantity/adjusted quantity -Actual quantity lifted). Buyer will be required to deposit such amount or same shall be adjusted against advance, if any or CPG.
- b. Supplier will communicate the provisional compensation amount on half yearly basis in the Succeeding month and buyer will be required to deposit such amount within 15 days thereafter or same will be adjusted against advance.
- c. For the purpose of calculation of provisional compensation, half yearly break up of total contracted quantity or adjusted quantity will be done and compared with actual quantity lifted by buyer. Final compensation will be calculated after final reconciliation and adjustment, if any will be made. However, gross compensation amount will be limited to CPG amount.
- d. i). Fly Ash is a product of coal combustion, which again is subject to the demand of electricity in the areas allocated by the regulatory authorities. Scheduled and unscheduled shutdowns or backing down also affect generation of electricity and thus generation of Fly Ash. Though all efforts will be made to maintain contracted quantity of Fly ash available, Supplier does not guarantee availability of Fly Ash as per contracted quantity regularly and will not be liable for any compensation or damages for non-availability in required quantity of the same.

ii). In case Supplier is unable to provide the average half yearly contracted quantity of fly ash due to any reasons including forced outages of the plant, congestions etc. supplier in respect of each buyer shall accordingly adjust the half yearly contracted quantity downward. Under such circumstances the determination of compensation referred above shall be computed with respect to 75% of such adjusted half yearly quantity.

- e. Supplier may offer additional quantity of fly ash at a later date subject to availability, if agreed by Buyer. The quantity so offered and agreed by buyer at a later stage, will form a part of the annual contracted/adjusted quantity. Supplier may offer preferences to end users as per Order of Ministry of Power.

14. Review and termination of contract:

- a. In case, fly ash off take falls below 80% of the contracted or adjusted quantity whichever is lower, on two successive quarter basis, DVC will have the right to review the continuance of the contract. Reasons / justifications for lower off take are to be explained by the awardee and shall be assessed by DVC. If the same is not acceptable, DVC may at its option terminate the same by giving one month notice in writing of their intentions to do so and in such an event the buyer shall not be entitled to any compensation/ from the supplier. In the event of termination of contract, the Liquidated Damages/Compensation will be payable by the buyer at the aforesaid rate mentioned in **Clause 13** for the short fall quantity below 75% of the contracted / adjusted quantity and the gross amount of liquidated damages / compensation shall be limited to the CPG amount. Half yearly quantity shall be considered from the scheduled date of start till completion of six months and subsequently so on till expiry of contract.
- b. The Supplier also reserves the right to terminate the contract in the event of breach of contract by the buyer giving one month notice in writing of their intentions to do so and in such an event the buyer shall not be entitled to any compensation from the supplier. In the event of termination of contract for any reasons of breach of contract, Liquidated Damages as arrived under **Clause 13** above shall be payable by the buyer.

Following will constitute breach of contract:

- i) Delay in first off-take by Buyer from committed date by more than three months.
- ii) Buyer is not complying with operational and safety requirements and neglecting Instructions of Engineer-In-Charge.
- iii) Buyer has failed to discharge his obligations according to the terms & conditions of contract.

15. Shortfall in supply by Supplier and Adjusted Quantity:

- a. Fly Ash is a product of coal combustion, which again is subject to the demand of electricity in the areas allocated by the regulatory authorities. Scheduled and Unscheduled shutdowns also affect generation of electricity and thus generation of Fly Ash. Though all efforts will be made to maintain contracted quantity of Fly ash available, Supplier does not guarantee availability of Fly Ash as per contracted quantity regularly and supplier will not be liable for any compensation or damages for non-delivery of required quantity of the fly ash.
- b. In case supplier is unable to provide the proportionate half yearly contracted quantity of fly ash due to any reasons including forced outages of the plant, congestions etc. Supplier in respect of each buyer shall accordingly adjust the half yearly contracted quantity downward. Under such circumstances the determination of compensation referred at **clause 13** above shall be computed with respect to 75% of such adjusted yearly / half yearly quantity.
- c. Determination of quarterly quantity for termination of Contract in case of short supply by the Supplier shall also be computed w.r.t quantity made available to the buyer for that year / half yearly as stated above.

- d. Supplier may offer additional quantity of fly ash at a later date subject to availability, if agreed by the Buyer. The quantity so offered and agreed by buyer at a later stage, will form a part of the annual contracted/adjusted quantity.

16. Taxes, Duties, Levies etc.:

- a. The Buyer shall be liable and responsible for payment of all statutory levies in the form of GST, duties, octroi etc. on the Supply. Such statutory liabilities, if any, shall be paid by Buyer extra at actuals.
- b. Regarding exports, it is the responsibility of the buyer to fulfill their export obligations as may be required, and any shortfall in this regard shall be to the account of the buyer only. The buyer indemnifies the seller against all such liabilities and losses on failure to fulfill the export obligations, if any.

17. Delivery:

- a. Buyer should depute his authorized representative to the power station for co-ordination and taking delivery of fly ash.
- b. Delivery will be from Silo Chutes to bulkers / closed trucks only, which are suitable for loading from designated silos. Open trucks will not be allowed to take delivery.
- c. Supplier has right to suspend the delivery of Fly Ash if advance amount is not available with the supplier by the required date and such suspension of delivery shall be to the account of buyer.
- d. The Gate pass will be issued only to the drivers of bulkers who are authorized by the Company.

18. Responsibility during Transportation:

The buyer will be responsible for any kind of injuries or accidents caused to their employees or laborer's and seller will not be liable in the matter. If any action is brought against the seller for payment of damages or compensations, the buyer shall indemnify the seller from all such action or claim from damages/compensation. If the seller is held liable for any compensation, buyer shall forthwith compensate the seller if any, such claim arose after expiry of the contract period. The Buyer's transporter shall have valid license of statutory, State Govt. / Central Govt. Authority for transportation of fly ash as per prevailing statutory norms.

19. Billing and Gate Pass:

Supplier will raise Callan/Exit gate pass on daily basis and invoices on monthly and shall deliver to the Buyer(s) an invoice showing the value of the fly ash delivered, along with applicable duty (GST) and shall be adjusted against the advance payment made by the buyer(s).

20. Settlement of disputes: Amicable Settlement-

- a. In the event of any dispute or claim of any kind whatsoever that may arise between the Parties as a result of construction, interpretation or application of any of the terms and conditions of this Agreement or performance of it("Dispute"), either Party may by written notice inform the other Party of a Dispute ("Dispute Notice").

- b. The Parties shall within a period of 30 Days from the date of receipt of Dispute Notice by such other Party meet and endeavor to settle Dispute in an amicable manner through good faith and negotiations. In the event of the failure of the Parties to settle Dispute amicably within such 30-Days period, either Party may refer Dispute for resolution by arbitration, in accordance with the provisions mentioned hereunder.

21. Arbitration:

- a. In the event that the parties are unable to resolve the disputes under Clause 21 above, controversy or claim relating to or arising out of this contract, such disputes, controversy or claim shall be finally settled by a panel of arbitrators ("The Arbitral Tribunal"), in accordance with the Arbitration and Conciliation Act 1996 as amended from time to time and read with rules framed there under.
- b. Either Party may by written request notify the other Party of its intent to refer such Dispute to arbitration. Within 30 Days of receipt of such notice by such other Party, the Parties shall each appoint one arbitrator. Within 30 Days of the appointment of the arbitrators, the two arbitrators so appointed shall appoint a third arbitrator (who shall be the presiding arbitrator). In case the two arbitrators fail to appoint the third arbitrator, the third arbitrator shall be appointed as per provisions of Arbitration Act.
- c. The third Arbitrator will be the presiding Arbitrator and the Arbitration proceedings shall be conducted in accordance with the Arbitration and Conciliation Act 1996 as amended from time to time and read with rules framed there under.
- d. If any appointed arbitrator resigns or dies or is unable to perform his function prior to or during the arbitration, appointment of new arbitrator shall be made as per provisions contained in Clause b & c above.
- e. The Court at Kolkata (India) shall have exclusive jurisdiction. The language of the Arbitration proceedings will be in English.
- f. The venue of arbitration shall be Kolkata. In terms of the contract the party involving arbitration shall specify the dispute or disputes be referred to arbitration under this clause together with the amount or amount claimed in respect of each such dispute. The arbitrator shall make the award within reasonable time from the date of entering in the reference.
- g. The Arbitrator (tribunal) shall be deemed to have entered on the reference on the date he issues notice.
to both the parties fixing the date of the first hearing. Arbitral Tribunal shall give a reasoned award. The decision or award shall be final and binding upon the Parties.
- h. The cost of Arbitrator shall be borne equally by the parties to the dispute.
- i. Notwithstanding the subsistence of any arbitration proceedings, the Parties shall continue to perform their respective obligations under this Agreement and either Party shall not withhold, any payment obligation admitted by it.

22. Force Majeure:

- a. "Force Majeure" shall mean any event beyond the reasonable control of the Supplier or of the Buyer, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected. Force Majeure shall include but not be limited to the following events and circumstances:
 - i) Flood, cyclone, lightning, storm, tidal wave, hurricane tornado, earthquake, landslide, epidemic or other acts of God.
 - ii) War (whether declared or not), riot, civil war, blockade, insurrection.

- iii) Illegal strike or illegal lockout; and
 - iv) Acts of Governmental Instrumentality having jurisdiction occurring after the date of this Agreement, including the issuance or promulgation of any court order, law, statute, ordinance, rule, regulation or directive, the effect of which would prevent, delay or make unlawful a Party's performance herein; provided that executive acts of a Governmental Instrumentality in the capacity of a shareholder or Seller of either Party shall not for the purpose of this Agreement be considered as a Force Majeure event.
- b. If either party is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances there of within fourteen (14) days after the occurrence of such event.
 - c. The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered, or delayed. The Time for Completion shall be extended after mutual discussion.
 - d. The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfil its or their obligations under the Contract, but without prejudice to Supplier's right to terminate the Contract as detailed in this document.
 - e. Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not constitute a default or breach of the Contract.
 - f. If the performance of the Contract is substantially prevented, hindered or delayed for a continuous period of more than thirty (30) days or an aggregate period of more than ninety (90) days on account of one or more event of Force Majeure during the occurrence of the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which the dispute shall be resolved in accordance with **Clause 21**.
 - g. In the event of prohibition imposed by Govt. of India/Competent Authorities making impossible making impossible to perform the contract, may be termed as Force Majeure and neither party shall be liable for compensations or damages due to non-performance.

23. Suspension of Supply:

- a. The supplier reserves the right to suspend and reinstate execution of whole or any part of the supply.
- b. The Supplier shall not be responsible for any liabilities for suspension of issue of fly ash or issue of reduced quantity of fly ash for any reason whatsoever.

24. Indemnity for defence of Suits:

If any action in court is brought by third party against the Supplier or an officer or agent of the Supplier for the failure or neglect on the part of the buyer to perform any acts, matters, covenants or things under the Contract, or for damage or injury caused by the alleged omission or negligence on the part of the buyer, his agents, representatives or his sub-contractors, workmen, suppliers, or representatives employees the buyer shall in such cases indemnify and keep the Supplier (MTPS) and/or its representative harmless from all losses damages, claims, expenses or decrees arising out of such action.

25. Recovery of sums due:

Whenever any claim for the payment of the sum of money arises against the buyer, the Supplier shall be entitled to recover such sum by appropriating in whole or in part, from advance deposited against fly ash and /or the Contract Performance Guarantee deposited by the buyer.

26. Safety Requirements:

The buyer shall ensure safety and security of all its personnel, working at different places in connection with this supply and shall be fully responsible for the same. All safety tools and tackles required like helmets, goggles, gas masks, respiratory masks, gumboots, shoes, safety belts wherever required will be provided by the buyer. The buyer shall also ensure safety and security.

- i) The following safety rules have to be followed at silo areas:-**
- a. All bulker/closed container vehicle Driver, Khalasi & other labour should use safety helmet, shoes & dust mask inside the plant premises.
 - b. All bulker/closed container Khalasi must use staircase of bulker/closed container while climbing on the roof of the closed container/bulker for opening & closing of gates.
 - c. All bulker/ closed container Khalasi must use safety belt while working on the roof of bulker/closed container & safety belt should be anchored with railings of the bulker or from support of silo structure.
 - d. All Drivers & Khalasi of Bulker/closed container will act as per instruction of operator/supervisor of the dry fly ash disposal system from Silo.
 - e. All Driver & Khalasi should be given safety training for loading of bulker/closed container properly.
 - f. Bulker movement at plant premises has to be maintained @ 15 KM/Hr.
 - g. No child Driver/Khalasi shall be engaged by the Party as per statutory rule of Govt. of India.
 - h. The Driver/Khalasi engaged by the Party should not be under addiction of drug/liquor while on duty.

In violation of above safety rules, you will be full responsible and in that case, action may be taken as deemed fit by DVC at his discretion.

ii) Safety of Driver Khalasi & other labour: DVC in no way shall be responsible for safety of the Party's driver, khalasi & other labours. The Party should supply the necessary protective devices for their safety.

iii) Accident: - In case of any accident, the party has to arrange necessary prima facie requirement immediately after the incident. DVC shall in no way be held responsible to compensate the driver, khalasi or other Labours of the party be on duty or not. No benefit in any form shall be admissible by DVC in such cases.

27. Cleaning Measure & Statutory norms:

1. Maintaining proper cleaning of Ash deposited at Silo loading points and its surrounding area by concerned agencies/buyers as applicable (e.g. - Silo area by the Buyers using Bulkerc/tractors, round the clock at their own cost). One MOM will be done among all related buyers regarding cleaning matter, where it will be mentioned that any buyer who fails to comply the cleaning aspect will be debarred from lifting till compliance.
2. Apart from all issues mentioned above buyer is liable to keep clean the area of activity as per norms stipulated by State Pollution Control Board from time to time. Buyers should comply all guidelines issued from time to time by MoEFCC, Central Pollution Control Board, NGT and other statutory bodies. Any kind of violation would be dealt seriously & the equivalent amount will be deducted from the SD/CPG.

28. Disorderly Conduct:

The buyer shall at all times take all reasonable precautions to prevent any Unlawful notorious or disorderly conduct by or amongst the buyer's staff and Labour and for the preservation of peace and protection of persons and property in the neighbourhood of the delivery site against the same.

29. Jurisdiction of Court:

Only Kolkata High Court shall have the exclusive jurisdiction in all the matters concerning the supply.

30. Facilities to be provided by Mejia thermal power Station (MTPS):

The Following facilities shall be provided by MTPS:

- I. MTPS will issue Gate Pass for the Container/Bulkers on application for entering in the plant premises for collection of ash with Container/Bulkers numbers and other relevant papers, name of drivers with license etc. as required.
 - II. Water will provide free of cost.
- 31.** Any other minor work not specifically mentioned but considered necessary in connection with the Dry Fly Ash supply shall be considered to be within the scope of work and shall have to be carried out by you as per instruction of concerned officers.

32. The Buyer should not pose any problem to existing operation and maintenance of MTPS.

33. Terms and Conditions contained in MOEF/GOI notifications existing and published from time to time followed by its various amendments shall have to be complied with.

34. All rules, regulations, and law of state as well as all statutory obligations applicable shall have to be adhered to.

35. Concerned Authority for queries regarding payment: Sr. Manager (Fin)/ Manager (Fin), Accounts Department, MTPS.

36. CONTROLLING OFFICER: -

The Sr. manager or his authorized Officer; EM&PC, DVC, MTPS shall be the controlling officer of the subject work. Please convey your acceptance of this LOA. If nothing is found within 10 days from the date of issue of this letter, it will be presumed that you have accepted all terms and conditions of the letter of award.

You are requested to consult with DGM (Finance) or his representative towards payment action.
